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19 April 2006

BRISTOWS

Bond Pearce LLP
Ballard House
West Hoe Road
Plymouth
PL1 3AE
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By fax: 01752 225350
Confirmation by Post

Dear Sirs

Specsavers / Glasses Direct: Sheep Promotional Campaign

We act for Prescription Eyewear Limited, trading as Glasses Direct ("Glasses Direct"). Our client has passed us a copy of your letter dated 6 April 2006 concerning its "sheep" promotional campaign ("the Sheep Campaign").

SPECSAVERS' ATTEMPT TO STIFLE COMPETITION

It is apparent that, despite your protestations to the contrary, Specsavers has decided to use heavy-handed legal tactics to try to stifle competition from Glasses Direct, which has successfully challenged the pricing policies of high street opticians, and which offers the public a much better-value alternative at glassesdirect.co.uk.

The purpose of the Sheep Campaign was to highlight, in a humorous way, the fact that while the public may traditionally have flocked to the high street to purchase glasses, they risk getting "fleeced" by opticians charging high prices. The Sheep Campaign was intended to draw the public's attention to the fact that they won't get "fleeced" at glassesdirect.co.uk, where they can find high quality frames and prescription lenses at much lower prices than on the high street.

You will no doubt already have advised your client that, in principle, the Courts view comparative advertising as a perfectly legitimate aspect of free competition. You will also no doubt have informed Specsavers of the long and uniformly unsuccessful history of large companies attempting to use the law to prevent such competition. For a recent example of such a claim, we would refer to you the judgment of Mr Justice Jacob (as he then was) in BA plc v Ryanair [2001] FSR 32.

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THE SHEEP CAMPAIGN

We have reviewed the leaflets distributed by representatives of our client dressed as sheep, bearing the headline “Specspensive?”, a picture of a sheep wearing glasses, and the strapline “Don’t get fleeced, go to glassesdirect.co.uk” (the “Leaflet”). A copy of both sides of the Leaflet is attached for ease of reference.

In response to the specific complaints which you raise (adopting your paragraph numbering):

- 1.1 Our client notes that your client apparently objects to representatives of Glasses Direct dressed as sheep straying into Specsavers’ stores. Our client has no plans to repeat this aspect of the Sheep Campaign. Your client can, of course, raise no objection to the presence of “sheep” on the public highway outside Specsavers’ stores.
- 1.2 We are instructed that your client’s staff and customers did not object to photographs being taken by the “sheep”, and appeared rather to enjoy the experience. We can see no legal basis for your demand that such photographs be destroyed, whether under the laws of privacy, data protection or otherwise.
- 1.3 Our client does not accept that the Leaflet bears the meaning which you suggest. As discussed above, the Leaflet was intended to and did convey to the public the message that:
 - (i) glasses at high street opticians are extremely expensive (i.e. “specspensive” and a “rip-off”); and
 - (ii) the public will not pay such high prices (i.e. “get fleeced”) at glassesdirect.co.uk, which supplies high quality frames and prescription lenses at much lower prices than high street opticians.

It is denied that the Leaflet is:

- (a) directed at Specsavers, as opposed to high street opticians generally;
 - (b) carries any imputation of dishonesty; and
 - (c) is detrimental to the repute of Specsavers’ trade marks and not in accordance with honest practices in industrial and commercial matters.
- 1.4 Our client does not accept that any criminal offence has been committed, whether under section 68 of the Criminal Justice and Public Order Act 1994, or otherwise. In particular:
 - (i) it is denied that our client’s representatives dressed as sheep were “trespassers”; and

