

'BACH' AND 'BACH FLOWER REMEDIES' REMAIN GENERIC

Community Trade Mark Office finds Nelson's 'Bach' and 'Bach Flower Remedies' Registrations INVALID

- We are very pleased to announce that on 11 September 2008, the OHIM (the European Community Office for the registration of Community Trade Marks) decided that the words 'Bach' and 'Bach Flower Remedies' are generic, that Nelson's Community Trade Marks were invalid and awarded costs in our favour (Euro 1,150).
- In 2000, Healing Herbs won the last round of appeal, in the House of Lords, confirming the decision at trial and in the Court of Appeal: that the UK trade mark registrations Nelsons/Bach Flower Remedies Ltd had obtained for BACH/BACH FLOWER REMEDIES were invalid because they were descriptive or generic terms.
- Nevertheless, Nelsons/Bach Flower Remedies Ltd thought they knew better. To circumvent the UK Courts' decisions in 2003 they applied for and obtained Community trade mark registrations for the very same words.
- Healing Herbs Ltd could not oppose their applications then since we had no similar trade marks ourselves.
- Of course, Healing Herbs' position has always been clear – we say that the words are generic and no-one can claim exclusive rights over them.
- What Healing Herbs could do, immediately 'Bach' and 'Bach Flower Remedies' were registered as Community Trade Marks was to apply to have these registrations cancelled. This we did.
- The OHIM, in a very clear decision, has now made a number of telling findings, including:
 - Healing Herbs had filed "abundant evidence" to show the terms were generic
 - Both the specialised public and the general public considers the terms descriptive and generic
 - Nelsons/BFRL failed to prove that the terms had acquired distinctive character when they filed their applications
 - Showing large sales and advertising expenditure was not good enough
- Had Nelsons/BFRL managed to maintain their invalid registrations, undoubtedly they would have used them against the many people across the European Union, who use the terms Bach and Bach

Flower Remedies to describe their own or other people's flower remedies made in accordance with the original directions of the late Dr Edward Bach, by threatening them, again, with legal proceedings.

- We are very pleased that our proceedings have been successful; justice has again been done.
- [Nelsons/BFRL have two months in which to file an appeal. In view of the very clear decision, to do so would be extremely perverse.]

Healing Herbs Ltd
30 September 2008