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Date: 1 December 2009

Andrew Hall

Fraud – Stamp Act 1891

Thank you for your email to this office of 15 April 2009 and for your various subsequent emails. I regret the length of time it has taken to respond to your request.

The Attorney General has asked me to reply to you.

In your first email you wrote that you wanted to know “from the Attorney General, whether the Attorney General will do what HMRC ought to have done under paragraph 13 s.114 Sch. 17 FA 1999.”

Paragraph 13 of Schedule 17 to the Finance Act 1999 is concerned with penalty proceedings before the court. It says that where in the opinion of the Commissioners for Revenue and Customs (“the Commissioners”) the liability of a person for a penalty under the enactments relating to stamp duty arises by reason of his fraud or the fraud of another person, proceedings for the penalty may be brought in the High Court and, by subparagraph (2), such proceedings in England and Wales shall be brought (a) by and in the name of the Commissioners as an authorised department for the purposes of the Crown Proceedings Act 1947 or (b) in the name of the Attorney General.

It is your allegation that the Comptroller General of Patents, Designs and Trade Marks is liable for a penalty under the enactments relating to stamp duty that arose by reason of fraud and you want action to be brought under the Finance Act 1999 for that liability. You say that you were the victim of such fraud committed in connection with the change in ownership of your intellectual property rights.

It is clear that for proceedings under paragraph 13 to Schedule 17 to the Finance Act 1999 to be brought in the name of the Attorney General the Commissioners must have formed the opinion that the liability of a person for a penalty under the enactments relating to stamp duty arises by reason of his fraud or the fraud of another. As the Commissioners have not

come to that opinion in this case there is no power for the Attorney's name to be used to bring proceedings.

We have inquired carefully into these issues and have been concerned to see whether anything could be done to assist but I am afraid that for the reasons set out above the Attorney General's name cannot be used to bring proceedings under paragraph 13.

I am not proposing to send you a separate reply to your pre-action letter of 9 November 2009 addressed to the Comptroller General of Patents, Designs and Trade Marks into which we were copied by your email of 10 November.

Yours sincerely

A handwritten signature in black ink, appearing to read "Stephen Deutz". The signature is written in a cursive, somewhat stylized font.

Stephen Deutz