

## COMPLAINT TRANSMITTAL COVERSHEET

*(<http://arbiter.wipo.int/domains>)*

Attached is a Complaint that has been filed against you with the World Intellectual Property Organization (**WIPO**) Arbitration and Mediation Center (the **Center**) pursuant to the Uniform Domain Name Dispute Resolution Policy (the **Policy**) approved by the Internet Corporation for Assigned Names and Numbers (**ICANN**) on October 24, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the **Rules**), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the **Supplemental Rules**).

The Policy is incorporated by reference into your Registration Agreement with the Registrar of your domain name, in accordance with which you are required to submit to a mandatory administrative proceeding in the event that a third party (a **Complainant**) submits a complaint to a dispute resolution service provider, such as the Center, concerning a domain name that you have registered. You will find the name and contact details of the Complainant, as well as the domain name that is the subject of the Complaint in the document that accompanies this Coversheet.

You have no duty to act at this time. Once the Center has checked the Complaint to determine that it satisfies the formal requirements of the Policy, the Rules and the Supplemental Rules, it will forward an official copy of the Complaint to you. You will then have 20 calendar days within which to submit a Response to the Complaint in accordance with the Rules and Supplemental Rules to the Center and the Complainant. You may represent yourself or seek the assistance of legal counsel to represent you in the administrative proceeding.

The **Policy** can be found at <http://www.icann.org/udrp/udrp-policy-24oct99.htm>.

The **Rules** can be found at <http://www.icann.org/udrp/udrp-rules-24oct99.htm>.

The **Supplemental Rules**, as well as other information concerning the resolution of domain name disputes can be found at <http://www.wipo.int/amc/en/domains>.

A **model Response** can be found at <http://www.wipo.int/amc/en/domains/filing/udrp/>

Alternatively, you may contact the Center to obtain any of the above documents. The Center can be contacted in Geneva, Switzerland by telephone at +41 22 338 8247, by fax at +41 22 740 3700 or by e-mail at [domain.disputes@wipo.int](mailto:domain.disputes@wipo.int).

You are kindly requested to contact the Center to provide the contact details to which you would like (a) the official version of the Complaint and (b) other communications in the administrative proceeding to be sent.

A copy of this Complaint has also been sent to the Registrar with which the domain name that is the subject of the Complaint is registered.

By submitting this Complaint to the Center the Complainant hereby agrees to abide and be bound by the provisions of the Policy, Rules and Supplemental Rules.

*Before the:*

**WORLD INTELLECTUAL PROPERTY ORGANIZATION  
ARBITRATION AND MEDIATION CENTER**

Sir Peter Scott  
Kingston University  
River House  
53-57 High Street  
Kingston  
Surrey KT1 1LQ

**(Complainant)**

-v-

Howard Fredrics  
2 Park Road  
Hampton Wick  
Surrey KT1 4AS

**(Respondent)**

---

**Disputed Domain**

**Name:**

**[www.sirpeterscott.com](http://www.sirpeterscott.com)**

## **COMPLAINT**

(Rules, para. 3(b))

### **I. Introduction**

1. This Complaint is hereby submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy (the **Policy**), approved by the Internet Corporation for Assigned Names and Numbers (**ICANN**) on October 24, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the **Rules**), approved by ICANN on October 24, 1999 and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the **Supplemental Rules**).

### **II. The Parties**

#### **A. The Complainant**

(Rules, para. 3(b) (ii) and (iii))

2. The Complainant in this administrative proceeding is Sir Peter Scott, Vice Chancellor of Kingston University.
3. The Complainant is represented by Charles Russell LLP in these proceedings and its contact details are:
  - Address: Charles Russell LLP,  
5 Fleet Place, London EC4M 7RD, England
  - Telephone: +44 (0)20 7203 5000
  - Fax: +44 (0)20 3023 5519
  - E-mail: domainnamecomplaint@charlesrussell.co.uk
4. The Complainant's preferred method of communications directed to the Complainant in this administrative proceeding is:
  - Electronic-only material
  - Method: e-mail
  - Address: domainnamecomplaint@charlesrussell.co.uk
  - Contact: Charles Russell LLP

Material including hardcopy

Method: Fax  
Address: Charles Russell LLP, 5 Fleet Place, London EC4M 7RD  
Fax: +44 (0)20 3023 5519  
Contact: Charles Russell LLP

**B. The Respondent**

(Rules, para. 3(b) (v))

5. The Respondent in this administrative proceeding is Dr Howard Fredrics, a former employee of Kingston University. A copy of the printout of the WHOIS database search conducted on 2 March 2009 is attached at Annex 1.
6. All information known to the Complainant regarding how to contact the Respondent is as follows:

Address: 2 Park Road  
Hampton Wick  
Surrey KT1 4AS  
Telephone: 0208 943 3996  
Contact: Howard Fredrics

The Complainant believes this to be the Respondent's current address as this address has been used in correspondence in Employment Tribunal proceedings.

Alternatively

Address: Howard Fredrics  
5 Duke Ct  
Park Ridge  
New Jersey  
07656 US  
Telephone: +1.2015739655  
Contact: Howard Fredrics  
Email: howard@howardfredrics.com

These contact details were provided on the WHOIS database.

### **III. The Domain Name and Registrar**

(Rules, para. 3(b) (vi) and (vii))

7. This dispute concerns the domain name identified below:

www.sirpeterscott.com

- 8 The registrar with which the Domain Name is registered is:

Name: Spot Domain LLC

Address: Domainsite.com

125 Rampart Way

Suite 300

Denver, CO 80230

Tel: 303-459-6012

Fax: 303-364-3646

Email: support@domainsite.com

### **IV. Jurisdictional Basis for the Administrative Proceeding**

(Rules, paras. 3(a), 3(b)(xv))

9. This dispute is properly within the scope of the Policy and the Administrative Panel has jurisdiction to decide the dispute. The registration agreement, pursuant to which the domain name that is the subject of this Complaint is registered, can be found at [www.domainsite.com/registration\\_agreement.php](http://www.domainsite.com/registration_agreement.php). A true and correct copy of the domain name dispute policy that applies to the domain name in question is provided at Annex 2 to this Complaint.

### **V. Factual and Legal Grounds**

(Policy, paras. 4(a), (b), (c); Rules, para. 3)

10. This Complaint is based on the following grounds:

- A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;**

(Policy, para. 4(a) (i), Rules, paras. 3(b) (viii), (b) (ix) (1))

**(i). Complainant's Rights**

The Complainant has been Vice Chancellor of Kingston University since 1998. The Complainant is currently Chairman of the Universities' Association for Lifelong Learning and President of both the Academic Cooperation Association based in Brussels and the German Academic Exchange Service (DAAD). In 2007, the Complainant was awarded a Knighthood for his services to higher education. Prior to this, the Complainant was Vice Chancellor for External affairs at the University of Leeds and was editor of The Times Higher Education Supplement for 16 years.

The Complainant has seven recent major publications in the field of education as well as having contributed to the works of numerous other academics. The Complainant has also made contributions to national newspapers and has given numerous lectures and conferences in the United Kingdom.

The Complainant is an eminent and well known individual in the education sector and through his work has acquired substantial goodwill and reputation attaching to the name Sir Peter Scott. Attached at Annex 3 are details of the Complainant's publications and his curriculum vitae.

So far as the Complainant is aware from reasonable enquiry and a trade mark search, no other person or entity uses the name Sir Peter Scott in relation to educational services (Class 41). (Trade mark search conducted on 2 March 2009).

As a result of the activities detailed above, the Complainant has built up substantial and extensive goodwill and reputation under the name "Sir Peter Scott." This goodwill is protected in the UK under the law of passing off in accordance with the case of *Erven Warnink v Townend [1979] A.C. 731* (attached at Annex 4). Prior decisions have found that where an unregistered personal name is being used for trade or commerce, the complainant can establish common law trade mark rights in the name which will be protected under the UDRP. See *Dr Michael Crichton v In Stealth Mode* WIPO Case No D2002-0874 [Annex 7].

The domain name registered by the Respondent: www.sirpeterscott.com (disregarding the generic domain suffix) is identical to the mark or name in which the Complainant has rights.

**B. The Respondent has no rights or legitimate interests in respect of the domain name;**

(Policy, para. 4(a) (ii), Rules, para. 3(b) (ix) (2))

- (i) The Respondent has no rights to use the mark SIR PETER SCOTT. The Respondent is not known by the mark, holds no registered trade marks for SIR PETER SCOTT and has not been licensed by the Complainant to use this mark. Indeed, the Respondent has no connection with the proprietor of that mark (the Complainant), other than that set out in paragraph iv) below.
- (ii) There is no legitimate reason why the Respondent should choose to use the Complainant's mark.
- (iii) The Respondent has misrepresented to a substantial number of visitors that he is the Complainant. The title of the website states "Welcome to the web-site of Sir Peter Scott Vice-Chancellor of Kingston University." This together with the photograph of the Complainant on the opening page will clearly lead viewers to believe that the domain name is an official website used and authorized by the Complainant.
- (iv) The Respondent is not making a legitimate non-commercial or fair use of the domain name. The Respondent is known to the Complainant as he is a former employee of Kingston University who was dismissed for misconduct. The Respondent has attempted to bring proceedings against the Complainant in a private prosecution and has brought proceedings against Kingston University in an Employment Tribunal. Whilst the Court refused to issue the private prosecution against the Complainant, Employment Tribunal proceedings against Kingston University are still ongoing. The Respondent registered the domain name in February 2007 after his employment was terminated by



Kingston University. The Respondent has used the domain name with the express purpose of targeting and attacking the Complainant personally as well as Kingston University as an institution and a number of individual members of staff at the University.

- (v) The website content contains insulting and defamatory material which the Respondent uses in order to persuade visitors to the site not to associate themselves in any way with the Complainant by seeking employment at Kingston University or enrolling there as a student. The Respondent's intention in using the mark "Sir Peter Scott" is to tarnish the mark and the place of work which is associated with the Complainant. Attached as Annex 5 are printouts from the pages of the Respondent's website on 2 March 2009 showing the defamatory and offensive comments.

Prior decisions have found that a deceptive use of another's trade mark as part of a domain name is rarely if ever likely to give rise to a right or legitimate interest in respect of a domain name. See *Triodos Bank NV v Ashley Dobbs* WIPO Case No D2002-0776, *Monty & Pat Roberts Inc v J. Bartell* WIPO Case No D2000-0300, *Red Bull GmbH v Russell Snyder* WIPO Case No D2007-0915.

Prior decisions have also found that the right to criticize does not extend to registering a domain name that is identical or confusingly similar to the owner's registered trade mark or conveys an association with the mark. See *Triodos Bank NV v Ashley Dobbs* WIPO Case No D2002-0776, *Monty & Pat Roberts Inc v J. Bartell* WIPO Case No D2000-0300, *Red Bull GmbH v Russell Snyder* WIPO Case No D2007-0915.

- (vi) There is no evidence of the Respondent's use of or demonstrable preparation to use the Domain Name in connection with a *bona fide* offering of goods or services, further demonstrating that the Respondent has no rights or legitimate interests in respect of the Domain Name.

**C. The domain name was registered and is being used in bad faith.**

(Policy, paras. 4(a) (iii), 4(b); Rules, para. 3(b) (ix) (3))

- (i) As set out at paragraph 10. B iii) to v) above, the Respondent has no reason for registering and retaining the Domain Name other than for the purposes of tarnishing the mark and the reputation of Sir Peter Scott and Kingston University. The Respondent selected the domain name knowing it to be the mark of the Complainant at the time of registration in order to use it in a campaign against the Complainant to cause the Complainant disruption and damage. The Respondent's campaign threatens to cause serious disruption and damage to the Complainant's business as it will dissuade students from applying to Kingston University and encourage potential staff to seek employment elsewhere. The Respondent's use of the domain name is also extremely damaging to the Complainant's reputation within the education sector. In *Triodos Bank Nv v Ashley Dobbs* WIPO Case No D2002-0776 and *Compagnie Generale des Matieres Nucleaires v Greenpeace International* WIPO Case No D2001-0376, it was decided that where the Respondent has registered a domain name comprising the name and trade mark of another specifically with a view to causing damage and disruption to that other and where the use of the Domain Name will trick internet users intending to visit the trade mark owner's site into visiting the registrant's site it will be evidence of bad faith.
- (ii) The offensive and defamatory content published on the website at which the Domain Name is pointed, some of which is summarized below, is evidence that the Respondent both registered the domain name in bad faith and is using it in bad faith.
- The opening photograph is a photograph of the Complainant. The Respondent does not own the copyright in or have permission to use this photograph or any of the other photographs taken of members of staff at Kingston University which are posted on the website.
  - The title of the website states "Welcome to the web-site of Sir Peter Scott Vice-Chancellor of Kingston University." This, together with the photograph of the Complainant, would lead visitors into

believing that the website is an official site established by or sanctioned by the Complainant.

- The e-mail address [blowthewhistle@sirpeterscott.com](mailto:blowthewhistle@sirpeterscott.com) provided on the site does not belong to the Complainant and is likely to mislead viewers to believe that the Complainant is appealing to viewers to report any wrongdoing at Kingston University to him at the given e-mail address.
- The Respondent alludes to the Complainant being anti-Semitic and being involved with intimidating witnesses for the purposes of Employment Tribunal proceedings.
- Visitors to the site are directed to various videos on [myspace.com](https://www.myspace.com) which contain insulting and defamatory songs about the Complainant and Kingston University.

- (iii) Additionally, the Respondent has used the Domain Name as a link on defamatory advertisements about Kingston University on Google which appear when the search term “Peter Scott” and “Kingston University” is entered into the Google search engine. This misleads viewers who will believe that the advertisement was sponsored by the Complainant. Whilst steps have been taken by Kingston University, on the Complainant’s behalf, to remove these advertisements, the use of the Domain Name in this way is further evidence that it is being used in bad faith. Attached as Annex 6 are screenshots from Google showing the Domain Name being used in advertisements.
- (iv) The use made of the Domain Name by the Respondent shows that it has registered the Domain Name primarily for the purpose of disrupting the Complainant’s business (**Policy, paragraph 4.b (iii)**).
- (v) Given the Respondent’s lack of any interest in the words comprising the Domain Name, it is not possible to conceive of any plausible actual or contemplated active use of the Domain Name by the Respondent that would be legitimate. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO D2000-0003.

**VI. Remedies Requested**

(Rules, para. 3(b)(x))

11. In accordance with Paragraph 4(i) of the Policy, for the reasons described in Section V above, the Complainant requests the Administrative Panel appointed in this administrative proceeding issue a decision that the Domain Name be transferred to the Complainant.

**VII. Administrative Panel**

(Rules, para. 3(b) (iv))

12. The Complainant elects to have the dispute decided by a single-member Administrative Panel.

**VIII. Mutual Jurisdiction**

(Rules, para. 3(b) (xiii))

13. In accordance with Paragraph 3(b) (xiii) of the Rules, the Complainant will submit, with respect to any challenges that may be made by the Respondent to a decision by the Administrative Panel to transfer or cancel the domain name that is the subject of this Complaint, to the jurisdiction of the courts at the location of the principal office of the concerned registrar.

**IX. Other Legal Proceedings**

(Rules, para. 3(b) (xi))

14. No legal proceedings have been commenced or terminated in connection with or relating to the domain name that is the subject of this complaint.

**X. Communications**

(Rules, paras. 2(b), 3(b) (xii); Supplemental Rules, paras. 3, 4)

15. A copy of this Complaint, together with the cover sheet as prescribed by the Supplemental Rules, has been sent or transmitted to the Respondent on 2 March 2009

by e-mail addressed for the attention of Howard Fredrics and e-mailed to howard@howardfredrics.com.

16. A copy of this Complaint, has been sent or transmitted to the concerned registrar on 2 March 2009 by facsimile transmission to Spot Domain LLC addressed to Domainsite.com and transmitted to +1 303-364-3646.
17. This Complaint is submitted to the Center in electronic form (except to the extent not available for annexes), and in four (4) sets together with the original.

#### **XI. Payment**

(Rules, para. 19; Supplemental Rules, Annex D)

18. As required by the Rules and Supplemental Rules, payment in the amount of USD \$1,500 has been made by bank transfer.

#### **XII. Certification**

(Rules, para. 3(b) (xiv))

19. The Complainant agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain name holder and waives all such claims and remedies against (a) the WIPO Arbitration and Mediation Center and Panelists, except in the case of deliberate wrongdoing, (b) the concerned registrar, (c) the registry administrator, (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.
20. The Complainant certifies that the information contained in this Complaint is to the best of the Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under the Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Charles Russell" followed by a flourish.

Charles Russell LLP

Date: **2 March 2009**

BEFORE THE: WORLD INTELLECTUAL PROPERTY ORGANIZATION  
ARBITRATION AND MEDIATION CENTER

**Sir Peter Scott  
(Complainant)**

v

**Howard Fredrics  
(Respondent)**

---

ANNEX 1

---



[Blog](#)      [Tools](#)      [About us](#)      [Register](#)

---

Visit [AboutUs.org](http://AboutUs.org) for more information about [sirpeterscott.com](http://sirpeterscott.com)  
AboutUs: [sirpeterscott.com](http://sirpeterscott.com)

Domain Name: [sirpeterscott.com](http://sirpeterscott.com)  
Registrar: Spot Domain LLC

Expiration Date: 2010-02-06 00:00:00  
Creation Date: 2007-02-06 04:36:26

Name Servers:  
ns1.serversonic.com  
ns2.serversonic.com

#### REGISTRANT CONTACT INFO

Howard Fredrics  
Howard Fredrics  
5 Duke Ct  
Park Ridge  
New Jersey  
07656  
US  
Phone: +1.2015739655  
Email Address: [howard@howardfredrics.com](mailto:howard@howardfredrics.com)

#### ADMINISTRATIVE CONTACT INFO

Howard Fredrics  
Howard Fredrics  
5 Duke Ct  
Park Ridge  
New Jersey  
07656  
US  
Phone: +1.2015739655  
Email Address: [howard@howardfredrics.com](mailto:howard@howardfredrics.com)

#### TECHNICAL CONTACT INFO

Howard Fredrics  
Howard Fredrics  
5 Duke Ct  
Park Ridge  
New Jersey  
07656  
US  
Phone: +1.2015739655  
Email Address: [howard@howardfredrics.com](mailto:howard@howardfredrics.com)

#### BILLING CONTACT INFO

Howard Fredrics  
Howard Fredrics  
5 Duke Ct  
Park Ridge  
New Jersey  
07656  
US  
Phone: +1.2015739655  
Email Address: [howard@howardfredrics.com](mailto:howard@howardfredrics.com)

1235991263.5918

The Data in the Spot Domain LLC WHOIS database is provided by Spot Domain LLC for information purposes, and to assist persons in obtaining info

Whois Server Version 2.0

Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to <http://www.internic.net> for detailed information.

```

Domain Name: SIRPETERSCOTT.COM
Registrar: SPOT DOMAIN LLC DBA DOMAINSITE.COM
Whois Server: whois.domainsite.com
Referral URL: http://www.domainsite.com
Name Server: NS1.SERVERSONIC.COM
Name Server: NS2.SERVERSONIC.COM
Status: clientDeleteProhibited
Status: clientTransferProhibited
Status: clientUpdateProhibited
Updated Date: 24-jan-2009
Creation Date: 06-feb-2007
Expiration Date: 06-feb-2010

```

>>> Last update of whois database: Mon, 02 Mar 2009 05:53:47 EST <<<

**Enter a domain name or IP address:**



sirpeterscott.com

**Domain Name Registration**

The UK Domain Name Experts! co.uk, org.uk & me.uk just £2.99/y

V V

**Buy Your Own Domain Name**

Domain names at low cost with automatic registration. See more!

Ads by Google

Copyright © 2009 Whois-Search.com

BEFORE THE: WORLD INTELLECTUAL PROPERTY ORGANIZATION  
ARBITRATION AND MEDIATION CENTER

**Sir Peter Scott  
(Complainant)**

V

**Howard Fredrics  
(Respondent)**

---

ANNEX 2

---



125 Rampart Way  
Suite 300  
Denver, CO 80230  
Phone: 303-459-6012  
[support@domainsite.com](mailto:support@domainsite.com)



[Whois](#) | [Products and Services](#) | [Compare Our Pricing](#) | [Knowledge Base](#) | [About Us](#) | [Contact Us](#) | [FAQ](#)

[HOME](#) | [REGISTER A DOMAIN](#) | [RENEW A DOMAIN](#) | [TRANSFER TO DOMAINSITE](#) | [FREE EMAIL](#) | [SHOPPING CART](#) | [MY ACCOUNT](#)

Domain Availability

Search

## Domainsite Domain Name Registration Agreement

1. INTRODUCTION. In this Registration Agreement ("Agreement"), "you" and "your" refer to each customer ("Customer") and "we", "us" and "our" refer to Spot Domain LLC dba Domainsite.com and "VeriSign" refers to VeriSign, Inc. This Agreement explains our obligations to you, and your obligations to us in relation to your use of our services. By selecting our service(s) you have agreed to establish an account with us for such services. When you use your account or permit someone else to use your account to purchase or otherwise acquire access to additional service(s) we offer or to modify or cancel your service(s) with us (even if we were not notified of such authorization), this Agreement covers any such service or actions. Any acceptance of your application(s) for our services and the performance of our services will occur at our offices in Denver, Colorado, the location of our principal place of business.

2. VARIOUS SERVICES. Paragraphs 1 through 27 are applicable to any and all of the services you have chosen. The terms and conditions set forth in the lettered paragraphs at the end of this Agreement apply only to customers who have selected services other than our domain name registration services.

3. FEES, PAYMENT AND TERM OF SERVICE. As consideration for the services you have selected, you agree to pay us the applicable service(s) fees set forth on our Web site at the time of your selection. All fees are due immediately and are non-refundable. We may take all remedies available to us in order to collect fees owed. Unless otherwise specified, each service purchased from us is for a two-year initial term and renewable in perpetuity thereafter for successive one-year terms. Any renewal of your services with us is subject to our then current terms and conditions and payment of all applicable service fees at the time of renewal and in the case of domain name re-registration, the domain name registry's acceptance of your domain name registration. You agree that you may not transfer your domain name registration to another domain name registrar during the first sixty (60) days from the effective date of your initial domain name registration with us.

4. ACCURATE INFORMATION. As further consideration for our service(s), you agree to: (1) provide certain current, complete and accurate information about you as required by the application process; and (2) maintain and update this information as needed to keep it current, complete and accurate. We rely on this information to send you important information and notices regarding your account and our services. You represent and warrant that you have provided notice to, and obtained consent from, any third party individuals whose personal data you supply to us as part of our services with regard to: (i) the purposes for which such third party's personal data has been collected, (ii) the intended recipients or categories of recipients of the third party's personal data, (iii) which parts of the third party's data are obligatory and which parts, if any, are voluntary; and (iv) how the third party can access and, if necessary, rectify the data held about them. You further agree to provide such notice and obtain such consent with regard to any third party personal data you supply to us in the future. We are not responsible for any consequences resulting from your failure to provide notice or receive consent from such individuals nor for your providing outdated, incomplete or inaccurate information. Even if you intend to license the use of our domain name registration services to a third party, you will remain our customer and you are responsible for complying with all terms and conditions of this Agreement. Subject to the requirements of our privacy statement, in order for us to comply with the current rules and policies for the domain name system, you hereby grant us the right to disclose to third parties through an interactive publicly accessible registration database the following mandatory information that you are required to provide when registering or reserving a domain name: (i) the domain name(s) registered by you; (ii) your name and postal address; (iii) the name(s), postal address(es), e-mail address(es), voice telephone number and where available the fax number(s) of the technical and administrative contacts for your domain name(s); (iv) the Internet protocol numbers of the primary nameserver and secondary nameserver(s) for such domain name(s); (v) the corresponding names of those nameservers; (vi) the original creation date of the registration; and (vii) the expiration date of the registration. We are also required, as are all accredited domain name registrars, to make this information available in bulk form to third parties who agree not to use it to (a) allow,

# \$8.88

**Standard 1 Year  
Domain Registration  
with Email Forwarding,  
Domain Forwarding,  
and DNS Management  
Tools**

enable or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via e-mail (spam) or (b) enable high volume, automated, electronic processes that apply to our systems to register domain names.

5. MODIFICATIONS TO AGREEMENT. Except as otherwise provided in this Agreement, you agree, during the term of this Agreement, that we may: (1) revise the terms and conditions of this Agreement; and/or (2) change the types of or terms of any of the services provided under this Agreement at any time. Any such revision or change will be binding and effective immediately upon posting of the revised Agreement or change to the service(s) on our Web site, or upon notification to you by e-mail or United States mail. You agree to periodically review our Web site, including the current version of this Agreement available on our Web site, to become aware of any such revisions.

6. MODIFICATIONS TO YOUR ACCOUNT. In order to change any of your account information with us, you must use the Account Number and the Password that you selected if you opened your account with us through our online application process. Please safeguard your Account Number and Password or security authentication option from any unauthorized use. In no event will we be liable for the unauthorized use or misuse of your Account Number or Password or security authentication option.

7. DOMAIN NAME DISPUTE RESOLUTION POLICY. If you reserved or registered a domain name through us, you agree to be bound by our current domain name dispute resolution policy that is incorporated herein and made a part of this Agreement by reference. The policy has been adopted by the Internet Corporation for Assigned Names and Numbers (ICANN). The current version of the policy may be found at our web site: [http://www.domainsite.com/dispute\\_policy.php](http://www.domainsite.com/dispute_policy.php). Please take the time to familiarize yourself with that policy.

8. DOMAIN NAME DISPUTE RESOLUTION POLICY MODIFICATIONS. You agree that we, in our sole discretion, may modify our dispute resolution policy. We will post any such revised policy on our Web site at least thirty (30) calendar days before it becomes effective. You agree that, by maintaining the reservation or registration of your domain name after modifications to the dispute policy become effective, you have agreed to these modifications. You acknowledge that if you do not agree to any such modification, you may terminate this Agreement. We will not refund any fees paid by you if you terminate your Agreement with us.

9. DOMAIN NAME DISPUTES. You agree that, if your use of our domain name registration services is challenged by a third party, you will be subject to the provisions specified in our dispute resolution policy in effect at the time of the dispute. You agree that in the event a domain name dispute arises with any third party, you will indemnify and hold us harmless pursuant to the terms and conditions set forth below in this Agreement. If we are notified that a complaint has been filed with a judicial or administrative body regarding your use of our domain name registration services, you agree not to make any changes to your domain name record without our prior approval. We may prohibit you from making changes to such domain name record until (i) we are directed to do so by the judicial or administrative body, or (ii) we receive notification by you and the other party contesting your registration and use of our domain name registration services that the dispute has been settled. Furthermore, you agree that if you are subject to litigation regarding your registration and use of our domain name registration services, we may deposit control of your domain name in a holding account until such litigation is concluded.

10. AGENTS. You agree that, if your agent (e.g., an Internet Service Provider, employee, etc.) purchased our service(s) on your behalf, you are nonetheless bound as a principal by all terms and conditions herein, including the dispute policy. Your continued use of our services shall ratify any unauthorized actions of your agent. By acting on your behalf, your agent certifies that he or she is authorized to apply for our services on your behalf, that he or she is authorized to bind you to the terms and conditions of this Agreement and that he or she has apprised you of the terms and conditions of this Agreement. In addition, you are responsible for any errors made by your agent. We will not refund fees paid by you or your agent on your behalf for any reason, including, but not limited to, in the event that your agent fails to comply with the terms and conditions of this Agreement, your agent incorrectly provides information in the application process or if your agent changes or otherwise modifies your domain name record incorrectly.

11. NOTICES AND ANNOUNCEMENTS. You authorize us to notify you as our customer of information that we deem is of potential interest to you. Notices and announcements may include commercial e-mails and other notices describing changes, upgrades, new products and services or other information pertaining to Internet security or to enhance your identity on the Internet and/or other relevant matters. If you do not wish to receive bulk email solicitation notices or announcements please visit <http://www.domainsite.com/tools/optout.php>.

12. **LIMITATION OF LIABILITY.** You agree that our entire liability, and your exclusive remedy, with respect to any service(s) provided by us under this Agreement and/or for any breach of this Agreement is solely limited to the amount you paid for such service(s). Spot Domain LLC dba Domainsite.com and our contractors shall not be liable for any direct, indirect, incidental, special or consequential damages resulting from the use or inability to use any of the services or for the cost of procurement of substitute services. Because some states do not allow the exclusion or limitation of liability for consequential or incidental damages, in such states, our liability is limited to the extent permitted by law. We disclaim any and all loss or liability resulting from, but not limited to: (1) loss or liability resulting from access delays or access interruptions; (2) loss or liability resulting from data non-delivery or data mis-delivery; (3) loss or liability resulting from acts of God; (4) loss or liability resulting from the unauthorized use or misuse of your Account Number, Password or security authentication option; (5) loss or liability resulting from errors, omissions, or misstatements in any and all information or service(s) provided under this Agreement; (6) loss or liability relating to the deletion of or failure to store e-mail messages; (7) loss or liability resulting from the development or interruption of your Web site; (8) loss or liability from your inability to use our service; (9) loss or liability that you may incur in connection with our processing of your application for our services, our processing of any authorized modification to your domain name record or your agents failure to pay any fees, including the initial registration fee or re-registration (renewal) fee; or (10) loss or liability as a result of the application of our dispute resolution policy.

13. **INDEMNITY.** You agree to release, indemnify, and hold us, in our capacities as the registry and a registrar, and our contractors, agents, employees, officers, directors, shareholders, affiliates and assigns harmless from all liabilities, claims, damages, costs and expenses (including reasonable attorneys' fees and expenses) of third parties relating to or arising under this Agreement, the services provided hereunder or your use of the services, including without limitation infringement or dilution by you, or someone else using our service(s) from your computer, of any intellectual property or other proprietary right of any person or entity, or a violation of any of our operating rules or policies relating to the service(s) provided. When we are threatened with suit or sued by a third party, we may seek written assurances from you concerning your promise to indemnify us; your failure to provide those assurances may be considered by us to be a material breach of this Agreement.

14. **VERISIGN INDEMNITY.** You hereby agree to indemnify, defend and hold harmless VeriSign, Inc., and its directors, officers, employees, agents and affiliates from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses arising out of or relating to your domain name registration.

15. **BREACH.** You agree that your failure to abide by any provision of this Agreement, any of our operating rules or policies, the dispute resolution policy, or your willful provision of inaccurate or unreliable information as part of the application process, or your failure to update your information to keep it current, complete or accurate, or your failure to respond for over fifteen (15) calendar days to inquiries from us concerning the accuracy of the contact details associated with your domain name registration, may be considered by us to be a material breach of this Agreement and that we may provide a written notice, describing the breach, to you. If within ten (10) calendar days of the date of such notice, you fail to provide evidence, which is reasonably satisfactory to us, that you have not breached your obligations under the Agreement, then we may delete the registration or reservation of your domain name and/or terminate the other service(s) you are using without further notice. We will not refund any fees paid by you if we terminate your Agreement due to your breach. Any such breach by you shall not be deemed to be excused simply because we did not act earlier in response to that, or any other breach, by you.

16. **NO GUARANTY.** You agree that the registration of your chosen domain name, in itself, does not confer immunity from objection to either the registration or use of your domain name.

17. **REPRESENTATIONS AND WARRANTIES.** You agree and warrant that: (i) the information that you or your agent on your behalf provide to us during the application process to register your domain name or to apply for other service(s) is, to the best of your knowledge and belief, accurate and complete, and that any future changes to this information will be provided to us in a timely manner according to the modification procedures in place at that time, (ii) to the best of your knowledge and belief neither the registration of your domain name nor the manner in which you intend to use such domain name will directly or indirectly infringe the legal rights of a third party, (iii) you have all requisite power and authority to execute this Agreement and to perform your obligations hereunder, (iv) you have selected the necessary security option(s) for your domain name registration record, and (v) you are of legal age to enter into this Agreement. You agree that your use of our service(s) is solely at your own risk. You

agree that all of our services are provided on an "as is" and "as available" basis.

18. **DISCLAIMER OF WARRANTIES.** WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT OUR SERVICE(S) WILL MEET YOUR REQUIREMENTS, OR THAT THE SERVICE(S) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DO WE MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE(S) OR AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH OUR SERVICE. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF OUR SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA. WE MAKE NO WARRANTY REGARDING ANY GOODS OR SERVICES PURCHASED OR OBTAINED THROUGH ANY OF OUR SERVICES OR ANY TRANSACTIONS ENTERED INTO THROUGH SUCH SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH OUR SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. TO THE EXTENT JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

19. **REVOCATION.** You agree that we may terminate your contractual right to use our service(s) if the information that you are obligated to provide to register your domain name or register for other service(s), or that you subsequently modify, contains false or misleading information, or conceals or omits any information we would likely consider material to our decision to register your domain name or to continue to provide you domain name registration services. Furthermore, you agree that we may suspend, cancel or transfer your domain name registration (and any additional services) in order to: (i) correct mistakes made by us or the registry in registering your chosen domain name, or (ii) to resolve a dispute under our dispute policy. We will not refund any fees paid by you if we terminate your services.

20. **RIGHT OF REFUSAL.** You agree that we may, in our sole discretion and without liability to you, refuse to accept the registration of any domain name. We may also in our sole discretion and without liability to you, delete the registration of any domain name during the first sixty days after the initial registration date. In the event that we refuse a domain name registration, or delete an existing registration during the first sixty days after the initial registration date, you will receive a refund of fees paid to us for such registration. Spot Domain may also cancel the registration of a domain name, after the initial sixty-day period, if that name is being used in association with spam or objectionable (either morally or otherwise) activities. Objectionable activities may include, but are not limited to: activities designed to defame, abuse, threaten, or harass third parties; activities prohibited by the laws of the United States; activities prohibited in foreign territories in which you conduct business; activities designed to encourage unlawful behavior by others; activities that are tortuous, invasive of the privacy of a third party, racially, ethnically, or otherwise objectionable; and activities designed to impersonate the identity of a third party. In the event that we delete the registration of a domain name being used in association with spam or objectionable activities, no refund will be issued.

21. **DOMAIN NAME EXPIRATION; GRACE PERIOD; IP ADDRESS CHANGES; REDEMPTION PERIOD; RENEWAL AND TRANSFER.** You agree that we may, but are not obligated to, allow you to renew your domain name after its expiration date has passed. We do not auto renew domain names. As the owner of the domain you must specifically renew each domain with us. You agree that after the expiration date of your domain name registration and before it is deleted or renewed, we may direct your domain name to an IP address designated by us, including, without limitation, to an IP address which hosts our temporary parking page that may include, among other things, advertisements for Domainsite.com's products or services, third party advertisements, and interfaces to other web pages including search engines. You agree that we may place our contact information in the WHOIS output for the expired domain name. Should you choose not to renew your domain name during any applicable grace period, you agree that we may, in our sole discretion, renew and transfer the domain name to a third party or delete the domain. Domain names that have not been renewed, and for which a decision has been made to delete, will be deleted between 35 and 45 days after the expiration date. Any domain that gets deleted enters redemption period, if supported by the registry. During this time, generally 30 days, the previous owner of the domain can redeem the registration for \$120 USD.

22. **PARKED DOMAINS.** Every time you register a domain name with Domainsite.com, your name will be pointed to our "Future Home of...." page, which acts as a place holder for your domain name's future web page. This page may contain third-party

advertisements, links to other products and services offered by DomainSite.com, and interfaces to other web pages, including search engines, among other things. You will not receive notice regarding the additional content located on the Future Home Of page, and such content may be modified at any time. If you would like a preview of such a Future Home Of page, click here. If you have any objection to having your newly registered domain name pointed to a Future Home Of page, please let our Customer Service department know by clicking here [support@domainsite.com](mailto:support@domainsite.com).

23. SEVERABILITY. You agree that the terms of this Agreement are severable. If any term or provision is declared invalid or unenforceable, that term or provision will be construed consistent with applicable law as nearly as possible to reflect the original intentions of the parties, and the remaining terms and provisions will remain in full force and effect.

24. ENTIRETY. You agree that this Agreement and the rules and policies published by us, including without limitation our dispute resolution policy and our privacy statement, comprise the complete and exclusive agreement between you and us regarding our services. This Agreement, along with our rules and policies, supersede all prior agreements and understandings, oral or written, whether established by custom, practice, policy or precedent.

25. TRANSFER AND ASSIGNMENT. You may transfer your domain name registration to a third party of your choice, subject to the procedures and conditions provided on our website and incorporated herein. Your rights under this Agreement are not assignable and any attempt by your creditors to obtain an interest in your rights under this Agreement, whether by attachment, levy, garnishment or otherwise, renders this Agreement voidable at our option.

26. GOVERNING LAW; VENUE. You agree that this Agreement and any disputes hereunder shall be governed in all respects by and construed in accordance with the laws of the United States of America and the State of Colorado, as if this Agreement shall have been entered into and performed in its entirety within such state. You agree that any action relating to or arising out of this Agreement, or any matter relating to your use of our website, shall be brought in the United States District Court for the District of Colorado or, if there is no jurisdiction in such court, then in a Colorado state court located within the City and County of Denver, Colorado. Notwithstanding the foregoing, with respect to the adjudication of disputes between you and a third party regarding the use of any domain names registered pursuant to this Agreement, you agree that you shall (a) abide by the terms of the Uniform Domain Name Dispute Resolution Policy (the "UDRP") (as described in our dispute resolution policy) or any similar ccTLD policy, and (b) submit to the jurisdiction of (i) the courts of the state where you reside, and (ii) the courts of the State of Colorado, located within the City and County of Denver.

27. AGREEMENT TO BE BOUND. By applying for service(s) through our online application process or by applying for and registering a domain name as part of our e-mail template application process or by using the service(s) provided by us pursuant to this Agreement, you acknowledge that you have read and agree to be bound by all terms and conditions of this Agreement and any pertinent rules or policies that are or may be published by us.

A. Additional Provisions for RegistryPro .Pro registration and Use (all terms as defined in the RegistryPro Registration Agreement):

a) You represent and warrant that the data provided in the Registered Name or Defensive Registration application is true, correct, up to date, and complete; and that the registrant will at all times during the term of its registration keep the information provided above up to date;

b) You represent and warrant that the registration satisfies the applicable .pro restrictions at the time of registration;

c) You represent and warrant that the Registered Name registration satisfies the digital security requirements stated in Appendix L of the Registration Agreement;

d) You agree to be subject to the Qualification Challenge Policy and the Uniform Domain Name Dispute Resolution Policy (the "UDRP");

e) You agree not to make any representation to any person or entity that expressly or impliedly conveys that the registration of the Registered Item in any way signifies or indicates that the Registered Item Holder possesses any general or specific professional qualifications, including, but not limited to, professional qualifications in a particular field;

- f) You certify that the Registered Item Holder has the authority to enter into the Registration Agreement;
- g) For applications during the Sunrise Period, you certify that the registration qualifies for a Sunrise Registration, as set forth in Appendix J of the Registry Agreement;
- h) For Intellectual Property Defensive Registrations, including Sunrise Registrations, you agree to be subject to the Intellectual Property Challenge Defensive Registration Challenge Policy;
- i) You agree to the use, copying, distribution, publication, modification and other processing of Registered Item Holder's Personal Data by Registry Operator and its designees and agents in a manner consistent with the purposes specified pursuant to Subsection 2.6 of the Registry.Pro Registration Agreement;
- j) You acknowledge that the Registry Operator will have no liability of any kind for any loss or liability resulting from the proceedings and processes relating to the Sunrise Period including, without limitation: (i) the ability or inability of any registrant to obtain a Registered Item during these periods, and (ii) the results of any dispute over a Sunrise Registration;
- k) You acknowledge that the Registrar reserves the right to reject any application to register a Registered Item for any reason or no reason, including but not limited to if either Registrar or Registry Operator reasonably believes it does not satisfy the conditions for a Registration (including the Sunrise Registration Conditions or .pro eligibility requirements).

You, as the Registered Item Holder, acknowledge having read and understood and agree to be bound by the terms and conditions of the following documents, as they may be amended from time to time, which are hereby incorporated and made an integral part of this Agreement:

- (i) The Uniform Domain Name Dispute Resolution Policy, available at <http://www.icann.org/dndr/udrp/policy.htm>;
- (ii) (For registration agreements relating to Intellectual Property Defensive Registrations, including Sunrise Registrations:)The Intellectual Property Defensive Registration Challenge, available at <http://www.icann.org/dndr/prosdrp/policy.htm>;
- (iii) The Qualification Challenge Policy and Rules, available at <http://www.icann.org/dndr/proqcp/policy.htm> and <http://www.icann.org/dndr/proqcp/uniform-rules.htm>;
- (iv) The .pro TLD restriction requirements;
- (v) For registrations of Registered Names, the .pro TLD digital certification requirements;
- (vi) Procedures for any applicable Verification Toolkit.
- l) You agree to the use, copying, distribution, publication, modification and other processing of Registered Name Holder's Personal Data by RegistryPro and its designees and agents in a manner consistent with the purposes specified pursuant to Section 2.6 of the Registry.Pro Registration Agreement;
- m) You represent and warrant that you meet the applicable .Pro registration requirements within the Jurisdiction and agree that, during the term of the registration, you will continue to meet such requirements and that you will promptly notify the Registrar if you no longer meet such requirements;
- n) You acknowledge that RegistryPro is a third party beneficiary of the Domainsite Domain Name Registration Agreement with the right to enforce those provisions of the Registration Agreement that affect it;
- o) You acknowledge that Registrar shall be solely responsible for providing Applicant with services with respect to (a) its application for a Registered Name and (b) in the event such application is accepted, for all ongoing services with respect to its issued Registered Name. Applicant further acknowledges that RegistryPro shall have no obligation to provide such services to Applicant. Applicant agrees that it has no contractual relationship whatsoever with RegistryPro and that Applicant is not a third party beneficiary of any agreement between RegistryPro and Registrar. Applicant further agrees that RegistryPro will have no legal, equitable or other liability of any kind to Applicant.



p) Applicant acknowledges that if, pursuant to the performance of the initial verification services or annual reverification services, Registrar determines that Applicant does not meet or does not continue to meet the applicable .Pro registration requirements, Registrar shall be entitled to retain a processing fee of \$150 in connection with the performance of the initial verification services and \$150 in connection with the performance of the annual reverification services.

You as the Registered Item Holder represent and warrant that, at all times during the term of Registered Item registration, you meet the .pro registration requirements set forth by Registry Operator for the registration of the Registered Item Holder's registration. The Registered Item Holder is required to provide prompt notice to Registrar if you fail to meet such registration requirements. Registrar and/or Registry Operator shall have the right to immediately and without notice to Registered Item Holder, suspend, cancel or modify a Registered Item Holder's registration if, at any time, the Registered Item Holder fails to meet the registration requirements for such domain name or Defensive Registration.

.Pro registrants self-certify that they are professionals and neither this organization nor the Registry Operator can attest to its accuracy. The relevant jurisdiction's licensing body or office of professionals should be contacted to obtain information about a .Pro registrant's licensing status and qualifications. Neither Registrar nor RegistryPro (the operator of the .Pro registry) is (i) a referral service, a partner with, or agent of any .Pro registrant (nor is there any endorsement of any .Pro registrant, the content on a .Pro website or advice given by a .Pro registrant); or (ii) giving any legal, medical, accounting or other professional advice.

The data contained in RegistryPro's WHOIS database, including but not limited to data regarding a registrant's stated profession, is provided "as is" with no guarantee or warranties regarding its timeliness or accuracy. For information about Digital Certificates please see the .Pro Certificate Practices Statement, available at [www.registrypro.com](http://www.registrypro.com).

#### B. Additional Provisions for .Name TLD registration and Use.

a) You represent and warrant that every registration you are applying for in the .name top-level domain ("TLD") satisfies the eligibility requirements ("Eligibility Requirements") established by Global Name Registry Ltd., the registry for the .name TLD, which are available at <http://www.icann.org/tlds/agreements/name/registry-agmt-appl-03jul01.htm>.

b) You agree that every service for which you register is subject to the Uniform Domain Name Dispute Resolution Policy (the "UDRP") and the Eligibility Requirements Dispute Resolution Policy (the "ERDRP"), which are located at <http://www.icann.org/tlds/agreements/name/registry-agmt-appm-03jul01.htm>.

c) In addition to any of the other limitations of liability contained herein, you agree that neither the .name registry nor Spot Domain LLC dba Domainsite.com shall have any liability of any kind for any loss or liability resulting from the processing of registration requests prior to live SRS or any dispute over any Registered Name, SLD E-mail Address, Defensive Registration, or NameWatch Registration, including any dispute resolution proceeding related to any of the foregoing.

#### C. Additional Provisions for .info Registrations.

Registered Name Holder indemnifies, defends and holds harmless Afilias Limited, the .INFO Registry Operator, and its directors, officers, employees and agents from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to the Registered Name Holder's domain name registration. This indemnification obligation survives the termination or expiration of the Registration Agreement.

As the registered name holder of a .info name you agree to:

(i) consent to the use, copying, distribution, publication, modification and other processing of Registered Name Holder's Personal Data by Afilias Limited, the .INFO Registry Operator and its designees and agents in a manner consistent with the purposes specified pursuant to Subsection 2.6 of the .INFO Registration Agreement;

(ii) submit to proceedings commenced under ICANN's Uniform Domain Name Dispute Resolution Policy ("UDRP") and the Sunrise Dispute Resolution Policy ("SDRP");

(iii) immediately correct and update the registration information for the Registered Name during the registration term for the Registered Name; and

(iv) acknowledge that Afiliis Limited, the .INFO Registry Operator will have no liability of any kind for any loss or liability resulting from the proceedings and processes relating to the Sunrise Period or the Land Rush Period, including, without limitation: (a) the ability or inability of a registrant to obtain a Registered Name during these periods, and (b) the results of any dispute over a Sunrise Registration.

D. In its registration agreement with each Registered Name Holder, Registrar shall require such Registered Name Holder to:

Acknowledge and agree that they must comply with the requirements, standards, policies, procedures and practices set forth in the dotmobi Style Guide ([www.mtld.mobi](http://www.mtld.mobi)) and consent to the monitoring of the website as described in the dotmobi Style Guide monitoring guidelines ([www.mtld.mobi](http://www.mtld.mobi)) for compliance with the Style Guide. Furthermore, Registrant acknowledges and agrees that this Style Guide is subject to modification by the Registry with any such changes appearing at the previously designated URL, and that Registrant must promptly comply with any such changes in the time allotted.

E. Additional Provisions for .CO.UK, .ORG.UK, .ME.UK Registrations:

<http://www.nominet.org.uk/ref/terms.html>

E. Additional Provisions for .AC Registrations:

<http://www.nic.ac/terms.html>

F. Additional Provisions for .AT Registrations:

[http://www.nic.at/en/agb/ag\\_agb.asp](http://www.nic.at/en/agb/ag_agb.asp)

G. Additional Provisions for .BE Registrations:

[http://www.dns.be/eng/DomainInfo/enduser\\_termsandconditions.htm](http://www.dns.be/eng/DomainInfo/enduser_termsandconditions.htm)

H. Additional Provisions for .CC Registrations:

<http://www.enic.cc/en/policies/policies.shtml>

I. Additional Provisions for .DE Registrations:

<http://www.denic.de/en/bedingungen.html>

J. Additional Provisions for .IT Registrations:

<http://www.nic.it>

K. Additional Provisions for .IO Registrations:

<http://www.nic.io/terms.html>

L. Additional Provisions for .JP Registrations:

<http://jprs.jp>

M. Additional Provisions for .COM.MX Registrations:

<http://www.nic.mx/es/Politiclas.Dominios>

N. Additional Provisions for .NL Registrations:

<http://www.domain-registry.nl>

O. Additional Provisions for .CO.NZ, .ORG.NZ, .NET.NZ Registrations:

<http://www.domainz.net.nz/Domainz.asp?Content=Terms>

P. Additional Provisions for .SH Registrations:

<http://www.nic.sh/terms.html>

Q. Additional Provisions for .TM Registrations:

<http://www.nic.tm/terms.html>

R.Additional Provisions for .TV Registrations:

<http://www.tv/en/policies/policies.shtml>

Registered Name Holder shall:

Indemnify to the maximum extent permitted by law, defend and hold harmless Registry Operator, and its directors, officers, employees and agents from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to the Registered Name Holder.s domain name registration and or use, and this indemnification obligation survive the termination or expiration of the registration agreement; (3.7)

Indemnify, defend and hold harmless Registry Services Provider, its subsidiaries and affiliates, and the directors, officers, employees and agents or each of them, from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to the Registered Name Holder.s domain name registration and or use, and indemnification obligation survive the termination or expiration of the registration agreement; (3.7.1)

Acknowledge and agree that notwithstanding anything in this Agreement to the contrary, mTLD Top Level Domain Ltd. (.dotmobi.), the Registry Operator of the .mobi TLD, is and shall be an intended third party beneficiary of this Agreement. As such, the parties to this Agreement acknowledge and agree that the third party beneficiary rights of dotmobi have vested and that dotmobi has relied on its third party beneficiary rights under this Agreement in agreeing to [Registrar.s name] Spot Domain LLC DBA Domainsite.com being a registrar for the .mobi top-level domain. Additionally, the third party beneficiary rights of dotmobi shall survive any termination or expiration of this Agreement. (3.8.3)

Comply with ICANN requirements, standards, policies, procedures, and practices for which Registry Operator has monitoring responsibility in accordance with the Registry Agreement or other arrangement with ICANN; (3.8.1)

Comply with operational standards, policies, procedures, and practices for the Registry TLD established from time to time by Registry Operator in a non-arbitrary manner as Registry Policies, applicable to all registrars and/or Registered Name Holders, and consistent with the Registry Agreement shall be effective upon thirty days notice by Registry Operator to Registrar; (3.8.2)

Consent to the use, copying, distribution, publication, modification and other processing of Registered Name Holder's Personal Data by Registry Operator and its designees and agents in a manner consistent with the purposes specified pursuant to Subsection 2.6 and with relevant mandatory local data protection, laws and privacy; (3.8.4)

Submit to proceedings commenced under ICANN's Uniform Domain Name Dispute Resolution Policy ("UDRP"); (3.8.5)

Immediately correct and update the registration information for the registered Name during the registration term for the Registered Name; (3.8.6)

Acknowledge and agree to be bound by the terms and conditions of the initial launch and general operations of the Registry TLD, including without limitation the Limited Industry Launch, the Sunrise Period, the Land Rush Period, the Sunrise Dispute Resolution Policy, the Premium Name Allocation Process, and the General Registration Period, and further to acknowledge that Registry Operator and the Registry Service Provider has no liability of any kind for any loss or liability resulting from the proceedings and processes relating to the Limited Industry Launch, the Sunrise Period, the Land Rush Period, the Sunrise Dispute Resolution Policy, the Premium Name Allocation Process, and the General Registration Period including, without limitation: (a) the ability or inability of a registrant to obtain a Registered Name during these periods, and (b) the results of any dispute made during the limited industry launch or over a Sunrise Registration. (3.8.7)

Acknowledge and agree that the Registry and Registry Services Provider, acting in consent with the Registry, reserves the right to deny, cancel or transfer any registration that it deems necessary, in its discretion (i) to protect the integrity and stability of the registry; (ii) to comply with all applicable laws, government rules or requirements, requests of law enforcement, in compliance with any dispute resolution process; (iii) to avoid any liability, civil or criminal, on the part of the Registry as well as its affiliates, subsidiaries, officers, directors, representatives, employees, and stockholders; (iv) for violations of the terms and conditions herein; or (v) to correct mistakes made by the Registry or any registrar in connection with a domain name registration, and the Registry also reserves the right to freeze a Registered Name during resolution of a dispute.

(3.8.8.)

Acknowledge and agree that they must comply with the requirements, standards, policies, procedures and practices set forth in the dotmobi Style Guide ([www.mtld.mobi](http://www.mtld.mobi)) and consent to the monitoring of the website as described in the dotmobi Style Guide monitoring guidelines ([www.mtld.mobi](http://www.mtld.mobi)) for compliance with the Style Guide. Furthermore, Registrant acknowledges and agrees that this Style Guide is subject to modification by the Registry with any such changes appearing at the previously designated URL, and that Registrant must promptly comply with any such changes in the time allotted. (3.8.9)

Acknowledge and agree that Proxy or Proxy Registrations will not be allowed during the Sunrise Period, the Limited Industry Launch and the Premium Name Allocation and Auction Period, and in such an instance will constitute a material breach to this contract. (3.9.1)

---

[Dispute Policy](#) | [Registration Agreement](#) | [Privacy Policy](#) | [Knowledge Base](#) | [About Us](#) | [Contact Us](#) | [FAQ](#) | [Glossary](#) | [Careers](#)  
powered by | [linux man pages](#) | [geographic information](#) | [global whois](#) | [Firefox and Mozilla toolbars](#) | [dictionary](#) | [ccTLD information](#)

©2005 Spot Domain LLC, All Rights Reserved. (2)

BEFORE THE: WORLD INTELLECTUAL PROPERTY ORGANIZATION  
ARBITRATION AND MEDIATION CENTER

**Sir Peter Scott  
(Complainant)**

v

**Howard Fredrics  
(Respondent)**

---

ANNEX 3

---

# Sir Peter Scott

## Sir Peter Scott <sup>1</sup>: biography

### Present Position: Vice-Chancellor, Kingston University

#### Sir Peter Scott <sup>1</sup> – previous employment:

1. Pro-Vice-Chancellor for external affairs, University of Leeds (1996–97)
2. Director of the Centre for Policy Studies in Education (1992–97)
3. Professor of Education (1992-1997)
4. Editor, *The Times Higher Education Supplement* (1976–92)

#### Sir Peter Scott <sup>1</sup> – education and qualifications (including honorary awards):

1. University of Oxford (Merton College) 1964-67. BA in modern history
2. University of California at Berkeley (Graduate School of Public Policy) 1973-74. Visiting scholar, while holding a Harkness Fellowship from the Commonwealth Fund of New York.
3. Hon. Doctor of Laws (University of Bath)
4. Hon. Doctor of Letters (Council for National Academic Awards)
5. Hon. Fellow, University of Manchester Institute of Science and Technology

#### Sir Peter Scott <sup>1</sup> – Membership of Learned Societies:

1. Academician, Academy for Learned Societies for the Social Sciences
2. Member, Academia Europaea
3. Fellow, Society for Research into Higher Education
4. Fellow, Royal Society of Arts
5. Member, Institute for Learning and Teaching

#### Sir Peter Scott <sup>1</sup> – Membership of Editorial Boards:

1. *Minerva*
2. *Studies in Higher Education*
3. *Higher Education in Europe*
4. *Journal of Further and Higher Education*
5. *Journal of Access Studies*
6. *Journal of Studies in International Education*

#### Sir Peter Scott <sup>1</sup> – other activities:

1. Visiting Professor, Department of Educational Studies, University of Surrey
2. Member of the Board, Higher Education Funding Council for England
3. Chairman, Universities Association for Continuing Education

#### Sir Peter Scott <sup>1</sup> – major publications (books):

1. *The New Production of Knowledge: The Dynamics of Science and Research in Contemporary Societies*, London: Sage 1994 (with Michael Gibbons, Camille Limoges, Helga Nowotny, Simon Schwartzman and Martin Trow)
2. *The Meanings of Mass Higher Education*, Buckingham: Open University Press, 1995
3. *Governing Universities: Changing the Culture?* Buckingham: Open University Press, 1996 (with Catherine Bargh and David Smith)
4. *The Globalization of Higher Education*, Buckingham: Open University Press, 1998

5. *Higher Education Re-formed*, London: Falmer Press, 2000
6. *University Leadership: The Role of the Chief Executive*, Buckingham: Open University Press, 2000 (with Catherine Bargh, Jean Boccock and David Smith)
7. *Re-Thinking Science: Knowledge and the Public in an Age of Uncertainty*, Cambridge: Polity Press, 2001 (with Helga Nowotny and Michael Gibbons)

---

## Links

1. <http://www.kingston.ac.uk/sirpeterscott/>

# Sir Peter Scott <sup>1</sup>

## Vice-Chancellor

Professor Sir Peter Scott <sup>1</sup> has been Vice-Chancellor of Kingston University since January 1998. Previously he was Pro Vice-Chancellor and Professor of Education at the University of Leeds. He was also the Director of the Centre for Policy Studies in Education. From 1976 to 1992 he was Editor of The Times Higher Education Supplement. Before that he was a reporter and then a leader writer on The Times.

He has a First in modern history from the University of Oxford (Merton College). He was also a Visiting Scholar at the Graduate School of Public Policy at the University of California at Berkeley while holding a Harkness Fellowship awarded by the Commonwealth Fund of New York.

### Duties and responsibilities

Under the Instrument and Articles of Government Peter is the chief executive of Kingston University responsible for advising the Board of Governors on the education character and mission of the University and for the organisation, management and leadership of its staff. He carries out these responsibilities with the advice of senior colleagues on the Senior Management Group, which has eight members, and with the consent of the Executive Board, on which all Deans and Heads of Department sit. He chairs both bodies.

Peter is a member of the Board of Governors and an ex-officio member of all its sub-committees apart from the Audit Committee. He also chairs the Academic Board, the 'third leg' of the University's governance (after the Board of Governors and the Vice-Chancellor). In addition he chairs a number of other committees, including the Professorial Appointments Committee and the Honorary Degrees Committee, and is a member of others (for example, the Academic Directorate).

### External responsibilities

Peter has recently been appointed as first President of the Association of University Administrators and chairs the AUA's newly established council <sup>2</sup>

He has been for six years President of the Academic Cooperation Association <sup>3</sup>, the Brussels-based organisation which includes among its 27 members the British Council, the German Academic Exchange Service (DAAD), the Netherlands Universities Foundation for International Cooperation (NUFFIC) and CampusFrance.

Peter chairs the Research Advisory Group of the Leadership Foundation for Higher Education <sup>4</sup>, and the Research Advisory Panel of the Higher Education Academy <sup>5</sup>.

He is a member of the Advisory Board of the Higher Education Policy Institute <sup>6</sup> and steps down later this year as Chair of the Universities Association of Lifelong Learning <sup>7</sup> after two terms in office

Peter is also a member of the board of the Higher Education Statistics Agency <sup>8</sup>

### Earlier responsibilities

From 2000 to 2006 Peter was a member of the board of the Higher Education Funding Council for England (HEFCE). HEFCE is responsible for advising the Government on the needs of higher education in England and also for distributing more than £8 billion to 150 universities and other higher education institutions. He chaired two of HEFCE's strategic committees – for Equal Opportunities and subsequently Quality Assurance Learning and Teaching. During his time as a HEFCE board member he served on a number of groups, including the group established to examine the future of STEM (science, technology, engineering and mathematics) subjects. He chaired a HEFCE review of special funding for the Institute of Education in 2000.

He was also a member the Lord Chancellor's Advisory Committee on Legal Education and Conduct from



1994 until 2000 and served as Vice-Chairman (and acting Chairman during the interregnum between the resignation of Lord Steyn and the appointment of Lord Nicholls, both Law Lords). The committee was responsible for advising the Lord Chancellor on a range of topics, including controversial issues such as the right of solicitors and employed barristers to appear in higher courts.

## Honours

Peter was appointed a Knight Bachelor in the 2007 New Year Honours list for services to higher education.

He has also received the following honorary awards:

- Doctor of Laws (University of Bath)
- Doctor of Letters (Council for National Academic Awards, at its last awards ceremony)
- Doctor of Philosophy (Anglia Polytechnic University, now Anglia Ruskin University)
- Doctor of Letters (Grand Valley State University, Grand Rapids, Michigan USA)
- Fellow, University of Manchester Institute of Science and Technology (now merged with the University of Manchester)
- Fellow, Bath College of Higher Education (now Bath Spa University)

## Academic honours

Peter has received the following academic honours:

**Member, Academia Europaea:** The Academia Europaea<sup>9</sup> is a European, non-governmental association acting as an Academy. Our members are scientists and scholars who collectively aim to promote learning, education and research. It was founded in 1988, and has over 2000 members from thirty five European countries and eight non-European countries. The membership includes leading experts from the physical sciences and technology, biological sciences and medicine, mathematics, the letters and humanities, social and cognitive sciences, economics and the law

**Academician, The Academy of Social Sciences**<sup>10</sup>: The Academy is composed of Individual Academicians<sup>11</sup> and Learned Societies<sup>12</sup>. Academicians are distinguished scholars and practitioners from academia and the public and private sectors. Most of the Learned Societies in the Social Sciences in the United Kingdom are represented within the Academy.

**Fellow, Society for Research into Higher Education**<sup>13</sup>: The SRHE is a UK-based international learned society concerned to advance understanding of higher education, especially through the insights, perspectives and knowledge offered by systematic research and scholarship. The Society aims to be the leading international society in the field, as to both the support and the dissemination of research

**Fellow, Royal Society of Arts**<sup>14</sup>: The Royal Society for the encouragement of Arts, Manufactures and Commerce (RSA) described itself as having been 'a cradle of enlightenment thinking and a force for social progress. Our approach is multi-disciplinary, politically independent and combines cutting edge research and policy development with practical action'. It has more than 25,000 Fellows worldwide

## Personal research and scholarly activities:

Peter's personal research is concentrated in four main areas:

- The development of mass higher education systems in their social, economic and cultural contexts;
- The evolution of new patterns of knowledge production, and implications for knowledge-based organisations (including universities);
- The governance and management of higher education institutions, and implications for the organisational culture of universities (and academic ethos and social missions);
- The internationalisation of higher education, in response to wider phenomena of globalisation.

Read Sir Peter Scott's full list of academic publications <sup>15</sup>

He is also involved in a number of research-based projects – in particular, a European Framework 6-funded project led by the Swedish Collegium for Advanced Studies in Social Sciences (SCASSS) at Uppsala University on the social sciences and humanities in the former Soviet Union and China

([www.globalsocialscience.org](http://www.globalsocialscience.org) <sup>16</sup>); and a series of policy seminars sponsored by the Department for Innovation and Skills (DIUS), HEFCE, the Scottish Government and the Scottish Funding Council (SFC) (<http://crl.gcal.ac.uk/massHE/MassHE.htm> <sup>17</sup>).

Peter also continues to give keynote addresses and makes other contributions to conferences – for example, at the annual conference of the European Institute for Advanced Studies in Management and, most recently, at a symposium at the Institute for Higher Education Research at the University of Kassel.

He has also undertaken a number of evaluations of departments and academic programmes – most recently, of the Masters and Doctoral, and research, programmes in higher education in the Ontario Institute for Studies in Education (OISE) at the University of Toronto; and of the Department of Management, Politics and Philosophy at the Copenhagen Business School. In addition he is the external examiner for the MBA in Higher Education Management at the Institute of Education, University of London; and has examined four PhDs in the past year.

# Sir Peter Scott

## Vice-Chancellor Peter Scott<sup>1</sup> awarded knighthood in New Year's Honours list

Press release 3 January 2007

Kingston University's Vice-Chancellor Professor Peter Scott has been knighted for his services to higher education. A leading figure in the sector after a career spanning three decades, Professor Scott was selected for the award in recognition of his longstanding contribution both in the national arena and working for individual institutions. He joins an elite group of 13 other Vice-Chancellors who have received similar honours. Professor Scott's knighthood is due to be bestowed at a special investiture ceremony at Buckingham Palace later this year.

Since joining Kingston University as Vice-Chancellor in January 1998, Professor Scott has worked tirelessly to open up access to university education. He is currently chairman of the Universities Association for Lifelong Learning and President of the Brussels-based Academic Cooperation Association and German Academic Exchange Service (DAAD). Professor Scott said he was extremely flattered to have been awarded a knighthood. "I regard this great honour as a tribute to Kingston University's success," he added.

Educated at Oxford University, Professor Scott was editor of The Times Higher Education Supplement for 16 years before joining the staff at Leeds University in 1992. While at Leeds, he served as Director of the Centre for Policy Studies in Education and as Professor of Education before being promoted to the post of Pro Vice-Chancellor for External Affairs. Professor Scott was a member of the board of the Higher Education Funding Council for England from 2000 until 2006 and chaired its Quality Assurance Learning and Teaching strategic committee. His research interests include the governance and management of universities and colleges, expanding access to higher education and the links between further and higher education.

Deputy Vice-Chancellor Professor Mary Stuart said the knighthood was a fitting tribute to Professor Scott's distinguished career in higher education and the vision and leadership he had displayed during his nine years as Vice-Chancellor at Kingston. "Peter's insights into the changing nature of higher education and indeed knowledge creation have been a vital contribution to the sector and these achievements are symbolised by this honour," Professor Stuart said. "I am sure under his leadership the University will continue to go from strength to strength."

Professor Scott holds Honorary Doctorates from the University of Bath, the University of Manchester's Institute of Science and Technology, the former Council for National Academic Awards, Anglia Polytechnic University and Grand Valley State University. He is also a Member of the Academia Europaea and belongs to the Academy of Learned Societies for the Social Sciences.

---

## Links

1. <http://www.kingston.ac.uk/sirpeterscott/>

# Sir Peter Scott

## Sir Peter Scott <sup>1</sup>: publications

### 1. Books:

Peter Scott <sup>1</sup>, Strategies for Postsecondary Education, London: Croom Helm, 1975

Peter Scott <sup>1</sup>, The Crisis of the University, London: Croom Helm, 1984

Peter Scott <sup>1</sup>, Knowledge and Nation, Edinburgh: Edinburgh University Press, 1990

Michael Gibbons, Camille Limoges, Helga Nowotny, Simon Schwartzman, Peter Scott <sup>1</sup> and Martin Trow, The New Production of Knowledge: The Dynamics of Science and Research in Contemporary Societies, London: Sage 1994 [Japanese translation, Maruzen, Tokyo 1997; Spanish translation, Ediciones Pomares-Corredor, Barcelona 1997]

Peter Scott <sup>1</sup>, The Meanings of Mass Higher Education, Buckingham: Open University Press, 1995

Catherine Bargh, Peter Scott <sup>1</sup> and David Smith, Governing Universities: Changing the Culture? Buckingham: Open University Press, 1996

Peter Scott <sup>1</sup> (ed.), The Globalization of Higher Education, Buckingham: Open University Press, 1998

Peter Scott <sup>1</sup> (ed.) Higher Education Re-formed, London: Falmer Press, 2000

Catherine Bargh, Jean Boccock, Peter Scott <sup>1</sup> and David Smith University Leadership: The Role of the Chief Executive, Buckingham: Open University Press, 2000

Helga Nowotny, Peter Scott <sup>1</sup> and Michael Gibbons Re-Thinking Science: Knowledge and the Public in an Age of Uncertainty, Cambridge: Polity Press, 2001 [Repenser la Science; savoir et société à l'ère de l'incertitude, Paris: Éditions Belin, 2003; Wissenschaft neu denken: Wissen und Öffentlichkeit in einem Zeitalter Ungewißheit, Velbrück Wissenschaft 2004]

### 2. Chapters in edited collections:

'Has the binary policy failed?' in The Balance of Power in Colleges and Polytechnics: central direction and local involvement, Barking: North East London Polytechnic, 1981

'The Rediscovery of the Liberal University: popular higher education in a post-industrial world' in The Role of the University in the Search for International Value Consensus, New York: Rockefeller Foundation, 1982

'Report of the Discussion' in Universities, Society and the Future, ed. Nicholas Phillipson, Edinburgh: Edinburgh University Press, 1983

'The Place of the Humanities in the Modern University' in Higher Education and Research Organisation: four conference papers (Tony Becher, Aant Elzinga, Maurice Kogan and Peter Scott <sup>1</sup>), Stockholm: University of Stockholm, Group for the Study of Higher Education and Research Policy, report 34, 1985

'Ideologies of the University' in Knowledge Policies and the Traditions of Higher Education, ed. Gunnar Bergendal, Stockholm: Almqvist and Wiksell, 1984

'The Political Economy of Professional Qualification' in Approval and Monitoring of CCETSW's Training Programmes, London: Central Council for Education and Training in Social Work, 1985

'Autonomy to Accountability' in A Degree of Choice? Higher Education and the Right to Learn, eds. Janet Finch and Michael Rustin, Harmondsworth: Penguin, 1986

'Higher Education' in Education - The Wasted Years? 1973-86, ed. Max Morris and Clive Griggs, Brighton: Falmer Press, 1988

'Reforms in British Higher Education', in Changes in Higher Education: the non-university sector, eds L C J Goedegebuure and V L Meek, Utrecht: Uitgeverij Lemma B V, 1988

'Post-binary access and learning' in Access and Alternative Futures, ed. Gareth Parry and Clive Wake, London: Hodder and Stoughton, 1989

'Die Aktualität der Tradition: Grossbritannien in de achtziger jahren' in Der Eiserne Besen: eine innenansicht des heutigen England. ed. Heinrich v Berenberg, Berlin: Verlag Klaus Wagenbach, 1989  
(also published in journal form in France, see below)

'Accountability, responsiveness and responsibility' in Educational Institutions and their Environments: managing the boundaries, ed. Ron Glatter, Buckingham: Open University Press, 1989

'Higher Education' in The Thatcher Effect, ed. Dennis Kavanagh and Anthony Seldon, Oxford: Oxford University Press, 1989

'The Power of Ideas' in Higher Education into the 1990s, ed. Christopher Ball and Heather Egging, Buckingham: Open University Press, 1989

'The European dimension in university education: Swedish universities and the European Community' in Sveriges Universitet & Högskolor inför EG, ed. David Ottoson, Stockholm: Wenner-Gren Foundation, 1990

'Managing Change in a Turbulent Environment' in Quality and Control: widening high-quality university continuing education through the nineties', eds. Chris Duke and Russell Moseley, UCACE occasional paper no. 4, Leeds: Universities Council for Adult and Continuing Education, 1990

'Access: an overview' in The Future of Higher Education, ed. Tom Schuller, Buckingham: Open University Press, 1991

'Interventi' in L'Europa e la Cultura Moderna, Rome: Formez, 1992

'Divide and Rule' in Academic Community: Discourse or Discord?, ed. Ronald Barnett, London: Jessica Kingsley Publishers, 1994

'Setting the Scene' and 'Managing the Curriculum: Roles and Responsibilities' (both chapters with David Watson) in Managing the University Curriculum: Making Common Cause, eds. Jean Bocock and David Watson, Buckingham: Open University Press, 1994

'Education Policy' in The Major Years, eds. Dennis Kavanagh and Anthony Seldon, London: Macmillan, 1994

'Recent Developments in Quality Assessment in Great Britain' in Changing Contexts of Quality Assessment:

Recent Trends in West European Higher Education, eds. Don F Westerheijden, John Brennan and Peter A M Maassen, Utrecht: Uitgeverij Lemma B V, 1994

'Reporting Academics: a memoir of *The Times Higher Education Supplement*', in Festschrift for Professor Peter Gosden, Leeds: University of Leeds Press, 1995

'University -State Relations in Britain: Paradigm of Autonomy' in Reform and Change in Higher Education: International Perspectives, eds. Jim Mauch and Paula Sabloff, New York: Garland, 1995

'The Idea of the University in the 21st Century: a British perspective', in The Learning Society: challenges and trends, eds. Peter Raggatt, Richard Edwards and Nick Small, London: Routledge, 1995

'Unified and Binary Systems of Higher Education in Europe', in Goals and Purposes of Higher Education in the 21st Century, ed. Arnold Burgen, London: Jessica Kingsley Publishers, 1996

'Internationalisation and quality assurance', in Internationalisation and quality assurance: goals, strategies and instruments, ed. Urbain DeWinter, EAIE occasional paper 10. Amsterdam: European Association for International Education, 1996

'The Crisis of Knowledge and the Massification of Higher Education', in The End of Knowledge in Higher Education, ed. Ronald Barnett and Anne Griffin, London: Cassell, 1997

'The Next Generation of Scientists', in Science in Tomorrow's Europe, ed. Rémi Barré, Michael Gibbons, John Maddox, Ben Martin and Pierre Papon, Paris: Economica International, 1997

'Changes in Knowledge Production and Dissemination in the Context of Globalisation', in Knowledge, Identity and Curriculum Transformation in Africa, ed. Nico Cloete, Johan Muller, Malegapuru Makgoba and Donald Ekong, Cape Town: Maskew Miller Longman, 1997

'The Postmodern University' in The Postmodern University? Contested Visions of Higher Education in Society, ed. Anthony Smith and Frank Webster, Buckingham: Open University Press 1997

'Mass Higher Education: a new civilisation?', in The New Higher Education: Issues and Directions for the Post-Dearing University, ed. David Jary, Stoke-on-Trent: Staffordshire University Press, 1998

'Massification, Internationalization and Globalization', in The Globalization of Higher Education, ed. Peter Scott, Buckingham: Open University Press, 1998

'Vice-Chancellors and Executive Leadership in UK Universities: New Roles and Relationships?' (with Catherine Bargh, Jean Bocoock and David Smith), in Changing Relationships between Higher Education and the State, eds. Mary Henkel and Brenda Little, London: Jessica Kingsley Publishers, 1999

'Decline or Transformation? The Future of the University in a Knowledge Economy and Post-Modern Age', in The University and the Knowledge Society, eds. Peter Baggen, Agnes Tellings and Wouter van Haaften, Bommel (The Netherlands): Concorde Publishing House, 1999

'Higher Education and Social Change: rising expectations of and new opportunities for universities', in Profilbildung Standards Selbststeuerung: ein dialog zwischen hochschulforschung und reformpraxis, eds. Jan-Henrik Olbertz and Peer Pasternack, Weinheim: Deutscher Studien Verlag, 1999

'A Tale of Three Revolutions? Science, Society and the University', in Higher Education Re-formed, ed. Peter Scott, London: Falmer Press, 2000

'Higher Education Research in the Light of a Dialogue between Policy-Makers and Practitioners', in Higher Education Research: Its Relationship to Policy and Practice, eds. Ulrich Teichler and Jan Sadlak, Oxford: Pergamon (for the IAU Press and Elsevier Science), 2000

'The Death of Mass Higher Education and the Birth of Lifelong Learning', in Lifelong Learning: Education Across the Lifespan, eds. John Field and Mal Leicester, London: Routledge / Falmer, 2000

'Universities as Organizations and their Governance', in Governance in Higher Education: The University in a State of Flux, eds. Werner Z Hirsch and Luc E Weber, London and Paris: Economica, 2001

'Conclusion: Triumph and Retreat', in The State of Higher Education: Managing Change and Diversity, eds. David Warner and David Palfreyman, Buckingham: Open University Press, 2001

'The Limits of the Market: universities and the knowledge economy', in The Global Higher Education Market, ed. Dorrit van Dalen, The Hague: NUFFIC (Netherlands Organisation for International Cooperation in Higher Education), 2002

'Changing Players in a Knowledge Society', in Universities and Globalization: Private Linkages, Public Trust, eds. Gilles Breton and Michel Lambert, Paris: UNESCO Publishing / Economica, 2003

'Learning the Lessons', in Managing Crisis, eds. David Warner and David Palfreyman, Maidenhead: Open University Press, 2003

'The Transformation of the Idea of a University', in Education and the Good Society, ed. Fred Inglis, Basingstoke: Palgrave Macmillan, 2004

'Researching Widening Access: an Overview', in Researching Widening Access to Lifelong Learning: Issues and Approaches in International Research, eds. Michael Osborne, Jim Gallacher and Beth Crossan, Routledge Falmer, 2004

'The University and Civic Values', in Values in Higher Education, eds. Simon Robinson and Clement Katulushi, Aureus and the University of Leeds, 2005

'Inside the Knowledge Society: Opportunities and Threats for Universities and the Media', in Universities and the Media: A Partnership in Institutional Autonomy?, Observatory for Fundamental University Values and Rights, Bononia University Press, 2005

'The Opportunities and the Threats of Globalization', in Creating Knowledge, Strengthening Nations: The Changing Role of Higher education, eds. Glen A Jones, Patricia L McCarney and Michael L Skolnik, University of Toronto Press, 2005

"Hierarchy or Diversity? Dilemmas for 21st-Century Higher Education", in Hochschule Weiter Entfesseln – Den Umbruch Gestalten, ed. Detlef Müller-Böling, Verlag Bertelsmann Stiftung, 2005

"Divergence or Convergence? The The Links between Teaching and Research in Mass Higher Education", in Reshaping the University: New Relationships between Research, Scholarship and Teaching, ed. Ronald Barnett, Open University Press, 2005

"Re-Thinking Science: Mode 2 in Societal Context" (with Helga Nowotny and Michael Gibbons), in Knowledge Creation, Diffusion, and Use of Innovation Networks and Knowledge Clusters: A Compative Systems Approach across the United States, Europe, and Asia, eds. Elias G Carayannis and David F J Campbell, Praeger, 2006

"The Research Revolution and its Impact on the European University", in The European Research University: An Historical Parenthesis, eds. by Kjell Blücker, Guy Neave and Thorsten Nybom (International Association of Universities: Issues in Higher Education series), Palgrave, 2006

"The Global Dimension: Internationalising Higher Education", in Internationalisation in Higher Education: European Responses to the Global Perspective, eds. Barbara Kehm and Hans de Wit, European Association for International Education / EAIR –The European Higher Education Research Society, Amsterdam, 2006

"Internationalising Higher Education – A Global Perspective", in The Internationalisation of Higher Education in South Africa, ed. Roshen Kishun, International Association of South Africa, Durban 2006

"The Death of Public Higher Education: a premature announcement or an inevitable event?", in The Future of the University: Translating Lisbon into Practice, ed. Maria Kelo, Lemmens (ACA Papers on International Cooperation in Education), Bonn 2006

"The Academic Profession in a Knowledge Society", in The Formative Years of Scholars, ed. Ulrich Teichler, London: Portland Press (for the Academia Europaea – Wenner-Gren International Series), 2006

"Back to the Future? The Evolution of Higher Education Systems", in Looking Back to Look Forward: Analyses of Higher Education after the Turn of the Millennium, ed. Barbara Kehm, Kassel: Werkstattberichte 67, International Centre for Higher Education Research Kassel, 2007

"Sospesa tra passato e futuro", in Perché l'Università: Riflessioni sull'etica del sapere, eds. Isabella Ceccarini and Pier Giovanni Palla, Citta di Castello: Edimond, 2007

"Structural Differentiation in Higher Education", in Hochschule im Wandel: Die Universität als Forschungsgegenstand, ed. Barbara Kehm, Frankfurt / New York: Campus Verlag, 2008

### 3. Essays and reports:

What Future for Higher Education?, Fabian Tract 465, Fabian Society, London, 1979

The Postmodern Challenge, Trentham Books, Stoke 1991  
(also published in journal form in the United States, see below)

Higher Education in Sweden - A Look from Outside, National Board for Universities and Colleges, Stockholm 1991

Mass higher education in Europe: implications for student mobility and international education, EAIE occasional paper 1, Amsterdam 1992

Back to the Future: the limits of educational reform, Sir James Matthews Education Lecture, University of Southampton 1993

Ideas of Europe, Centre for European Studies, Discussion Paper, University of Durham 1993

The Review of the Further Education Unit and the Staff College (with Ken Young, Hilary Anslow, Jerry Cope, Colin Flint, Mike Galloway, Sue Richards) Further Education Funding Council, 1993

The Challenge of Credit, Centre for Policy Studies in Education, University of Leeds 1994



Re-Drawing the Boundaries: Further Education/Higher Education Partnerships, Interim Report to the Further Education Unit and Higher Education Funding Council for England (with Jean Bocock), Centre for Policy Studies in Education, University of Leeds 1994

Access and Consolidation: The Impact of Reduced Student Intakes on Opportunities for Non-Standard Students, Report to the Higher Education Funding Council for England (with Catherine Bargh and David Smith), Centre for Policy Studies in Education, University of Leeds, September 1994

Valuing Further Education: an investigation of value-added and value-for-money in further education, Association for Colleges, September 1995

Access and Consolidation: The Impact of Steady-State on Opportunities for Non-Standard Applicants to Universities and Colleges. A second report to the HEFCE (with David Smith), Centre for Policy Studies in Education, University of Leeds, September 1995

A Tertiary System, Society of Education Officers, October 1995

Re-Drawing the Boundaries: Further Education/Higher Education Partnerships, Final Report (with Jean Bocock), Centre for Policy Studies in Education, University of Leeds, October 1995

The Role of Marketing in the University and College Sector (with Catherine Bargh and David Smith), pp 139, Higher Education Information Services Trust, October 1995

Changing Patterns of Governance in Higher Education. First Report: Survey Result (with Catherine Bargh and David Smith. pp 53, Centre for Policy Studies in Education, University of Leeds, 1995

Standard Systems, Non-Standard Students: Experiences of Progression from Further to Higher Education, report of a research project funded by the Esmée Fairbairn Charitable Trust, Centre for Policy Studies in Education, University of Leeds, December 1996

The Nature of Higher and Further Education Sub-Contractual Partnerships (with Keith Barnes, Jean Bocock, Melanie Burdett, Sue Brownlow, Ursula Howard, Gareth Parry, David Smith and Anne Thompson), Higher Education Funding Council for England 58, November 1998

Institutional Management and Change in Higher Education: Introduction, Institutional Management and Change in Higher Education (Unit 1: The Nature of Academic Organisation, Unit 2: Management and Decision Making in Higher Education Institutions, and Unit 3: Quality Management in Higher Education Institutions), Quality Support Centre, Open University and the Center for Higher Education Policy Studies, University of Twente, 1998

Benchmarking of International Standing of Research in England (with Jonathan Adams, Tim Bailey, Louise Jackson [University of Leeds], Henry Small and David Pendlebury [Institute for Scientific Information, Philadelphia]), Higher Education Funding Council for England, Bristol 1998

Peter Scott <sup>1</sup> Ten Years On: Higher Education in Central and Eastern Europe, Bucharest: UNESCO-CEPES, 2000

The Case for Public Universities, The Future of Public Universities (web forum). New York: Social Sciences Research Council, 2006 <http://publicuniversities.ssrc.org/commentaries/> <sup>2</sup>

#### 4. Journal articles:

'British Universities 1968-78', *Paedagogica Europaea*, XIII, 1978-2

- 'The Rediscovery of the Liberal University', *Soundings*, Vol. LXIV, Number 1, Spring 1981
- 'Excellence and Uncertainty: the future of Oxford', *Oxford Review of Education*, Vol. 8, No. 3, 1982
- 'The State of the Academic Profession in Britain', *European Journal of Education*, Volume 18, Number 3, 1983
- 'A Chorus of Disapproval: reaction to the Green Paper on Higher Education', *Journal of Education Policy*, Vol. 1, No. 2, 1986
- 'The Jarratt Report: a commentary', *International Journal of Institutional Management in Higher Education*, (OECD, Paris) Vol. 10, No. 1, 1986
- 'Higher Education and the Media', *Higher Education Quarterly*, Volume 41, Number 3, 1987
- 'Blueprint or Blue Remembered Hills? The relevance of the Robbins report to the current reforms of higher education', *Oxford Review of Education*, 14.1, 1988
- 'Actualités d'une tradition: la Grande Bretagne dans les années quatre-vingt', *Le Débat*, 51, 1988
- 'Investing in Higher Education', *The Cambridge Review*, 1989
- 'Matthew Arnold and modern education', *Reflections on Higher Education*, 3, 1989
- 'Knowledge, culture and the modern university', *Universiteit en Hogeschool*, 1989
- 'Postmodern Challenge I', *Continuing Higher Education Review*, 54.3, 1990
- 'Beyond the Dual-Support System: scholarship, research and teaching in the context of academic autonomy', *Studies in Higher Education*, 16.1, 1991
- 'Postmodern Challenge II', *Continuing Higher Education Review*, 55.1-2, 1991
- 'Über die Zukunft der englischen Hochschulen', *Freibeuter*, 54, 1992
- 'The Idea of a University in the 21st Century: a British Perspective', *British Journal of Educational Studies*, volume XXXI, Number 1, March 1993
- 'Quality Control and International Students' *UKCOSA Journal*, April 1993
- 'Reflections on the Transatlantic Dialogue', *Policy Perspectives*, June 1993, Volume 5, Number 1
- 'Towards 2000 - a British view', *International Journal of University Adult Education*, volume XXXII, Number 2, July 1993
- 'Mission Impossible? Access and the dash for growth in UK higher education' (with Lesley Mackay and David Smith), *Higher Education Quarterly*, Autumn 1993
- 'Scottish Higher Education Regained - Accident or Design?', *Scottish Affairs*, Spring 1994
- 'Wider or Deeper? International Dimensions of Mass Higher Education', *Journal of Tertiary Education Administration*, volume 16, Number 2, October 1994

- 'Restructured and Differentiated? Institutional Responses to the Changing Environment of UK Higher Education', (with Lesley Mackay and David Smith) *Higher Education Management*, volume 7, number 2, 1995
- 'Standard Systems, Non-Standard Students: the impact of consolidation on access to higher education', (with David Smith and Catherine Bargh) *Journal of Access Studies*, volume 10, number 2, Autumn 1995
- 'Central Imperatives and Local Needs: the educational character and mission of further education in a centrally driven system' (with Catherine Bargh, Lesley Mackay and David Smith) *Higher Education Review*, Vol. 28, No. 1, 1995
- 'Do we still need universities? The role of higher education in the production of knowledge', in the Bulletin of the Centre for Industrial Policy and Performance, University of Leeds, Number 11, 1997
- 'The Changing Role of the University in the Production of New Knowledge'. *Tertiary Education and Management* (Journal of EAIR), volume 3, number 1, 1997
- 'Structural Developments in Higher Education: The Experience of the United Kingdom', *Das Hochschulwesen*, 3.97
- 'Beyond Dearing and after Thatcher', *College Research* (Further Education Development Agency), summer 1997
- 'Beyond Dearing', *Journal of Education through Partnership*, Volume 2, Number 1, September 1997
- 'The Future of 'Learning' in a Knowledge Society', *Learned Publishing*, Volume 10, Number 4, October 1997
- 'The Implications of the Dearing Report for the Academic Profession', *Higher Education Digest* (Supplement - The Dearing Report: Commentaries and Highlights), Issue 29, Autumn 1997
- 'After Dearing', *Scottish Journal of Adult and Continuing Education*, Volume 4, Number 2, 1997
- 'The Higher Education System that Scotland Needs', *Scottish Affairs*, Number 22, Winter 1998
- 'Shaking the Ivory Tower', *UNESCO Courier*, September 1998
- 'The End of the European University', *European Review*, Volume 6, Number 4, October 1998
- 'New Leaders at the Top? The Educational and Career Paths of UK University Vice-Chancellors (1960-1996)' (with David Smith, Catherine Bargh and Jean Bocoock), *Higher Education Management*, Volume 11, Number 2, 1999
- 'The research-policy gap', *Journal of Education Policy*, Volume 14, Number 3, 1999
- 'L'enseignement dit supérieur est-il un anachronisme? Développement d'un système post-scolaire polyvalent en Grande Bretagne', *Revue Française de Civilisation Britannique*, Volume X, Number 3, 1999
- 'Globalisation and the University', *CRE Action*, Number 115, 1999
- 'The Virtues (and Vices) of Diversity', *Reflections on Higher Education*, Vol 11, 2000
- 'Globalisation and Higher Education: Challenges for the 21st Century', *Journal of Studies in International Education*, Volume 4, Number 1, Spring 2000

'The Impact of the Research Assessment Exercise on the Quality of British Science and Scholarship', *Anglistik*, 1, 2000 (129-143)

'The Foundation Degrees: General Education for the Masses', *Higher Education Digest* (Supplement: The Foundation Degrees: a new British initiative), Issue 37, Summer 2000: Centre for Higher Education Research and Information (Open University)

'The Future of General Education in Mass Higher Education Systems', *Higher Education Policy*, Volume 15, Number 1, March 2002

'Küresellesme ve Üniversite: 21. Yüzyilin Önündeki Meydan Okumalar [Globalisation and the University: Challenges for the Twenty-First Century]', *Eğitim Bilimleri: Kuram ve Uygulamada [Educational Sciences: Theory and Practice]*, Volume 2, Issue 1, May 2002

'Reflections on the Reform of Higher Education in Central and Eastern Europe', *Higher Education in Europe*, Volume XXVII, Numbers 1-2, 2002

'Americanization and UK higher education: towards a history of transatlantic influence on policy and practice' (with David Smith, Jean Boccock and Lewis Baston), *Journal of Educational Policy*, Volume 17, Number 4, 443-461, 2002

'The Ethical Implications of the New Research Paradigm', *Science and Engineering Ethics*, Volume 9, Number 1, 73-84, 2003

'Mode 2 Revisited: The New Production of Knowledge' (with Helga Nowotny and Michael Gibbons), *Minerva*, Volume 41, Number 3, 179-194, 2003

'American Influence on British Higher Education: Science, Technology and the Problem of University Expansion' (with Jean Boccock, Lewis Baston and David Smith), *Minerva*, Volume 41, Number 4, 327-346, 2003

'The Knowledge Society and the Production of Knowledge', *Industry and Higher Education*, Volume 18, Number 5, 293-298, 2004

'Ethics 'in' and 'for' Higher Education', *Higher Education in Europe*, Volume XXIX, Number 4, 439-450, December 2004

## 5. Conference proceedings:

'Linking Learning in Science-based Industry and Higher Education', in The Best of Both Worlds: linking learning in science-based industry and higher education, Department of Adult Continuing Education, University of Leeds, November 1992

'Can We do More with Less?' Standing Conference on the Arts and Social Sciences: Annual Conference (University of Birmingham) 1993

'The Transition from Elite to Mass Higher Education', in The Transition from Elite to Mass Higher Education, Department of Employment, Education and Training (Higher Education Division), Occasional Paper Canberra, 1993

'Lessons from Literature: Creativity, Innovation and the Market in the Aesthetic Arena', in Innovation:

Kreativität in Kunst und Wissenschaft, Internationales Forschungszentrum Kulturwissenschaften, Vienna, November 1993

'Markets in Post-Compulsory Education - Rhetoric, Policy and Structure', in Markets in Education: Policy, Process and Practice, Centre for Research in Education Marketing, University of Southampton, July 1996

'The Future of Continuing Education', in The Purposes of Continuing Education, Universities Association for Continuing Education, Annual conference, University of Leeds, April 1996

## 6. Book reviews:

'Intellect and Public Life: essays on the social history of academic intellectuals in the United States' by Thomas Bender, in *The Times Higher Education Supplement*

'Contesting Cultural Authority: essays in Victorian intellectual life' by Frank M Turner, in *The Times Higher Education Supplement*

'Begin Here: the Forgotten Conditions of Teaching and Learning' by Jacques Barzun, in *Higher Education*, vol. 26, no. 2 (1993), pages 249-250

'The Learning University: Towards a New Paradigm' by Christopher Duke, and 'Learning to Effect' edited by Ronald Barnett, in *Higher Education Review* Volume 26, Number 2, Spring 1994, pages 79-82

'Higher Education in Europe', edited by Claudius Gellert, in *Higher Education Review*

'Secular Vocations: Intellectuals, Professionalism, Culture' by Bruce Robbins, in *The Times Higher Education Supplement* (December 3, 1993)

'Arguing Revolution: the intellectual left in postwar France' by Sunil Khilnani, and 'The British New Left' by Lin Chun, in *New Statesman and Society* (December 17, 1993)

'The Research Foundations of Graduate Education: Germany, Britain, France, United States, Japan', edited by Burton C Clark, *Journal of Educational Administration and History*

'Leading Academics' by Robin Middlehurst, in *The Times Higher Education Supplement* (April 29, 1994)

'Higher Education and Corporate Realities' by Phillip Brown and Richard Scase, in *Financial Times* (November 2 1994)

'Degrees of Difference: Higher Education in the 1990s' by Patrick Ainley, and 'A Garden of Paper Flowers: An American at Oxford' by Rosa Ehrenreich, in *New Statesman and Society* (October 1994)

'What is Quality in Higher Education' by Diana Green, and 'Assessing Quality in Further and Higher Education' by Allan Ashworth and Roger Harvey, in *Higher Education*. Vol. 29, No. 1, pp 104-106 (January 1995)

'Theatres of Memory', by Raphael Samuel, in *Financial Times*, February 18, 1995

'Troubled Times for American Higher Education: The 1990s and Beyond', by Clark Kerr in *Studies in Higher Education*, March 1995

'Communities and Their Universities: The Challenge of Lifelong Learning', edited by Jane Elliott, Hywel Francis, Rob Humphreys and David Instance in *British Journal of Educational Studies*, Volume 45, Number 2, June 1997

'Higher Education and Lifelong Learning' edited by Frank Coffield in *Journal of Education Policy*,

'A Gift Imprisoned: The Poetic Life of Matthew Arnold' by Ian Hamilton in *Financial Times*, March 14-15, 1998

'A History of the University in Europe: Volume II Universities in Early Modern Europe (1500-1800)' edited by Hilde de Ridder-Symoens, 'A History of the University of Oxford: Volume IV Seventeenth-Century Oxford' edited by Nicholas Tyacke, 'A History of the University of Cambridge: Volume III 1750-1870' by Peter Searby in *The Times Higher Education Supplement*, July 31, 1998

'Class in Britain' and 'History in Our Time', by David Cannadine in *Financial Times*, November 14-15, 1998

'Contemporary Higher Education: international issues for the twenty-first century', edited by Philip Altbach (Seven volumes) in *The Times Higher Education Supplement*, December 9, 1999

'Scottish Education' edited by T. G. K. Bryce and W. M. Humes in *Scottish Affairs*, Number 31, Spring 2000

'The Information Age: Economy, Society and Culture' [Three volumes: 1. The Rise of the Network Society, 2. The Power of Identity, 3. End of the Millennium] by Manuel Castells in *Higher Education Digest*, Number 40, Summer 2001

'Science, Technology and Governance' edited by John de la Mothe, in *Interdisciplinary Science Reviews*, Volume 28, Number 2, March 2003

'The Universities We Need: Higher Education after Dearing', by Nigel Blake, Richard Smith and Paul Standish in *Widening Participation and Lifelong Learning*, Volume 5, Number 2, 2003

'The Mismanagement of Talent: Employability and Jobs in the Knowledge Economy' by Phillip Brown and Anthony Hesketh; 'The Economics of Knowledge' by Dominique Foray; and 'Who owns Academic Work? Battling for Control of Intellectual Property' by Corynne McSherry. Essay review in *Minerva*, Volume 43, September 2005, 287-309

'From Professor to 'Knowledge Producer': Profiles of the Academic Profession' by Anthony Welch (ed.) 'The Professoriate: Profile of a Profession', and Recruitment, Retention and Retirement in Higher Education: Building and Managing the Faculty of the Future' by Robert Clark and Jennifer Ma (eds.). Essay review in *Minerva*, Volume 45, September 2007, 205-215

'Managing Good Governance in Higher Education' by Michael Shattock, Open University Press. *Higher Education Review*, Volume 40, Number 1, 2007, 70-71

---

## Links

1. <http://www.kingston.ac.uk/sirpeterscott/>
2. <http://publicuniversities.ssrc.org/commentaries/>

# Sir Peter Scott

## Sir Peter Scott <sup>1</sup> in the news

- 'End soundbite-driven HE tinkering': v-c urges root-and-branch reform <sup>2</sup> – 23 October 2008, Kingston's Scott says 'collapse of neo-liberalism' may present fresh opportunities, reports John Gill in the Times Higher Education.
- Professors attack 'frenetic pace of change' in education <sup>3</sup> – Monday 2 June 2008, EducationGuardian.co.uk
- EUROPE: EUA conference maps new role <sup>4</sup> – Sir Peter Scott quoted 06 April 2008
- Headhunters' picks dominate v-c hiring <sup>5</sup> – Sir Peter Scott quoted 30 November 2007
- Who could oppose diversity? But let's have ours real, and not bogus <sup>6</sup> – Sir Peter Scott on diversity, Tuesday 14 May 2002, *The Guardian*

---

## Links

1. <http://www.kingston.ac.uk/sirpeterscott/>
2. <http://www.timeshighereducation.co.uk/story.asp?sectioncode=26&storycode=404057&c=1>
3. <http://education.guardian.co.uk/schools/story/0,,2283393,00.html?gusrc=rss&feed=8>
4. <http://www.universityworldnews.com/article.php?story=20080404084633551>
5. <http://www.timeshighereducation.co.uk/story.asp?storyCode=311295&sectioncode=26>
6. <http://education.guardian.co.uk/universityaccess/story/0,,715013,00.html>

# Sir Peter Scott

## Sir Peter Scott: <sup>1</sup> useful links

- Higher Education Policy Institute <sup>2</sup>
- Universities Association for Lifelong Learning (UALL) <sup>3</sup> – Sir Peter Scott is Chair of the Association
- HESA <sup>4</sup> – Sir Peter Scott is member of the Board of Directors
- Academic Cooperation Association (ACA) <sup>5</sup> – Sir Peter Scott is the President of ACA
- Leadership Foundation for Higher Education <sup>6</sup> – Sir Peter Scott is a member of the Research Advisory Panel
- Global Social Science <sup>7</sup> – Sir Peter Scott is a global partner
- European Education Policy Network <sup>8</sup> – Sir Peter is a member of Academia Europea

---

## Links

1. <http://www.kingston.ac.uk/sirpeterscott/>
2. <http://www.hepi.ac.uk/board.asp?ID=88>
3. <http://www.uall.ac.uk/page.aspx?tabid=7>
4. <http://www.hesa.ac.uk/index.php/content/view/282/213>
5. <http://www.aca-secretariat.be/01about/management.htm>
6. <http://www.lfhe.ac.uk/research>
7. [http://www.globalsocialscience.org/index.php?tree\\_id=8](http://www.globalsocialscience.org/index.php?tree_id=8)
8. <http://www.educationpolicy.eu/?page=peterscott>



BEFORE THE: WORLD INTELLECTUAL PROPERTY ORGANIZATION  
ARBITRATION AND MEDIATION CENTER

**Sir Peter Scott  
(Complainant)**

V

**Howard Fredrics  
(Respondent)**

---

ANNEX 4

---

Status:  Judicial Consideration or Case History AvailableThe Law  
Reports**\*731 Erven Warnink Besloten Vennootschap and Another Appellants v J. Townend & Sons (Hull) Ltd. and Another Respondents**

House of Lords

21 June 1979

**[1979] 3 W.L.R. 68****[1979] A.C. 731**

Lord Diplock , Viscount Dilhorne , Lord Salmon , Lord Fraser of Tullybelton and Lord Scarman

1979 April 24, 25, 26; June 21

Passing Off—Trade description—Use of name 'advocaat'—Dutch liquor—Right to exclusive use of description—Liquor of different constitution made in England—No geographical connotation—Whether advocaat by its ingredients distinct and recognisable liquor—Unfair trading—Right to damages and injunction

The first plaintiffs and other Dutch traders had for many years manufactured in the Netherlands a liquor called 'advocaat,' which was exported to Britain and distributed by \*732 the second plaintiffs. The essential ingredients were the spirit brandewijn, egg yolks and sugar as required by statutory regulations in the Netherlands, though the British regulations were not so specific. The liquor acquired a substantial reputation in Britain as a distinct and recognisable beverage. From 1974 a drink described as 'Keeling's Old English Advocaat' composed of dried egg powder mixed with Cyprus sherry was made and marketed in England by the defendants. Though it could not be shown that it was mistaken for Dutch advocaat it captured a substantial part of the plaintiffs' English market. In a passing off action by the plaintiffs Goulding J. gave judgment for the plaintiffs. The Court of Appeal reversed his decision.

On appeal:-

Held, that the product, having a particular character by reason of its ingredients and having under a descriptive name gained a public reputation distinguishing it from competing products of a different composition, should be protected from deceptive use of its name by competitors even though the ingredients did not come from a particular locality and the goodwill attaching to the use of the name as a description of the product was shared by a number of traders; and accordingly, since there was a misrepresentation made by a trader in the course of trade to prospective customers and ultimate consumers of the goods supplied, which was calculated to injure the business or goodwill of the plaintiffs (the essential ingredients of a passing off action), and no exceptional features on grounds of public policy justified withholding a remedy, the action should succeed (post, pp. 742D-E, 745D-F, 748D-E, G, H-749B, 753H-754A, 756D-E).

*J. Bollinger v. Costa Brava Wine Co. Ltd.* [1960] Ch. 262 approved.

*Native Guano Co. v. Sewage Manure Co.* (1889) 8 R.P.C. 125 , H.L.(E.) distinguished.

*Per* Lord Diplock: Where over a period of years there can be discerned a steady trend in legislation which reflects the view of successive Parliaments as to what the public interest demands in a particular field of law, development of the common law in that part of the same field which has been left to it ought to proceed upon a parallel rather than a diverging course (post, p. 743C-D).

Decision of the Court of Appeal [1978] F.S.R. 473 reversed.

The following cases are referred to in their Lordships' opinions:

- *Bollinger (J.) v. Costa Brava Wine Co. Ltd.* [1960] Ch. 262; [1959] 3 W.L.R. 966; [1959] 3 All E.R. 800 .
- *Bollinger (J.) v. Costa Brava Wine Co. Ltd. (No. 2)* [1961] 1 W.L.R. 277; [1961] 1 All E.R. 561 .
- *Bulmer (H. P.) Ltd. and Showerings Ltd. v. J. Bollinger S.A.* [1978] R.P.C. 79, C.A.
- *Cutler v. Wandsworth Stadium Ltd.* [1949] A.C. 398; [1949] 1 All E.R. 544 , H.L.(E.).
- *Dent v. Turpin* (1861) 2 Johns. & H. 139.
- *Harrods Ltd. v. R. Harrod Ltd.* (1923) 41 R.P.C. 74 , *Romer J. and C.A.*
- *Inland Revenue Commissioners v. Muller & Co.'s Margarine Ltd.* [1901] A.C. 217 , H.L.(E.).
- *London Armoury Co. Ltd. v. Ever Ready Co. (Great Britain) Ltd.* [1941] 1 K.B. 742; [1941] 1 All E.R. 364 . \*733
- *Native Guano Co. v. Sewage Manure Co.* (1887) 4 R.P.C. 473; (1889) 8 R.P.C. 125 , C.A. and H.L.(E.).
- *Perry v. Truefitt* (1842) 6 Beav. 66 .
- *Pillsbury-Washburn Flour Mills Co. v. Eagle* (1898) 86 Fed.R. 608.
- *Reddaway v. Banham* [1896] A.C. 199 , H.L.(E.).
- *Scott v. Tuff-Kote (Australia) Pty. Ltd.* [1975] 1 N.S.W.L.R. 537 .
- *Shaw Brothers (Hong Kong) Ltd. v. Golden Harvest (H.K.) Ltd.* [1972] R.P.C. 559 .
- *Singer Manufacturing Co. v. Loog* (1882) 8 App.Cas. 15 , H.L.(E.).
- *Southorn v. Reynolds* (1865) 12 L.T. 75 .
- *Spalding (A. G.) & Bros. v. A. W. Gamage Ltd.* (1915) 84 L.J. Ch. 449; 32 R.P.C. 273 , H.L.(E.).

- Star Industrial Co. Ltd. v. Yap Kwee Kor [1976] F.S.R. 256, P.C.
- Vine Products Ltd. v. Mackenzie & Co. Ltd. [1969] R.P.C. 1 .
- Walker (John) & Sons Ltd. v. Henry Ost & Co. Ltd. [1970] 1 W.L.R. 917; [1970] 2 All E.R. 106 .

The following additional cases were cited in argument:

- American Washboard Co. v. Saginaw Manufacturing Co. (1900) 103 Fed. R. 281.
- Cambridge University Press v. University Tutorial Press (1928) 45 R.P.C. 335 .
- Drive Yourself Hire Co. (London) Ltd. v. A. G. Parish (trading as 'Self Drive Cars') [1957] R.P.C. 307 .
- Havana Cigar and Tobacco Factories Ltd. v. Oddenino [1924] 1 Ch. 179, C.A.
- Linoleum Manufacturing Co. v. Nairn (1878) 7 Ch.D. 834 .
- Masson Seeley & Co. Ltd. v. Embosotype Manufacturing Co. (1924) 41 R.P.C. 160 .
- Powell v. Birmingham Vinegar Brewery Co. Ltd. (1897) 14 R.P.C. 720 , H.L.(E.).
- Samuelson v. Producers' Distributing Co. Ltd. [1932] 1 Ch. 201 , Luxmoore J. and C.A.
- Society of Motor Manufacturers and Traders Ltd. v. Motor Manufacturers' and Traders' Mutual Insurance Co. Ltd. [1925] Ch. 675 , Lawrence J. and C.A.
- Tallerman v. Dowsing Radiant Hear Co. [1900] 1 Ch. 1 , Stirling J. and C.A.

Appeal from the Court of Appeal.

This was an appeal from an order of the Court of Appeal (Buckley and Goff L.JJ. and Sir David Cairns) dated April 19, 1978, whereby the Court of Appeal ordered that the appeal by the now respondents (the defendants), J. Townend & Sons (Hull) Ltd. and H. Keeling & Co., from an order of Gouling J. made on July 29, 1977, should be allowed. Gouling J. had ordered that the respondents be restrained by themselves, their directors, partners, servants or agents from

'(1) advertising, offering for sale, selling or distributing any product under or bearing the name or description advocaat or any word so nearly resembling advocaat as to be likely to be confused therewith unless such product basically consists of spirit and eggs and does not include wine and (2) representing that a mixture of wine and eggs is advocaat.'

\*734 He also ordered (1) that there be an inquiry as to what damages the appellants (the plaintiffs), Erven Warnink Besloten Vennootschap and Victoria Wine Co. Ltd., had sustained by reason of the acts of the respondents the repetition whereof was restrained and (2) that the respondents should pay the appellants the costs of the action to be taxed if not agreed. The Court of Appeal ordered that the judge's order be discharged and that the appellants' action should stand dismissed and that they should pay the respondents their costs of the action and in the Court of Appeal.

The facts stated by Lord Diplock were as follows: The first plaintiff ('Warnink') was a manufacturer in Holland of an alcoholic drink known in England as well as in Holland as 'advocaat.' Its principal ingredients were eggs and spirits without any admixture of wine. The second plaintiffs were the distributors in England of advocaat manufactured by Warnink. Warnink's advocaat and advocaat made in Holland by a small number of other Dutch manufacturers had been marketed in England for many years prior to the events which gave rise to this action; but the lion's share of the market, some 75 per cent., was held by Warnink. In recent years as a result of heavy advertising, principally by Warnink which had become a subsidiary of Allied Breweries Ltd., advocaat had become a popular drink among a large class of people in England. In the words of Gouling J. [1978] F.S.R. 1 , 11:

'A substantial reputation and goodwill have, over half a century or more, been acquired by the name 'advocaat' as that of a drink with recognisable qualities of appearance, taste, strength, and satisfaction.'

The character of the drink by which the goodwill attaching to the name 'advocaat' had been earned was that of the spirit-based Dutch advocaat which had been imported into the United Kingdom over a long period and in large quantities; and the evidence accepted by the judge showed that notwithstanding minor differences between competing brands of advocaat it was a distinct and recognisable species of beverage.

There had also been another alcoholic egg drink on the English market known to the public as egg flip and sold under that name. Its principal ingredients were eggs and a fortified wine. Its alcoholic strength, about 14 per cent. by volume or 30ø proof, did not differ greatly from that of advocaat; but by one of the vagaries of British excise law, because the ingredient which provided the alcohol was classified as fortified wine and not as spirits, egg flip attracted excise duty in England at a rate of some 50 pence a bottle lower than that charged on advocaat. As was found by the judge [1978] F.S.R. 1 , 11: 'The public knows of egg flip as an alcoholic egg drink, sold as something different from advocaat and at a lower price.' He also found at p. 12 that an expert could well distinguish a wine-based egg drink from advocaat and that a regular drinker of either type could do the same, but he said 'there is no such gross difference of taste, colour, or other qualities, as would lead the inexperienced or casual customer to regard them as different species of drink.'

The defendants ('Keeling') were an English company and a partnership firm who, acting in association, manufactured an egg flip and prior to 1974 sold it under that description on the English market. In that year, however, \*735 as the judge found at p. 12 'they conceived a plan to profit from the popularity of advocaat.' They produced an alcoholic egg drink from a mixture of dried

eggs and a Cyprus sherry. This they put on the market as 'Keeling's Old English Advocaat.' Attracting as it did the lower rate of excise duty appropriate to fortified wine in place of spirits, Keeling were able to undersell Warnink and other makers of the spirit-based egg drink of the composition that had acquired for the drink sold in England under the name advocaat the substantial reputation and goodwill which the judge found attached to it. 'Keeling's Old English Advocaat' captured an appreciable share of the English market for advocaat and, as the judge found at p. 13, damage had been thereby caused to Warnink and other traders in Dutch advocaat and 'such damage would not have occurred, or would have occurred to a much smaller extent, had the defendants not used the word 'advocaat' as part of the description of their goods.'

*William Aldous Q.C. and Simon Thorley* for the appellants. The basic contentions of the defendants are that there is no cause of action against them because the passing off action is limited to a plaintiff's right to prevent a defendant from passing off his goods or services as the plaintiff's. They contend that the cases dealing with champagne, sherry and Scotch whisky were wrongly decided because there was there no such substitution for the goods of the plaintiffs. In the present case an intermediate line was adopted by the Court of Appeal.

The name advocaat has acquired a substantial reputation in Britain and the plaintiffs use it as part of their business. The drink which the name indicates has recognisable qualities and is spirit based. The defendants by contrast have brought onto the market a wine based drink. The blending of the materials of advocaat by a particular process has produced a drink which has had a high reputation for many years as being of the finest quality. Such a reputation, having been built up, deserves protection and is protected by law. The fact that other persons using the same materials and the same process can come into the market and acquire a goodwill of their own does not prevent goodwill attaching to the product nor stop the name meriting protection. Advocaat is a word which attracts business.

In each case it is a question of fact whether the product has a reputation and the word is part of the goodwill, the attractive force bringing in business. One can prevent another person in the market from appropriating that goodwill by means of a different product. If it can be established as a fact that the name is part of the goodwill of the business and that someone else has appropriated the name for another product he is stealing something and the law will prevent it.

There is no property in the word 'champagne'; the property is in the goodwill of the business. In a passing off action it is this proprietary right which is being protected. For a trade name or description to be capable of founding a claim for relief against passing off there must be distinctiveness. The cause of action exists to protect property in the goodwill of the business to which it attaches because of the name; although the property is not in the name.

#### \*736

In *Spalding (A. G.) & Bros. v. A. W. Gamage Ltd.* (1915) 84 L.J.Ch. 449, 450, 452, Lord Parker laid down the basic principles of the passing off action which have been developed in *Reddaway v. Banham* [1896] A.C. 199, 209, 210-211, 215-216; *Samuelson v. Producers' Distributing Co. Ltd.* [1932] 1 Ch. 201, 207-208, 209, 210; *Powell v. Birmingham Vinegar Brewery Co. Ltd.* (1897) 14 R.P.C. 720, 725, 728, 729; *Society of Motor Manufacturers and Traders Ltd. v. Motor Manufacturers' and Traders' Mutual Insurance Co. Ltd.* [1925] Ch. 675, 685-686 and *Star Industrial Co. Ltd. v. Yap Kwee Kor* [1976] F.S.R. 256, 269.

In the present case the salient fact is that the defendants have been falsely representing their product as that of a producer of genuine advocaat. The plaintiffs can prevent them from making that false representation that their product is genuine advocaat made by a producer of genuine advocaat of which the plaintiffs are the largest producers in this country.

Their situation is like that of the producers of champagne in *J. Bollinger v. Costa Brava Wine Co. Ltd.* [1960] Ch. 262, 267-268, 272, 276-277, 278-279, and *J. Bollinger v. Costa Brava Wine Co. Ltd.* (No. 2) [1961] 1 W.L.R. 286, 289, 291, which were followed in the sherry case of *Vine Products Ltd. v. Mackenzie & Co. Ltd.* [1969] R.P.C. 1, 6 et seq., and the Scotch whisky case, *John Walker & Sons Ltd. v. Henry Ost & Co. Ltd.* [1970] 1 W.L.R. 917, 920, 925, 928-929, 930. Between these cases and the present case there is no logical difference.

The debasement of a word is detrimental to traders in the goods to which it is attached. If the mixture which was challenged in the Scotch whisky case could have been sold as 'Scotch Whisky' the meaning of those words would have been debased. In the champagne cases the ratio decidendi was that: (a) a member of a class may sue in passing off to protect goodwill which is not exclusive to him; (b) in such an action the actionable wrong is for another person falsely to appropriate that good will, and where the goodwill is attached to particular goods it is actionable for a person to represent falsely that his goods are the genuine goods of a producer of genuine goods. In the sherry and the Scotch whisky cases the same ratio was applied. It does not require that the goodwill to be protected is limited to that of people in a particular geographical area. In *Scott v. Tuff-Kote (Australia) Pty. Ltd.* [1975] N.S.W.L.R. 537, 541 and *Shaw Brothers (Hong Kong) Ltd. v. Golden Harvest (H.K.) Ltd.* [1972] R.P.C. 559, 561-562 those cases were approved.

Since a false representation is the basis of a passing off action, that cause of action extends to the case of sales by A of B's goods of one quality for B's goods of another quality. In a wide variety of cases it has been used to prevent unfair trading. The scope of the action was considered in *H. P. Bulmer Ltd. and Showerings Ltd. v. J. Bollinger S.A.* [1978] R.P.C. 79, 93, 96, 98-100, 113, 117, 118, 119, though on its facts that case is not relevant here because no confusion was established.

The important finding in the champagne cases was that the people who were going to be deceived were those who did not know that the drink came from France. In such cases as these the crucial question is what the word denotes or signifies.

To understand *Native Guano Co. v. Sewage Manure Co.* (1897) 4R.P.C. 473; (1889) 8 R.P.C. 125 it must be seen against the patent and trade mark law of that date - the Patents, Designs, and Trade Marks Act 1883 and *Linoleum Manufacturing Co. v. Nairn* (1878) 7 Ch.D. 834. In that light it is not relevant to the present problem. It was not a passing off case, being solely concerned with copyright infringement and a registered trade mark. In effect the plaintiffs were trying to prolong their patent rights by the

device of restraining other traders from using the term by which the product in question was known. At that time the courts would not enforce trade mark rights in respect of products made under a patent: see the judgments: 4 R.P.C. 473, 476; 8 R.P.C. 125, 127, 129-130, 131-132 and the opinions in the House of Lords at p. 135. The contentions of the present appellants are not contradicted by anything said in that case, which was only an attempt to secure exclusive rights to the expression 'Native Guano.' The pleadings did not raise the present point which was not argued. Should that case nevertheless be held to be relevant, the observations made in it appear to be obiter. In any event, the decision no longer represents the law.

The passing off action provides a remedy for unfair trading: Spalding, 84 L.J.Ch. 449; Harrods Ltd. v. R. Harrod Ltd. (1923) 41 R.P.C. 74 and Masson Seeley & Co. Ltd. v. Embosotype Manufacturing Co. (1924) 41 R.P.C. 160.

*John Griffiths Q.C.* and *John Hamilton* for the respondents. The issue is rather one of social policy than of law, viz., whether the court should protect the manufacturer or the general public which is benefited by competition promoting consumer progress. The contentions of the appellants produce ossification. Thus ice cream was originally made from cream but under the impact of social and manufacturing changes, it is now made from vegetable fats, a thing which on the arguments for the appellants could not have happened.

It is submitted: (1) the elements of the tort of passing off were and remain (a) a representation by the defendant that his goods and services are those of the plaintiff, (b) whereby confusion is likely to be created for the public and (c) actual or apprehended damage to the plaintiff. There is no remedy unless all three elements are present. (2) There is no action to protect either a generic name or a method of manufacture per se. (3) Where descriptive words are used of the goods no tort is committed unless the use of them in the circumstances carries the innuendo that the defendant's goods are those of the plaintiff. (4) The plaintiff's right which is invaded by the defendant's misrepresentation is his property in the goodwill likely to be harmed by the misrepresentation that the defendant's goods are his. (5) The proper machinery to protect the good name of a product itself or a class of products is the law relating to merchandise marks, the Food and Drugs Acts and the Trade Descriptions Acts. Where these do not give a civil remedy, the protection of the good name of the product lies in a criminal prosecution or in the Attorney-General acting on behalf of the public in civil proceedings for an injunction. (6) The champagne cases and their successors were wrongly decided. (7) If the previous submissions are not accepted, the categories of products entitled to protection can only be those of a geographical district definable with \*738 reasonable precision and manufactured by an identical process. (8) If that submission is not accepted, the categories should only be extended to cover goods manufactured of identical materials and should not be extended to variable recipes. (9) There is no simple tort of unfair trading.

A trader may lawfully sell a product similar in form to that of a rival trader, referring to that trader's product by name, so long as he does so in such a way as to avoid confusion: *Singer Manufacturing Co. v. Loog* (1882) 8 App.Cas. 15, 22, 26-27, 29-30, 36, 37-38, 38-39. As to genuine words, see *Havana Cigar and Tobacco Factories Ltd. v. Oddenino* [1924] 1 Ch. 179, 190-191, 194-195, 196, 201.

The champagne cases were wrongly decided. Relevant authorities were not considered in their decision: *American Washboard Co. v. Saginaw Manufacturing Co.* (1900) 103 Fed. R. 281, 284-286; *Pillsbury-Washburn Flour Mills Co. v. Eagle* (1898) 86 Fed.R. 603 and the *Native Guano* case, 4 R.P.C. 473; 8 R.P.C. 125, 128, 131, 132, 135. Since that case the law in the relevant regard has not developed. It is a binding authority for the proposition that when A accurately uses to describe his goods a name purely descriptive of goods of that kind, he does not have a cause of action against B who misuses that name to describe his goods inaccurately even though he misleads the public in a way injurious to A.

The recipe for advocaat is variable and there are widely different products. Brandy is not a characteristic and it can be made with any spirit. Some people buy it without any view as to the ingredients save that it includes alcohol.

*Reddaway v. Banham* [1896] A.C. 199, 210 lays down the fundamental rule. In Spalding, 84 L.J.Ch. 449, 450, Lord Parker in referring to A's goods and B's goods is concerned with the trader's name on the trader's goods. The passing-off action protects the proprietary right, the property being that which is likely to be injured by the misrepresentation. It is not every false representation which gives a right of action in passing off: *Bulmer's case* [1978] R.P.C. 79, 99. See also the argument submitted in the *Spalding case*, 32 R.P.C. 273, 282.

The present point arose directly in *Tallerman v. Dowsing Radiant Heat Co.* [1900] 1 Ch. 1, 8-9; *Cambridge University Press v. University Tutorial Press* (1928) 45 R.P.C. 335, 344-345 and *Drive Yourself Hire Co. (London) Ltd. v. A. G. Parish (trading as 'Self Drive Cars')* [1957] R.P.C. 307, 310.

In any event the champagne cases ought not to be extended beyond the test of the geographical area: see *Fleming's Law of Torts*, 4th ed. (1971), p. 630

The word 'advocaat' is very loosely defined. It is made differently in Holland, in Belgium and in Germany. The court must put itself into the position of the man who wants to compete in this market. In the case of champagne he would know what to do. So also with sherry because the common factor in 'Dry Fly' and 'Bristol Cream' is that the grapes must come from Jerez. But the term 'advocaat' is as loose as 'brown bread' and the law should not be widened to protect such imprecise recipes. It would be as if all the manufacturers of tomato chutney were to unite to say that other manufacturers could only make it if they did not include mangoes because hitherto mangoes had not \*739 been used in chutney. It is analogous to the contention that advocaat has never before been made with wine.

Protection should not be given to such a class of manufacturer since it could result in protecting goodwill in the hands of an individual who had done nothing to build it up.

The passing off of A's goods for B's goods is the classical basis of the passing-off action. It should be adhered to and the doors ought not to be opened to the champagne case class of action.

Their Lordships did not require a reply on behalf of the appellants. Their Lordships took time for consideration. June 21. LORD DIPLOCK

My Lords, this is an action for 'passing off,' not in its classic form of a trader representing his own goods as the goods of somebody else, but in an extended form first recognised and applied by Danckwerts J. in the champagne case (*J. Bollinger v. Costa Brava Wine Co. Ltd.* [1960] Ch. 262 ). The ratio decidendi of that case was subsequently adopted as correct by Cross J. in the sherry case (*Vine Products Ltd. v. Mackenzie & Co. Ltd.* [1969] R.P.C. 1 ) and by Foster J. in the Scotch whisky case (*John Walker & Sons Ltd. v. Henry Ost & Co. Ltd* [1970] 1 W.L.R. 917 ).

The facts of the instant case as found by Goulding J. after a protracted trial make it, in my view, impossible to draw a rational distinction between the instant case and the champagne case which could reconcile acceptance of the reasoning in the champagne case with dismissal of the plaintiffs' action in the instant case. This was also the view of Goulding J.; but his judgment in the plaintiffs' favour was reversed by the Court of Appeal (Buckley and Goff L.JJ. and Sir David Cairns) who, while expressing approval of the champagne and sherry cases, though with reservations on the Scotch whisky case, nevertheless felt able to discern a relevant distinction between those cases and the instant case. Not quite the same distinction was drawn by Buckley L.J. and Goff L.J. but, with respect, I think that both were mistaken; and if this be so, the question of law for your Lordships is whether this House should give the seal of its approval to the extended concept of the cause of action for passing off that was applied in the champagne, sherry and Scotch whisky cases. This question is essentially one of legal policy. [His Lordship stated the facts and continued:]

True it is that it could not be shown that any purchaser of 'Keeling's Old English Advocaat' supposed or would be likely to suppose it to be goods supplied by Warnink or to be Dutch advocaat of any make. So Warnink had no cause of action for passing off in its classic form. Nevertheless, the learned judge was satisfied: (1) that the name 'advocaat' was understood by the public in England to denote a distinct and recognisable species of beverage; (2) that Warnink's product is genuinely indicated by that name and has gained reputation and goodwill under it; (3) that Keeling's product has no natural association with the word 'advocaat'; it is an egg and wine drink properly described as an 'egg flip,' whereas advocaat is an egg and spirit drink; these are different beverages and known as different to the public; (4) that members of the \*740 public believe and have been deliberately induced by Keeling to believe that in buying their 'Old English Advocaat' they are in fact buying advocaat; (5) that Keeling's deception of the public has caused and, unless prevented, will continue to cause, damage to Warnink in the trade and the goodwill of their business both directly in the loss of sale and indirectly in the debasement of the reputation attaching to the name 'advocaat' if it is permitted to be used of alcoholic egg drinks generally and not confined to those that are spirit based.

These findings, he considered, brought the case within the principle of law laid down in the champagne case by Danckwerts J. and applied in the sherry and Scotch whisky cases. He granted Warnink an injunction restraining Keeling from selling or distributing under the name or description 'advocaat' any product which does not basically consist of eggs and spirit without any admixture of wine.

My Lords, these findings of fact were accepted by the Court of Appeal and have not been challenged in your Lordships' House. They seem to me to disclose a case of unfair, not to say dishonest, trading of a kind for which a rational system of law ought to provide a remedy to other traders whose business or goodwill is injured by it.

Unfair trading as a wrong actionable at the suit of other traders who thereby suffer loss of business or goodwill may take a variety of forms, to some of which separate labels have become attached in English law. Conspiracy to injure a person in his trade or business is one, slander of goods another, but most protean is that which is generally and nowadays, perhaps misleadingly, described as 'passing off.' The forms that unfair trading takes will alter with the ways in which trade is carried on and business reputation and goodwill acquired. Emerson's maker of the better mousetrap if secluded in his house built in the woods would today be unlikely to find a path beaten to his door in the absence of a costly advertising campaign to acquaint the public with the excellence of his wares.

The action for what has become known as 'passing off' arose in the 19th century out of the use in connection with his own goods by one trader of the trade name or trade mark of a rival trader so as to induce in potential purchasers the belief that his goods were those of the rival trader. Although the cases up to the end of the century had been confined to the deceptive use of trade names, marks, letters or other indicia, the principle had been stated by Lord Langdale M.R. as early as 1842 as being: 'A man is not to sell his own goods under the pretence that they are the goods of another man;...': *Perry v. Truefitt* (1842) 6 Beav. 66 , 73. At the close of the century in *Reddaway v. Banham* [1896] A.C. 199 , it was said by Lord Herschell that what was protected by an action for passing off was not the proprietary right of the trader in the mark, name or get-up improperly used. Thus the door was opened to passing off actions in which the misrepresentation took some other form than the deceptive use of trade names, marks, letters or other indicia; but as none of their Lordships committed themselves to identifying the legal nature of the right that was protected by a passing off action it remained an action sui generis which lay for damage sustained or threatened in consequence of a misrepresentation of a particular kind.

*Reddaway v. Banham*, like all previous passing off cases, was one in \*741 which Banham had passed off his goods as those of Reddaway, and the damage resulting from the misrepresentation took the form of the diversion of potential customers from Reddaway to Banham. Although it was a landmark case in deciding that the use by a trader of a term which accurately described the composition of his own goods might nevertheless amount to the tort of passing off if that term were understood in the market in which the goods were sold to denote the goods of a rival trader, *Reddaway v. Banham* did not extend the nature of the particular kind of misrepresentation which gives rise to a right of action in passing off beyond what I have called the classic form of misrepresenting one's own goods as the goods of someone else nor did it provide any rational basis for an extension.

This was left to be provided by Lord Parker in *A. G. Spalding & Bros. v. A. W. Gamage Ltd.* (1915) 84 L.J.Ch. 449 , 450. In a speech which received the approval of the other members of this House, he identified the right the invasion of which is the subject

of passing off actions as being the 'property in the business or goodwill likely to be injured by the misrepresentation.' The concept of goodwill is in law a broad one which is perhaps best expressed in words used by Lord Macnaghten in Inland Revenue Commissioners v. Muller & Co.'s Margarine Ltd. [1901] A.C. 217, 223-224: 'It is the benefit and advantage of the good name, reputation, and connection of a business. It is the attractive force which brings in custom.'

The goodwill of a manufacturer's business may well be injured by someone else who sells goods which are correctly described as being made by that manufacturer but being of an inferior class or quality are misrepresented as goods of his manufacture of a superior class or quality. This type of misrepresentation was held in A. G. Spalding & Bros. v. A. W. Gamage Ltd., 84 L.J.Ch. 449 to be actionable and the extension to the nature of the misrepresentation which gives rise to a right of action in passing off which this involved was regarded by Lord Parker as a natural corollary of recognising that what the law protects by a passing off action is a trader's property in his business or goodwill.

The significance of this decision in the law of passing off lies in its recognition that misrepresenting one's own goods as the goods of someone else was not a separate genus of actionable wrong but a particular species of wrong included in a wider genus of which a premonitory hint had been given by Lord Herschell in Reddaway v. Banham [1896] A.C. 199, 211 when, in speaking of the deceptive use of a descriptive term, he said:

'I am unable to see why a man should be allowed in this way more than in any other to deceive purchasers into the belief that they are getting what they are not, and thus to filch the business of a rival.'

I quote this passage, in which I have supplied the emphasis, because it was Lord Herschell who gave the leading speech in an earlier decision of this House in Native Guano Co. v. Sewage Manure Co. (1889) 8 R.P.C. 125, 129 that was principally relied on by the Court of Appeal as justifying their reversal of the judgment of Goulding J. in the instant case.

Spalding's case, 84 L.J.Ch. 449 led the way to recognition by judges of other species of the same genus, as where although the plaintiff and \*742 the defendant were not competing traders in the same line of business, a false suggestion by the defendant that their businesses were connected with one another would damage the reputation and thus the goodwill of the plaintiff's business. There are several cases of this kind reported of which Harrods Ltd. v. R. Harrod Ltd. (1923) 41 R.P.C. 74, the moneylender case, may serve as an example.

Lord Parker's explanation of the nature of the proprietary right protected by a passing off action also supplied a new and rational basis for the two 19th century decisions of Page Wood V.-C. in Dent v. Turpin (1861) 2 Johns. & H. 139, and Southorn v. Reynolds (1865) 12 L.T. 75, in which one of two traders, each of whom had by inheritance acquired goodwill in the use of a particular trade name, was held entitled, without joining the other, to obtain an injunction restraining a third trader from making use of the name, despite the fact that the plaintiff's right of user was not exclusive. The goodwill of his business would be damaged by the misrepresentation that the defendant's goods were the goods of a limited class of traders entitled to make use of it, of whom the plaintiff was one and the defendant was not.

My Lords, A. G. Spalding & Bros. v. A. W. Gamage Ltd., 84 L.J.Ch. 449 and the later cases make it possible to identify five characteristics which must be present in order to create a valid cause of action for passing off: (1) a misrepresentation (2) made by a trader in the course of trade, (3) to prospective customers of his or ultimate consumers of goods or services supplied by him, (4) which is calculated to injure the business or goodwill of another trader (in the sense that this is a reasonably foreseeable consequence) and (5) which causes actual damage to a business or goodwill of the trader by whom the action is brought or (in a quia timet action) will probably do so.

In seeking to formulate general propositions of English law, however, one must be particularly careful to beware of the logical fallacy of the undistributed middle. It does not follow that because all passing off actions can be shown to present these characteristics, all factual situations which present these characteristics give rise to a cause of action for passing off. True it is that their presence indicates what a moral code would censure as dishonest trading, based as it is upon deception of customers and consumers of a trader's wares but in an economic system which has relied on competition to keep down prices and to improve products there may be practical reasons why it should have been the policy of the common law not to run the risk of hampering competition by providing civil remedies to every one competing in the market who has suffered damage to his business or goodwill in consequence of inaccurate statements of whatever kind that may be made by rival traders about their own wares. The market in which the action for passing off originated was no place for the mealy mouthed; advertisements are not on affidavit; exaggerated claims by a trader about the quality of his wares, assertions that they are better than those of his rivals even though he knows this to be untrue, have been permitted by the common law as venial 'puffing' which gives no cause of action to a competitor even though he can show that he has suffered actual damage in his business as a result.

Parliament, however, beginning in the 19th century has progressively \*743 intervened in the interests of consumers to impose on traders a higher standard of commercial candour than the legal maxim *caveat emptor* calls for, by prohibiting under penal sanctions misleading descriptions of the character or quality of goods; but since the class of persons for whose protection the Merchandise Marks Acts 1887 to 1953 and even more rigorous later statutes are designed, are not competing traders but those consumers who are likely to be deceived, the Acts do not themselves give rise to any civil action for breach of statutory duty on the part of a competing trader even though he sustains actual damage as a result: Cutler v. Wandsworth Stadium Ltd. [1949] A.C. 398 and see London Armoury Co. Ltd. v. Ever Ready Co. (Great Britain) Ltd. [1941] 1 K.B. 742. Nevertheless the increasing recognition by Parliament of the need for more rigorous standards of commercial honesty is a factor which should not be overlooked by a judge confronted by the choice whether or not to extend by analogy to circumstances in which it has not previously been applied a principle which has been applied in previous cases where the circumstances although different had some features in common with those of the case which he has to decide. Where over a period of years there can be discerned a steady

trend in legislation which reflects the view of successive Parliaments as to what the public interest demands in a particular field of law, development of the common law in that part of the same field which has been left to it ought to proceed upon a parallel rather than a diverging course.

The champagne case came before Danckwerts J. in two stages: the first, *J. Bollinger v. Costa Brava Wine Co. Ltd.* [1960] Ch. 262 on a preliminary point of law, the second, *J. Bollinger v. Costa Brava Wine Co. Ltd.* (No. 2) [1961] 1 W.L.R. 277 on the trial of the action. The assumptions of fact on which the legal argument at the first stage was based were stated by the judge to be [1960] Ch. 262, 273:

'... (1) The plaintiffs carry on business in a geographical area in France known as Champagne; (2) the plaintiffs' wine is produced in Champagne and from grapes grown in Champagne; (3) the plaintiffs' wine has been known in the trade for a long time as 'champagne' with a high reputation; (4) members of the public or in the trade ordering or seeing wine advertised as 'champagne' would expect to get wine produced in Champagne from grapes grown there; and (5) the defendants are producing a wine not produced in that geographical area and are selling it under the name of 'Spanish champagne.'

These findings disclose a factual situation (assuming that damage was thereby caused to the plaintiff's business) which contains each of the five characteristics which I have suggested must be present in order to create a valid cause of action for passing off. The features that distinguished it from all previous cases were (a) that the element in the goodwill of each of the individual plaintiffs that was represented by his ability to use without deception (in addition to his individual house mark) the word 'champagne' to distinguish his wines from sparkling wines not made by the champenois process from grapes produced in the Champagne district of France, was not exclusive to himself but was shared with every other shipper of sparkling wine to England whose wines could satisfy the same condition \*744 and (b) that the class of traders entitled to a proprietary right in 'the attractive force that brings in custom' represented by the ability without deception to call one's wines 'champagne' was capable of continuing expansion, since it might be joined by any future shipper of wine who was able to satisfy that condition.

My Lords, in the champagne case the class of traders between whom the goodwill attaching to the ability to use the word 'champagne' as descriptive of their wines was a large one, 150 at least and probably considerably more, whereas in the previous English cases of shared goodwill the number of traders between whom the goodwill protected by a passing off action was shared had been two, although in the United States in 1898 there had been a case, *Pillsbury-Washburn Flour Mills Co. v. Eagle* (1898) 86 Fed. R. 608, in which the successful complainants to the number of seven established their several proprietary rights in the goodwill attaching to the use of a particular geographical description to distinguish their wares from those of other manufacturers.

It seems to me, however, as it seemed to Danckwerts J., that the principle must be the same whether the class of which each member is severally entitled to the goodwill which attaches to a particular term as descriptive of his goods, is large or small. The larger it is the broader must be the range and quality of products to which the descriptive term used by the members of the class has been applied, and the more difficult it must be to show that the term has acquired a public reputation and goodwill as denoting a product endowed with recognisable qualities which distinguish it from others of inferior reputation that compete with it in the same market. The larger the class the more difficult it must also be for an individual member of it to show that the goodwill of his own business has sustained more than minimal damage as a result of deceptive use by another trader of the widely-shared descriptive term. As respects subsequent additions to the class, mere entry into the market would not give any right of action for passing off; the new entrant must have himself used the descriptive term long enough on the market in connection with his own goods and have traded successfully enough to have built up a goodwill for his business.

For these reasons the familiar argument that to extend the ambit of an actionable wrong beyond that to which effect has demonstrably been given in the previous cases would open the floodgates or, more ominously, a Pandora's box of litigation leaves me unmoved when it is sought to be applied to the actionable wrong of passing off.

I would hold the champagne case [1960] Ch. 262 to have been rightly decided and in doing so would adopt the words of Danckwerts J. where he said, at pp. 283-284:

'There seems to be no reason why such licence [sc. to do a deliberate act which causes damage to the property of another person] should be given to a person, competing in trade, who seeks to attach to his product a name or description with which it has no natural association so as to make use of the reputation and goodwill which has been gained by a product genuinely indicated by the name or description. In my view, it ought not to matter that the persons truly entitled to describe their goods by the name and description are a class \*745 producing goods in a certain locality, and not merely one individual. The description is part of their goodwill and a right of property. I do not believe that the law of passing off, which arose to prevent unfair trading, is so limited in scope.'

In the champagne case the descriptive term referred to the geographical provenance of the goods, and the class entitled to the goodwill in the term was accordingly restricted to those supplying on the English market goods produced in the locality indicated by it. Something similar was true in the sherry case (*Vine Products Ltd. v. Mackenzie & Co. Ltd.* [1969] R.P.C. 1) where the word 'sherry' as descriptive of a type of wine unless it was accompanied by some qualifying geographical adjective was held to denote wine produced by the solera method in the province of Jerez de la Frontera in Spain and the class entitled to the goodwill in the word was restricted to suppliers on the English market of wine produced in that province. In the Scotch whisky case (*John Walker & Sons Ltd. v. Henry Ost & Co. Ltd.* [1970] 1 W.L.R. 917) the product with which the case was primarily concerned was blended



whisky and the class entitled to the goodwill in the descriptive term 'Scotch whisky' was not restricted to traders who dealt in whisky that had been blended in Scotland but extended to suppliers of blended whisky wherever the blending process took place provided that the ingredients of their product consisted exclusively of whiskies that had been distilled in Scotland. But the fact that in each of these first three cases the descriptive name under which goods of a particular type or composition were marketed by the plaintiffs among others happened to have geographical connotations is in my view without significance. If a product of a particular character or composition has been marketed under a descriptive name and under that name has gained a public reputation which distinguishes it from competing products of different composition, I can see no reason in principle or logic why the goodwill in the name of those entitled to make use of it should be protected by the law against deceptive use of the name by competitors, if it denotes a product of which the ingredients come from a particular locality, but should lose that protection if the ingredients of the product, however narrowly identified, are not restricted as to their geographical provenance. Yet in view of the findings of fact by Gouling J. to which I have already referred, this is the only way in which the instant case can be distinguished from the champagne, sherry and Scotch whisky cases.

This brings me to *Native Guano Co. v. Sewage Manure Co.*, 8 R.P.C. 125 upon which the Court of Appeal principally relied as entitling, if not compelling, them to draw this distinction. The *Native Guano* case is a decision of this House reached in 1889. Despite their researches counsel have been unable to discover any reported instance of its ever having previously been cited until it was rescued from well-deserved oblivion for citation in the instant case. It is a thoroughly unsatisfactory case which got into a muddle at first instance before Kay J. (1887) 4 R.P.C. 473 and it is very difficult to discover precisely what, if anything, it did decide. What was said in the course of the judgments at first instance and in the Court of Appeal as well as in the speech of Lord Herschell in this House must be read in their historical context: first, that the proprietary interest \*746 protected by a passing off action had not yet been identified as the goodwill of the plaintiff's business rather than his property in the distinctive name under which his goods had acquired a reputation with the public - the so-called 'common law' trademark; and, secondly, that the passing off actions that had hitherto come before the courts had all assumed what I have called the classic form.

The plaintiffs, the *Native Guano Co.*, had patented a process for manufacturing from human excreta a fertiliser which they called *Native Guano* and sold under that name both during the currency of the patent and after it had expired. After the expiry of the patent the defendants started to market under the description '*Native Guano*' a fertiliser made by them from human excreta but apparently by a process that had not been the subject matter of the plaintiffs' patent. The principal relief claimed by the plaintiffs was an injunction restraining the defendants from using the name '*Native Guano*' to describe their product. This claim failed upon the ground, already well-established by authority, that after a patent had expired the patentee could not prolong the benefit of the temporary monopoly it had assured him by claiming that the goodwill in the name under which the product had become known to the public while the patent was in force, belonged to him. When, however, in the course of the hearing before Kay J. that judge intimated his opinion that the main ground failed, counsel for the plaintiffs appears to have sought to argue, as an alternative ground on which he might succeed, that it was a fraud upon the public to sell as *Native Guano* a fertiliser that had been manufactured from human excreta by a different process from that which had been the subject matter of the plaintiffs' patent. It does not appear that the statement of claim contained any allegation that the defendants' product differed in character or quality from *Native Guano* made by the patented process or that its sale upon the market under that name had debased the reputation with the public of *Native Guano* as a distinctive type of fertiliser. So the foundation for a champagne case type of passing off action was never laid. It is not therefore surprising to find in those parts of the judgments of Kay J. and of Cotton and Lindley L.JJ. in the Court of Appeal which deal with this subsidiary way in which the plaintiffs' claim was put, passages which suggest that an action for passing off lay only in its classic form of misrepresenting one's own goods as the goods of someone else. That reflected current judicial opinion at that time and those passages can be paralleled in contemporaneous and later cases until the decision of this House in *Spalding v. A. W. Gamage Ltd.*, 84 L.J. Ch. 449 recognised a more extended scope of the cause of action. Nevertheless it is interesting to note that in the *Native Guano* case itself when it reached this House (8 R.P.C. 125), Lord Herschell appears to me to have deliberately left open the question whether there would have been a cause of action if the two missing allegations to which I have referred had been made and been made good. In the brief passage in his speech in which he dealt with the matter, he said, at p. 135:

'... the statement of claim contains no allegation, even if it would have availed the plaintiffs that the defendants sold an article which was inferior or which was not a manure at all, or anything of that \*747 kind. It seems to me, therefore, to make no difference that the manure, which they sold under the name of '*Native Guano*,' was not made in precisely the same way as that which the plaintiffs had before made under that name.'

I have dealt with the *Native Guano* case at, perhaps, greater length than it deserves because of the reliance placed upon it by both Buckley L.J. and Goff L.J. but the passages that they cite from the judgments of Kay J. and Cotton L.J. if accepted as correct statements of the law of passing off as it stands today would lead to the conclusion that the champagne case and those which followed it were wrongly decided. Both Lords Justices, however, expressed their approval of the champagne case; they nevertheless felt able to distinguish it upon the ground, as I understand the judgments, that the word '*advocaat*' was merely descriptive of a type of alcoholic drink whereas '*champagne*' was distinctive of a drink that could only be made by a particular class of producers.

My Lords, the class of producers who could make '*champagne*' and whose right to use that word to describe their product on the English market formed a valuable part of their goodwill was a large one, much larger than the class with which the instant case is concerned, for it embraced everyone who engaged in the business of producing in the Champagne district, which is extensive, wines by the champenois method from grapes grown in the district and the class was capable of enlargement by the inclusion of anyone who chose to set up a new wine-producing business of that kind there. It is true that the whole process for making the finished product would have to be undertaken in the Champagne district; but this as I have already pointed out was not so in the

sherry case where bottling of the wine produced from grapes grown in the province of Jerez de la Frontera and blended by the solera method there need not take place in Spain; nor was it so in the Scotch whisky case where even the blending of malt and grain whiskies provided they were distilled in Scotland need not take place in that country.

Of course it is necessary to be able to identify with reasonable precision the members of the class of traders of whose products a particular word or name has become so distinctive as to make their right to use it truthfully as descriptive of their product a valuable part of the goodwill of each of them; but it is the reputation that that type of product itself has gained in the market by reason of its recognisable and distinctive qualities that has generated the relevant goodwill. So if one can define with reasonable precision the type of product that has acquired the reputation, one can identify the members of the class entitled to share in the goodwill as being all those traders who have supplied and still supply to the English market a product which possesses those recognisable and distinctive qualities.

It cannot make any difference in principle whether the recognisable and distinctive qualities by which the reputation of the type of product has been gained are the result of its having been made in, or from ingredients produced in, a particular locality or are the result of its having been made from particular ingredients regardless of their provenance; though a geographical limitation may make it easier (a) to define the type of product; \*748 (b) to establish that it has qualities which are recognisable and distinguish it from every other type of product that competes with it in the market and which have gained for it in that market a reputation and goodwill; and (c) to establish that the plaintiff's own business will suffer more than minimal damage to its goodwill by the defendant's misrepresenting his product as being of that type.

In the instant case it is true that all but a very small portion of the alcoholic egg drink which gained for the name 'advocaat' a reputation and goodwill upon the English market, was imported from the Netherlands where, in order to bear that name, the ingredients from which it was made had to conform to the requirements of official regulations applicable to it in that country; but that is merely coincidental, for it is not suggested that an egg and spirit drink made in broad conformity with the Dutch official recipe for 'advocaat,' wherever it is made or its ingredients produced, is not endowed with the same recognisable and distinctive qualities as have gained for 'advocaat' its reputation and goodwill in the English market.

So, on the findings of fact by Goulding J. to which I referred at the beginning of this speech, the type of product that has gained for the name 'advocaat' on the English market the reputation and goodwill of which Keelings are seeking to take advantage by misrepresenting that their own product is of that type, is defined by reference to the nature of its ingredients irrespective of their origin. The class of traders of whose respective businesses the right to describe their products as advocaat forms a valuable part of their goodwill are those who have supplied and are supplying on the English market an egg and spirit drink in broad conformity with an identifiable recipe. The members of that class are easily identified and very much fewer in number than in the champagne, sherry or Scotch whisky cases. Warnink with 75 per cent. of the trade have a very substantial stake in the goodwill of the name 'advocaat' and their business has been showed to have suffered serious injury as a result of Keelings putting on the English market in competition with Warnink and at a cheaper price an egg and wine based drink which they miscall 'advocaat' instead of egg flip which is its proper name.

My Lords, all the five characteristics that I have earlier suggested must be present to create a valid cause of action in passing off today were present in the instant case. Prima facie as the law stands today, I think the presence of those characteristics is enough, unless there is also present in the case some exceptional feature which justifies, on grounds of public policy, withholding from a person who has suffered injury in consequence of the deception practised on prospective customers or consumers of his product a remedy in law against the deceiver. On the facts found by the judge, and I stress their importance, I can find no such exceptional feature in the instant case.

I would allow this appeal and restore the injunction granted by Goulding J,

VISCOUNT DILHORNE.

My Lords, I have had the advantage of reading in draft the speeches of my noble and learned friends, Lord Diplock and \*749 Lord Fraser of Tullybelton. I agree with them and there is nothing that I can usefully add. In my opinion this appeal should be allowed.

LORD SALMON.

My Lords, I have had the opportunity of reading in draft the speeches prepared by my noble and learned friends, Lord Diplock and Lord Fraser of Tullybelton. I agree with them, and for the reasons which they give I too would allow the appeal.

LORD FRASER OF TULLYBELTON.

My Lords, the appellants are the plaintiffs in this action. The first appellants manufacture in the Netherlands the alcoholic beverage called advocaat and import it into England where they sell it through the second appellants. Both appellants are now members of the Allied Breweries Group, and for the purposes of this appeal they can be regarded as one company. In this action they ask for an injunction against the respondents, the defendants, from selling or offering for sale any product under the name of 'advocaat' unless it basically consists of spirit and eggs, and does not include wine, and further, from representing that a mixture of wine and eggs is advocaat. Goulding J. granted the injunction sought by the appellants. In doing so he proceeded expressly in reliance upon the decision in *J. Bollinger v. Costa Brava Wine Co.* [1960] Ch. 262 ('the champagne case'). The Court of Appeal reversed his decision and dismissed the action, holding that it fell to be distinguished from the champagne case. The questions for this House now are (1) whether this case is distinguishable from the champagne case and (2) if not, whether the champagne case itself was rightly decided.

The appellants have imported advocaat from the Netherlands into England and sold it in England for many years - certainly since before 1914 - and for about 12 years immediately before the beginning of this action they had sold 75 per cent. or more of the advocaat marketed in the United Kingdom (and presumably about the same proportion of that marketed in England) but they do

not have a monopoly in the name 'advocaat' in England, and several other Dutch manufacturers have for years sold their own brands of advocaat with minor differences of flavour between them. Virtually all the advocaat sold in England is, and always has been, imported from the Netherlands. The learned judge mentioned some exceptions to that general statement, but the quantity of advocaat not of Dutch origin sold in England has been so small that it can be disregarded. The composition of Dutch advocaat (and therefore, in effect, of all the advocaat sold in England) is regulated by Dutch law and consists of hens' eggs, sugar flavouring and spirit. The spirit used is called in Dutch 'brandewijn.' Brandewijn is ethyl alcohol derived from grain or molasses. It is not the same as brandy which, at least in modern English usage, means a spirit derived from grapes. Many people in England mistakenly believe that advocaat contains brandy, probably because the appellants used to advertise their product as made of eggs and brandy. At the trial the respondents, founding on this misrepresentation by the appellants, argued that the appellants were not entitled to an injunction because they did not come before the court with clean hands, but the argument did not succeed before the learned judge or in the Court of Appeal. It was not repeated in this House.

**\*750**

There is another alcoholic egg drink known to the public in England, called egg flip. It is based on eggs and wine and is cheaper than advocaat. In or about 1974 the respondents began to make a beverage based on dried eggs and fortified Cyprus sherry and to sell it as 'Old English Advocaat.' The respondents, who apparently manufacture their product in England, import the Cyprus sherry and only have to pay the customs duty appropriate to fortified wines, which is substantially lower than that on spirits, which the appellants have to pay. The result is that the respondents are able to sell their product about 50p per bottle cheaper than the appellants can sell theirs.

Among the conclusions drawn by the learned judge from the primary facts were the following.

'A substantial reputation and goodwill have, over half a century or more, been acquired by the name 'advocaat' as that of a drink with recognisable qualities of appearance, taste, strength, and satisfaction.' [1978] F.S.R. 1, 11.

and at p. 21:

'As I have already found, a substantial reputation and goodwill attach to the name as that of a drink of a particular character. Such character is beyond question that of the Dutch advocaat imported into the United Kingdom over a long period and in large quantity. The evidence shows that notwithstanding minor differences between competing brands, it was a distinct and recognisable species of beverage.... The Dutch advocaat to which the word owes its reputation in the United Kingdom has been a flavoured mixture of eggs, brandewijn and sugar. There is no doubt about that, even though the public in the United Kingdom has been misled or ignorant as to the composition of the drink. Accordingly I reject the contention that the word has no definite established meaning.' (My italics)

The appellants maintain that the respondents' product is not advocaat because it is not based on spirit but on wine (although it may also contain some brandy used to fortify the wine). The appellants say, and the judge held - [1978] F.S.R. 1, 23 - that the respondents' product is really only egg flip and that the respondents, by misrepresenting it as advocaat, have been using and appropriating part of the goodwill attached to the name 'advocaat,' part of which goodwill belongs to the appellants. They may also have damaged the goodwill by applying it to an inferior product.

It is right to mention the judge's finding that the respondents have at all times been quite open in their activities and have maintained that their description of their goods is true and innocent. They received some encouragement from the failure of a prosecution at the instance of the Customs and Excise Commissioners in which it appears that the learned judge of the Crown Court at Beverley held, in effect, that the name 'Keeling's Old English Advocaat' did not indicate that the product was, or bore any resemblance to, any description of spirits for the purposes of section 162 (1) of the Customs and Excise Act 1952. The only relevance of that prosecution is to vouch the respondents' frankness.

The action is a passing off action, though not of the classical kind. Paragraph 5 of the statement of claim is in the following terms.  
**\*751**

'The defendants have passed off and intend to pass off a beverage not consisting basically of the aforesaid ingredients as and for advocaat by advertising, offering for sale and selling a beverage, being an egg flip, consisting basically of a mixture of wine and eggs.'

Both Goulding J. and the Court of Appeal treated the action as a passing off action, though Buckley L.J. pointed out that it was not one of the classical kind in respect that the appellants do not maintain that the respondents were passing off their advocaat as advocaat manufactured by the appellants, but merely that they were passing off their product as advocaat. The classic form of the tort of passing off required that the defendant must have claimed that his goods were the plaintiff's goods and not merely that they had qualities which were peculiar to plaintiff's goods. One of the most emphatic statements of the law on this point was made by Lord Watson in *Singer Manufacturing Co. v. Loog* (1882) 8 App.Cas. 15, 38-39 as follows:

'The legal consequence of these facts is that the appellant company have a right - an exclusive right, to use the name 'Singer' as denoting sewing machines of their manufacture; and that no one has a right to use the word for the purpose of passing off his goods as theirs, or, even when he is innocent of that purpose, to use it in any way calculated to deceive or aid in deceiving the public. None of the numerous authorities cited at the bar by the appellants' counsel carry the exclusive right of a trader to a particular name, beyond that limit. There is no authority, and, in my opinion, no principle for giving the trader any higher right. If he cannot allege and prove that the public are deceived, or that there is a reasonable probability of deception, he has no right to interfere with the use of the name by others.' (My italics)

In Reddaway v. Banham [1896] A.C. 199 Lord Herschell said, at p. 209:

'The principle which is applicable to this class of cases was, in my judgment, well laid down by Lord Kingsdown in Leather Cloth Co. Ltd. v. American Leather Cloth Co. Ltd. (1865) 11 H.L.C. 523 . It had been previously enunciated in much the same way by Lord Langdale in the case of Croft v. Day (1845) 7 Beav. 84 . Lord Kingsdown's words were as follows: 'The fundamental rule is, that one man has no right to put off his goods for sale as the goods of a rival trader, and he cannot, therefore (in the language of Lord Langdale, in the case of Perry v. Truefitt, 6 Beav. 66 ), be allowed to use names, marks, letters, or other indicia, by which he may induce purchasers to believe that the goods which he is selling are the manufacture of another person'.'

The law so stated was slightly extended in A. G. Spalding & Bros. v. A. W. Gamage Ltd., 84 L.J. Ch. 449 to cover a case where the defendant had in his hands the goods of another of a particular class or quality, and represented them as being the goods of that other trader of a different quality or belonging to a different class. Lord Parker of Waddington, with whose speech in the House of Lords Lord Atkinson and Lord Sumner agreed, treated the case as raising a proposition which was simply a \*752 corollary of the classic law. Lord Parker also explained the legal basis of the passing off action as follows, at p. 450:

'There appears to be considerable diversity of opinion as to the nature of the right, the invasion of which is the subject of what are known as passing off actions. The more general opinion appears to be that the right is a right of property. This view naturally demands an answer to the question, Property in what? Some authorities say, property in the mark, name, or get-up improperly used by the defendant. Others say, property in the business or goodwill likely to be injured by the misrepresentation. Lord Herschell, in Reddaway v. Banham [1896] A.C. 199 expressly dissents from the former view, and if the right invaded is a right of property at all, there are, I think, strong reasons for preferring the latter view.'

Lord Parker went on to state those reasons but I do not think it is necessary to repeat them here as his view is now generally accepted. As my noble and learned friend, Lord Diplock, said in Star Industrial Co. Ltd. v. Yap Kwee Kor [1976] F.S.R. 256 , 269:

'Whatever doubts there may have previously been as to the legal nature of the rights which were entitled to protection by an action for 'passing off' in courts of law or equity, these were laid to rest more than 60 years ago by the speech of Lord Parker of Waddington in Spalding v. A. W. Gamage Ltd., 32 R.P.C. 273 ('the Gamage case') with which the other members of the House of Lords agreed. A passing off action is a remedy for the invasion of a right of property not in the mark, name or get-up improperly used, but in the business or goodwill likely to be injured by the misrepresentation made by passing off one person's goods as the goods of another. Goodwill, as the subject of proprietary rights, is incapable of subsisting by itself. It has no independent existence apart from the business to which it is attached. It is local in character and divisible; if the business is carried on in several countries a separate goodwill attaches to it in each. So when the business is abandoned in one country in which it has acquired a goodwill the goodwill in that country perishes with it although the business may continue to be carried on in other countries.'

Before the champagne case, successful passing off actions in England had usually, though not invariably, been at the instance of a party who had the exclusive right to the goodwill attached to some particular name, mark or get-up, and who complained that the defendant was invading his right by using the name, mark or get-up to misrepresent his goods as those of the plaintiff. The exceptions were fully considered by Danckwerts J. in the champagne case. They were rather special cases in which by succession from a common author, or in consequence of some particular history of events, the right to use a name or description for their products was shared by two or more parties to the exclusion of the rest of the world. The champagne case was the first case in England that clearly accepted the principle that parties who did not have an exclusive right to use a particular trade name, but who \*753 were only some members of a class consisting of all those who had a right to use the name, were entitled to protect the name by a passing off action. There were only 12 plaintiffs. There were over 200 manufacturers of genuine champagne, although they may not all have been shippers of it to the English market and therefore may not all have had any goodwill in England. But quite plainly the plaintiffs only formed a small part of the class of shippers who together owned the goodwill in

England. The defendants were makers of a Spanish sparkling wine, which they had begun to sell in England as 'Spanish champagne.' The novelty and importance of the decision lay in the nature of the misrepresentation against which the plaintiffs were held to be entitled to protection. The misrepresentation was not that the defendants' product was the product of the plaintiffs, or even that it came from France. The misrepresentation was that 'Spanish champagne' was wine of the kind that enjoyed the reputation and goodwill which attached to genuine champagne, and in which the plaintiffs had a property right.

Assuming for the moment that the champagne case was rightly decided, the first question is whether it is distinguishable from the present case. An obvious feature of that case, and of two other cases in England that followed it, the sherry case (*Vine Products Ltd. v. Mackenzie & Co. Ltd.* [1969] R.P.C. 1) and the Scotch whisky case (*John Walker & Sons Ltd. v. Henry Ost & Co. Ltd.* [1970] 1 W.L.R. 917), but which is absent from the present case, is that the products of the plaintiffs were described by names which had geographical connotations related to the place of origin of the materials from which the product was made. In the champagne and sherry cases the products, as well as being made from materials from the named districts, were also manufactured there. But in the Scotch whisky case it was held that blenders who blended only whiskies distilled in Scotland with other whiskies distilled in Scotland were entitled to use the description 'Scotch whisky' wherever the actual blending took place, whether in Scotland or elsewhere.

In the champagne case Danckwerts J. [1960] Ch. 262 said, at pp. 283-284:

'There seems to be no reason why... licence should be given to a person, competing in trade, who seeks to attach to his product a name or description with which it has no natural association so as to make use of the reputation and goodwill which has been gained by a product genuinely indicated by the name or description. In my view, it ought not to matter that the persons truly entitled to describe their goods by the name and description are a class producing goods in a certain locality, and not merely one individual. The description is part of their goodwill and a right of property.'

The reference to 'a class producing goods in a certain locality' was of course directed to the facts of the particular case. But it cannot, in my opinion, be essential that the class should be defined by reference to the locality in which the members produce the goods, provided it is clearly defined in some way. How can it matter whether the name \*754 by which the genuine product is known has a geographical origin or has no natural connection with the product, or is simply invented, provided that it is distinctive of a particular class of goods? In the present case, as in the champagne case, the plaintiffs are members of a class, which consists of all those who market in England the product genuinely indicated by a particular name. The fact that the name advocaat differs from champagne in respect that it has no geographical significance seems to me neither here nor there. It does have a definite meaning, as the learned judge held in the passage I have already quoted from his judgment at p. 21, and the misrepresentation here was I think of exactly the same kind as in the champagne case. Goulding J. said [1978] F.S.R. 1, 13:

'It has not been proved that any purchaser or consumer of the [respondents'] Old English Advocaat ever supposed it, or is ever likely to suppose it, to be the goods supplied by the [appellants], ... or to be Dutch advocaat of any make. There is, however, no doubt that members of the public believe, and have been deliberately induced by the [respondents] to believe, that in buying their Old English Advocaat they are in fact buying advocaat.'

That is to say the misrepresentation was that the respondents' 'Old English Advocaat' was a liqueur of the kind that enjoyed the reputation attached to genuine advocaat in England. I note in passing that the justification for the passing off action to prevent such misrepresentation continuing is not to protect the public (who might suffer no prejudice from it, if they had never tasted genuine advocaat) but to protect the appellants' property in the goodwill.

In the champagne case, as in this case, the class, membership of which gives the plaintiff the right to sue, consists of all those who sell the genuine product in England under the distinctive name by which it is known here, and who together are the owners of the goodwill or reputation attaching to the name in England. In that case, as in this, membership of the class may vary from time to time. An existing trader who discontinues sales of the genuine product in England would cease to belong to the class and the class would thereby be reduced. Conversely, a new trader who begins to sell the genuine product would become a member of the class when he had become well enough established to have acquired a substantial right of property in the goodwill attaching to the name. In either case the class is open to new members provided they qualify themselves by acquiring the necessary goodwill, which they can do by selling, in the one case under the name 'Champagne' a wine made in Champagne by the correct process from grapes grown there, and in the other case under the name 'advocaat' a liqueur made according to the Dutch recipe. But although membership of the class can change, it must be definite and ascertainable at any particular time if it is to carry a right to sue an action for passing off. In the present case, as in the champagne case, the class is definite and ascertainable.

In the Court of Appeal [1978] F.S.R. 473 Buckley L.J. decided against the appellants mainly on the ground that he considered the name 'advocaat' to be purely descriptive and not distinctive, in contrast to \*755 champagne which he considered to be distinctive. He said (rightly in my opinion) at p. 482 that 'at least some measure of distinctiveness is essential for the trade name or description to be capable of giving rise to a claim to relief against passing off.' But in my opinion the learned Lord Justice did not give sufficient weight to the findings of the judge which I have already quoted, and especially to his finding ([1978] F.S.R. 1, 21) that advocaat was a distinct and recognisable species of beverage.' Goff L.J. seems to me to have made what I regard, with all respect, as the same error, when he said [1978] F.S.R. 473, 496 that it had not been found that 'there was something to entitle the [appellant] to say that 'advocaat'... distinguishes their product or the products of some limited class from all other beverages of the like character...' I do not think that the terms 'descriptive' and 'distinctive,' as applied to names of products, are mutually

exclusive. Names which begin by being descriptive, such as Carrara marble and Vichy water and, of course, Champagne, may in the course of time become distinctive as well as descriptive. The name 'advocaat' although never descriptive, has, as Goulding J. found, become distinctive. Had it not been for the omission to give weight to this finding by the judge, I do not think that Buckley L.J. would have regarded the decision in *Native Guano Co. v. Sewage Manure Co.*, 8 R.P.C. 125 as binding upon him here, for he said, at p. 492, that it was binding 'where a name is purely descriptive of a kind of goods...' I agree with the observations on the *Native Guano* case by my noble and learned friend, Lord Diplock, whose speech I have had the privilege of reading in draft. Goff L.J. gave weight to the meaning of the name in other countries, including Germany. In my opinion its meaning in countries other than England is immaterial because what the court is concerned to do is to protect the plaintiffs' property in the goodwill attaching to the name in England and it has nothing to do with the reputation or meaning of the name elsewhere.

For these reasons I do not consider that the champagne case can be distinguished from the present case. The question therefore remains whether the champagne case itself was rightly decided or not. As I have already said, I think that that case went rather further than the previous decisions in passing off cases. I would respectfully adopt the words of traditional legal theory used by Cross J. in the sherry case *Vine Products Ltd. v. Mackenzie & Co. Ltd.* [1969] R.P.C. 1, 23, where he said that the champagne case 'uncovered a piece of common law or equity which had till then escaped notice...' But the decision is in my opinion soundly based on the principle underlying the earlier passing off actions, which I take to be that the plaintiff is entitled to protect his right of property in the goodwill attached to a name which is distinctive of a product or class of products sold by him in the course of his business. It is essential for the plaintiff in a passing off action to show at least the following facts:- (1) that his business consists of, or includes, selling in England a class of goods to which the particular trade name applies; (2) that the class of goods is clearly defined, and that in the minds of the public, or a section of the public, in England, the trade name distinguishes that class from other similar goods; (3) that because of the reputation of the goods, there is goodwill \*756 attached to the name; (4) that he, the plaintiff, as a member of the class of those who sell the goods, is the owner of goodwill in England which is of substantial value; (5) that he has suffered, or is really likely to suffer, substantial damage to his property in the goodwill by reason of the defendants selling goods which are falsely described by the trade name to which the goodwill is attached. Provided these conditions are satisfied, as they are in the present case, I consider that the plaintiff is entitled to protect himself by a passing off action. The argument relied on by the respondents was to the effect that, unless there has been a passing off of the defendant's goods as the plaintiff's goods, there can be no direct injury to the plaintiff entitling him to raise an action for passing off. Any other kind of unfair trading may, it was said, render the trader liable to criminal or civil proceedings under Acts such as the Food and Drugs Act 1955 or the Trade Descriptions Act 1968, or to proceedings at common law by the Attorney-General in the public interest either for criminal penalties or for an injunction, but does not amount to a tort against the party whose goodwill is damaged by the unfair competition of goods which are falsely described. If that were the law it would, I think, be unfortunate. Of course, any established trader is liable to have his goodwill damaged by fair competition, and it is not every falsehood told by a competitor that will give him a right of action. But where the falsehood is a misrepresentation that the competitor's goods are goods of definite class with a valuable reputation, and where the misrepresentation is likely to cause damage to established traders who own goodwill in relation to that class of goods, business morality seems to require that they should be entitled to protect their goodwill. The name of the tort committed by the party making the misrepresentation is not important, but in my opinion the tort is the same in kind as that which has hitherto been known as passing off.

The decision in the champagne case has now stood for about 18 years and it has been followed in other cases in England and abroad. It has met with express approval from Cross J. in the sherry case and from Foster J. in the Scotch whisky case, and also from judges in New South Wales (see *Scott v. Tuff-Kote (Australia) Pty. Ltd.* [1975] 1 N.S.W.L.R. 537) and in Hong Kong (see *Shaw Brothers (Hong Kong) Ltd. v. Golden Harvest (H.K.) Ltd.* [1972] R.P.C. 559). It was referred to without disapproval by Buckley, Goff and Waller L.J.J. in *H. P. Bulmer Ltd. and Showerings Ltd. v. J. Bollinger S.A.* [1978] R.P.C. 79. It does not seem to have led to an excessive flood of litigation or to other unforeseen difficulties and I see no reason, therefore, why it should not be recognised as a proper application of the principle of passing off to the circumstances of that case.

I would allow the appeal and restore the order made by Goulding J.

LORD SCARMAN.

My Lords, I have had the advantage of seeing in draft the speeches delivered by my noble and learned friends, Lord Diplock and Lord Fraser of Tullybelton. I agree with them and for the reasons which they give would allow the appeal.

### Representation

Solicitors: Ashurst, Morris, Crisp & Co: Gouldens .

Appeal allowed. (F. C. )

The Law  
Reports

(c) Incorporated Council of Law Reporting for England & Wales

© 2009 Sweet & Maxwell

Westlaw.UK

BEFORE THE: WORLD INTELLECTUAL PROPERTY ORGANIZATION  
ARBITRATION AND MEDIATION CENTER

**Sir Peter Scott  
(Complainant)**

V

**Howard Fredrics  
(Respondent)**

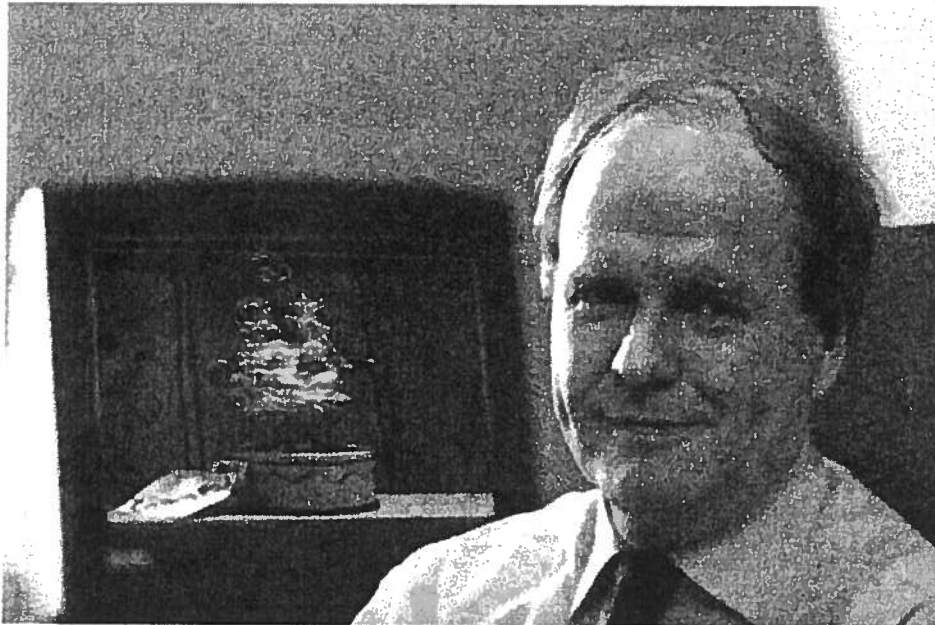
---

ANNEX 5

---

# Welcome to the Website of Sir Peter Scott Vice-Chancellor of Kingston University

## Providing Leadership for Higher Education in the 21st Century



### What is this site about?

This site tells a story through documentary evidence, images, music and video. It paints a picture for the reader/viewer to judge for him/herself, rather than putting forth a particular point of view about relevant events, by asking difficult and important questions to consider about what it means to work and study at Kingston University.

A brief summary of background facts follows:-

Dr Edward Fredrics began his employment as Senior Lecturer and Route Leader of Creative Music Technologies in September 2002. He moved with his wife, Lori from the United States, leaving a full-time permanent position to relocate his life to the UK.

In early 2003, he was approached by a colleague, Mike Searby, to sign a letter of grievance against his manager. Dr Fredrics decided that he did not want to become involved in such matters, as he was new in his post, still on probation, and simply did not wish to join in a mob action to address concerns about his manager. Rather, it was Dr Fredrics' view that such matters are best handled on an individual basis through direct discussion with management to resolve individual concerns as they arise.

But Mr Searby did not take no for an answer. He continued to pressurize Dr Fredrics and even approached Dr Fredrics' wife, Lori to try to prevail upon her to convince Dr Fredrics to sign the letter of grievance. He also told Dr Fredrics that ALL other staff had signed the letter (a false statement) and that it would not be in his (Dr Fredrics) "best interests" to not sign the letter -- a clear threat, which Dr Fredrics understood as such. Shortly thereafter, Mr Searby and another colleague, Dr Frank Millward approached Mrs Fredrics to try to pressurize her further into getting Dr Fredrics to sign the grievance. They told Mrs Fredrics that Dr Fredrics was already becoming "marginalized" and that he would "find himself being sent back to the US" if he ended up on the "wrong side" of the battle against his manager.

What follows below are a series of links to pages containing documents, which show what happened to Dr Fredrics and his wife, Lori after Dr Fredrics made it clear that he would not engage in mobbing of his manager. Indeed, all Dr Fredrics wanted to do was to do his job, to concentrate on his teaching and research, to improve the quality of Kingston, to be helpful to his colleagues, and to live a normal and happy life. Alas, this was not to be.....

To whet the reader's appetite to read/listen on, the following recording of a conversation amongst UCU union rep., Chris Wills, Personnel Director, Liz Lanchbery and Dr Fredrics documents Mr Wills request to Mrs Lanchbery that the University's appointed "independent" investigator look into allegations that Dr Fredrics was threatened by his colleagues with the loss of his job if he did not sign onto the letter of grievance against his manager. You'll note that Mrs Lanchbery agrees to formally instruct the investigator to perform such an



investigation upon receipt of a written request from Mr Wills, who did precisely that. (n.b. the recording contains brief silences where the name of Dr Fredrics' manager is mentioned, in order to respect the privacy of that individual).



Mrs Lanchbery did NOT, however, include such instructions to the University's investigator, and he did NOT, therefore, investigate whether or not Dr Fredrics was threatened or otherwise pressurized by his colleagues, and whether or not this may have ultimately led to the targeting for elimination of Dr Fredrics by some of his colleagues through a collective grievance, one that was issued in much the same manner as had been done in order to eliminate Dr Fredrics' manager.

Does it seem to you that Dr Fredrics may have been bullied by his colleagues and later, by Mrs Lanchberry?  
Do you think that the failure to conduct a FULL investigation, not only of allegations against Dr Fredrics, but also of charges of bullying by Dr Fredrics' colleagues means that the investigation was, from the outset, fatally flawed?

Read on to find out more.....

### DAILY QUOTATIONS

"Each time a person stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current which can sweep down the mightiest walls of oppression and resistance." - Robert F. Kennedy

(source: <http://www.morris.umn.edu/committees/difference/quotes.old>)

#### NEW QUOTE DU JOUR

"In order to succeed in a claim under the 1997 [Protection from Harassment] Act, Dr Fredrics must also demonstrate that Kingston is vicariously liable for the acts of its employees on which he relies. In my opinion, he would be able to demonstrate this.

In my opinion, it is arguable that Kingston should have been able to foresee that stress would cause Dr Fredrics personal injury, on the basis that he informed them prior to his employment that he suffered from depression. Further, as from the time of receipt of the document at Tab 2 (the undated note from Wendy in Occupational Health), Kingston were on notice that Dr Fredrics was being caused stress from the working environment." - Adam Solomon, Barrister-at-Law

[Video](#) | [Indictment](#) | [Threat](#) | [Questions](#) | [Update](#) | [Evidence](#) | [Corruption of Public Officials](#) | ['Independent' Investigation?](#) | [Secret Meeting](#) | [Quality Assurance?](#) | [Plagiarism Scandal](#) | [Circle of Corruption](#) | [Cast of Characters](#) | [Workplace Stress?](#) | [Workplace Bullying?](#) | [Health & Safety?](#) | [Academic Freedom?](#) | [Facts & Figures](#) | [Share Your Story](#) | [Links](#) | [More Stories](#)

## Artressa Phunding Releases NEW Music



## **Fiona**

(because we just want to know WHY?)



## **Scott Song (Reprise)**

(dedicated to the brave souls who recorded the Kingston University National Student Survey Scandal)



*Coming Soon:-*

Fiona - The Video

Scott Song (Reprise) - The Video

---

***Newsflash:***

**DATELINE - 19 February 2009:  
Kingston Professor Escapes Sanctions  
Following Alleged Threats of Assault**



According to reliable sources, in approximately 2005, now retired Professor, Joe Bailey threatened to assault another staff member with a weapon. Following a finding by the University that the incident did, indeed, occur as alleged, Prof Bailey was allowed to retire with full benefits instead of being subjected to disciplinary sanctions.

Interestingly, Prof Bailey is married to Prof Gail Cunningham, Dean of FASS.

Are there two different standards for staff conduct at Kingston -- one for non-disabled, non-whistleblowing spouses of administrators and another for disabled/whistleblowing 'ordinary' staff members?

What do YOU think?

---

***Newsflash:***

**DATELINE - 25 January 2009:  
Kingston University May Lose £1m in Funding  
for its Underreporting of Dropout Rates**

In reporting on another recent example of corruption at Kingston University, the Surrey Comet has obtained compelling evidence of underreporting of dropout figures by the University's management.

During his tenure at the University, Dr Howard Fredrics had been concerned with upholding academic standards and with honest reporting of the causes of student failures.

Does this latest report suggest that Dr Fredrics' concerns about the recasting of student failures in terms of course design problems, rather than in terms of deficits in management, infrastructure, and with the level of student preparation and accountability, may indeed have been well-founded?

*By Martin George*

Kingston University may forfeit £1m of funding, after failing to declare hundreds of students who failed to complete their courses - and the university warned other institutions may have even bigger problems.

Last year the university reported a 6.4 per cent non-completion rate, but an audit of 180 of the university's 21,300 students revealed a higher figure of 8.6 per cent.

According to documents obtained by the Surrey Comet under the Freedom of Information Act, a later examination of 9,000 student records revealed that the true rate could be high as 14.5 per cent.

Third year computer science student Alfa Sow found it hard to believe. She said: "It sounds like a joke. To the outside it looks like bad management. I think that is bad at the time of the recession. There is so much you could do with that money."

The miscounting is the latest embarrassment for the university, after a lecturer told students to cheat in a national survey last year, and novelist and research fellow Hanif Kureishi said he gave all his students a 71 per cent mark regardless of what they wrote.

**Newsflash:**

**DATELINE - 23 January 2009:  
Kingston University Named  
As Among Worst UK University Employers  
For Workplace Well-Being**

According to a survey published in the January 2009 issue of the magazine, UC, Kingston University has scored near the bottom of the league tables in terms of the well being of its staff members. This result is based on a number of relevant criteria that impact upon the levels of stress experienced by staff.

**Bottom 10 HEIs for well-being at work**  
Ranked by average. 1 = low well-being at work, and 5 = high well-being at work.

	Total # resp's in UCU sample	Total acad resp's in UCU sample	Total acad's @ 1	UCU acad's % of total acad's	Demands	Control	Manag-erial support	Peer support	Relation-ships	Role	Change	Average
Kingston University	64	54	1882	3.7%	2.58	2.62	2.57	3.19	3.23	3.48	2.37	2.90
University of Gloucestershire	46	40	593	6.7%	2.52	3.52	2.55	3.34	3.29	3.44	2.27	2.99
University of Central Lancashire	60	57	1168	4.9%	2.45	3.65	2.76	3.20	3.26	3.49	2.11	2.99
Queen's University Belfast	48	124	160	7.7	2.48	3.68	2.49	3.10	3.26	3.51	2.12	2.95
London Metropolitan University	46	38	1175	2%	2.52	3.53	2.46	3.22	3.46	3.45	2.03	2.95
Clyndr University (N.E.Wales Institute of HE)	16	16	291	5.5%	2.55	3.72	2.65	3.07	2.91	3.40	2.29	2.94
Harper Adams UC	24	22	100	22.0%	2.63	3.67	2.78	3.01	3.05	3.29	2.09	2.93
University of Teesside	37	32	689	4.6%	2.37	3.28	2.51	3.13	3.29	3.42	2.20	2.89
Birmingham New University	23	19	476	4.0%	2.42	3.29	2.50	3.07	3.17	3.50	1.94	2.84
Liverpool Hope University	25	23	370	6.2%	2.10	3.03	2.41	3.27	3.02	3.32	1.59	2.68

N= number of resps - respondents      acad. - academic

**Newsflash:**

**DATELINE - 30 December 2008:  
Kingston University REFUSES to turn over  
evidence in case of a staff member  
allegedly threatened with assault**



Kingston University has refused to acknowledge the relevance of evidence in connection with allegations of a threatened assault by one of its staff members against another staff member and has, therefore, refused to disclose this evidence in connection with the case of H Fredrics v Kingston University.

In this instance, the accused staff member who worked in the same faculty as Dr Fredrics and who was, nonetheless permitted to retire on full benefits instead of facing disciplinary sanctions, was also named in other documents disclosed by the University in connection with the case.

Here we have a case of a staff member who was allegedly given more favourable treatment than was Dr Fredrics after being accused of actual threats of violence with a weapon (a screwdriver), and whose other statements were deemed to be perfectly relevant by the University in their disclosure of documents. And yet somehow, this potentially damaging evidence of a staff member getting away with an alleged threatened assault is not considered 'relevant' by the University's solicitors.

Will the University get away with covering up the facts surrounding this case? Or will the Tribunal force them to disclose the truth?

Can the University have its cake and eat it, as well?

Stay tuned for more details on this exciting development.....

---

## ***Newsflash:***

### **DATELINE - 18 December 2008: Kingston Music Sinks Towards the Bottom of the RAE Scale**

Kingston's 'Quality Assurance' methods have once again proven themselves, as Music has reached a low water point in the recent Research Assessment Exercise, the results of which are used to determine government funding allocation for research.

To read more about it, click [HERE](#)

***Newsflash:***

**DATELINE - 12 December 2008:**

**Kingston University Attempts  
to Intimidate Tribunal Witness**

Once again, Kingston University has attempted to use strong-armed tactics to intimidate a key witness in the Employment Tribunal case of Howard Fredrics v Kingston University. This witness, a former employee of the University, had signed a compromise agreement containing a so called 'gag clause.' While such clauses are normally intended to prevent such individuals from making disparaging remarks about their former employer to the Press, they are **NOT** allowed, by law, to be used to obstruct witness testimony in legal cases, such as those before the Employment Tribunal.

Nonetheless, Kingston University has apparently decided to threaten this individual with legal action for simply testifying truthfully about what he knows about what goes on at the School of Music and throughout the University.



# POSTPONED INDEFINITELY

## (BECAUSE OF INJURIES TO CLAIMANT CAUSED BY KINGSTON UNIVERSITY STEMMING FROM ITS THREATS AGAINST DR FREDRICKS AND TWO KEY WITNESSES)

You are cordially invited to attend the Employment Tribunal hearing scheduled for 9:00 a.m. at London South Employment Tribunal, Montague Court, 101 London Road, West Croydon, CR0 2RF.

The first day of the hearing, 12 January is a 'Reading Day' only, where Tribunal members will read case documents. So the REAL action won't begin until 13 January.

Bring your friends and partners.

Be ready for some REAL surprises!

For those of you who can't wait or who can't make this event, click [HERE](#) to see some SNEAK PREVIEWS of Witness Statements.

The following is an excerpt from a threatening letter of 9 December 2008 from Charles Russell Solicitors, the University's lawyers:-

Our client has put forward two generous and entirely reasonable proposals in respect of your disclosure. If you do not accept either of these proposals by 5pm tomorrow, Wednesday 10 December 2008, our client will have no alternative but to write to the Tribunal to advise that you have failed to comply with the terms of the Unless Order in respect of the disclosure of your documents which you were required to produce by 31 October 2008, and the Respondent will therefore invite the Tribunal to strike out your claim on the basis

CHARLES RUSSELL 

that you have failed to comply with this Unless Order.

We await hearing from you as a matter of urgency.

Yours faithfully

*Charles Russell LLP*

Charles Russell LLP

The above letter, received by post on 11 December, a day after the arbitrary deadline imposed by the University's solicitors, concerned their false representation that Dr Fredricks had not disclosed his documents related to his case, when he had, indeed, done so. The University's solicitors then denied that the documents were contained on a set of discs provided to them.



In the above letter, the University's solicitors attempted to pressure Dr Fredrics agree to waste countless hours of his time needed to prepare his case by having to instead gather original copies of all of his documents, go to a local copy shop and stand around waiting all day whilst the solicitors arranged to take photocopies of tens of thousands of pages.

After all, a paper list of documents provided to the University by Dr Fredrics was, in fact, derived by simply listing the contents of what was put on the discs.

And besides, what would Dr Fredrics have had to gain by not providing the documents, when they were evidence that could help to prove his case?

Could it be that the University's solicitors were trying on the oldest trick in the book of claiming that the documents were missing in order to have Dr Fredrics' case struck out?

The following is an excerpt from a letter from Dr Fredrics' wife, written subsequently on his behalf while he was extremely ill:-

The Regional Secretary  
London South Employment Tribunal  
Montague Court  
101 London Rd  
East Croydon CRO 2RF

12 December 2008

By Email

**URGENT: Re: Howard Fredrics (Claimant) -v- Kingston University (Respondent)**

**Case No: 2305759/2006**

Dear Sirs:-

I write on behalf of my husband, Dr Howard Fredrics, in order to apply for a stay of proceedings on medical grounds of one week from today.

In support of my application, I attach a letter from Dr S Goodwin, who is one of my husband's doctors, and who has examined and treated him for two related conditions, bronchitis (chest infection) and an exacerbation of his pre-existing condition of asthma caused by the former condition. These conditions require complete rest with no activities either physical or mental.

I would point out to the Tribunal that it was partly unreasonable conduct by the Respondent that led to the worsening of my husband's condition in the past two days, and which has placed him at significant risk. Specifically, I refer to a letter written by the Respondent on 9 December 2008, and received on 11 December, demanding, quite unreasonably that my husband reply with acceptance of the Respondent's proposal by 5 p.m. on 10 December under threat that the Respondent would take action to ensure that my husband's case is struck out on the categorically false premise that he had failed to comply with Unless Orders. This letter caused my husband considerable distress.

That having been said, even if there was some degree of urgency in receiving a reply, which my husband denies is the case, it is clear and plain that no reasonable person could have been expected to reply within one day, let alone within two days. Furthermore, the substance of the letter dealt with issues to which my husband had previously replied.

I bring this to the attention of the Tribunal because it forms a part of the Respondent's long-standing unreasonable conduct, which, we have now taken legal advice on, and which we are told may very constitute a pattern of criminal harassment, falling afoul of the Protection from Harassment Act and/or the Malicious Communications Act. This is because this most recent letter, for example, could not possibly have any other legitimate motive other than to cause fear, distress and alarm, in this instance, of suffering financial/legal harm. Such are the stated criteria for criminal charges of harassment under these statutes.

Several days later, Dr Fredrics arranged to send another copy of the disc containing the disclosure of documents. The University's solicitors are, for some strange reason, no longer claiming that the documents were missing from the disc.

Now what do you make of that?

And what of the University's practice of forcing bullied employees to sign compromise agreements in order to gag them from telling the truth, as they are, in fact, required to do under the law in court cases where they might have relevant evidence to offer?

Will they continue to silence the voices of truth or will courage and decency win out?

---

## ***Newsflash:***

### **DATELINE - November 6, 2008: UCU Names (and Shames) Universities with Biggest Bullying Problems**

**UCU today names and shames the universities with the worst reported levels of bullying, ahead of Friday's national Ban Bullying at Work Day.**

The union said the deep-seated problem of bullying at work had to be tackled by universities and attacked organisations in the sector for failing to get to grips with the issue.

To read the complete article and survey results click [HERE](#)

(But we'll give you three guesses on which University's results were very near the top of the list)

---

## ***Newsflash:***

### **DATELINE - October 2008: Kingston University Named 'Second Worst' in UK for Bullying of Staff**

The recent results of a study by the University and Colleges Union (UCU) reveals the fact that Kingston University scored more than twice the national average in terms of the level of bullying of staff, with 15.9% of staff reporting that they were either 'always' or 'often' subjected to bullying.

# BULLYING SURVEY

# Where not to work?

## UK'S BEST AND WORST NAMED INSIDE

The worst . . .

HEI	Number of respondents	'Always' or 'often' bullied
University of East London	36	16.7%
Kingston University	69	15.9%
De Montfort University	77	14.3%
University of Lincoln	44	13.6%
University of Salford	86	12.8%
University of Glamorgan	48	12.5%
University of Ulster	143	11.9%
Bangor University	51	11.8%
Manchester Metropolitan University	77	11.7%
Birmingham City University	52	11.5%
University of Greenwich	35	11.4%
University of Westminster	62	11.3%
Oxford Brookes University	45	11.1%
Gloucestershire	46	10.9%
University of Hertfordshire	46	10.9%
University of Dundee	94	10.6%
University of Portsmouth	38	10.5%
University of Bradford	124	10.5%
Queen's University Belfast	148	10.1%

**Injunction Issued  
against  
Kingston University  
to force it to  
STOP**

## Alleged Harassment of Disabled Student

### Injunction Order

Between Francois Greeff Applicant  
and Kingston University Respondent

In the <b>KINGSTON UPON THAMES</b> County Court	
Case Number	4KT03658
Applicant's Ref.	
Respondent's Ref.	
Issued on	14 September 2004

Kingston University  
Perthyn Road  
Kingston Upon Thames  
KT1 2EE

If you do not obey this order you will be guilty of contempt of court and you may be sent to prison or you may be guilty of a criminal offence for which you may be fined or sent to prison or both.

On 14 September 2004 the court considered an application for an injunction

The Court ordered that Kingston University is forbidden (whether by itself or by instructing or encouraging any other person) to harass the Defendant, Francois Greeff

This order shall remain in force until a further order of the court

It is further ordered that

Costs be reserved.

#### NOTICE OF FURTHER HEARING

The Court will reconsider the application and whether the order should continue at a further hearing at Kingston Upon Thames County Court, St James's Road, Kingston Upon Thames, Surrey KT1 2AD on **28 September 2004 at 10:00am**. If you do not attend at the time shown the Court may make an injunction in your absence. You are entitled to apply to the Court to reconsider the order before that day.

For more information on how to file a claim or apply for an injunction, see the website: <http://www.kingston.ac.uk>

The court office is KINGSTON UPON THAMES COUNTY COURT, St James's Road, Kingston Upon Thames, Surrey, KT1 2AD is open between 10 am and 4 pm Monday to Friday. When corresponding with the court, please address correspondence to the Chief Clerk and quote the case number: 4KT03658/04.

Produced by: JAC

Formal form of injunction for interdictory application or restraining application

**Francois Greeff, a disabled post-graduate student at Kingston University was allegedly targeted for a campaign of harassment after he lodged complaints about his University-owned housing arrangements. The University, according to Mr Greeff's complaint, locked him out of his room, turned off water in the residence hall, and expelled him for allegedly breaching health and safety policies.**

**Why does the University seem to have problems with getting on the wrong side of the Law when it comes to acts of alleged harassment and intimidation?**

**Is there a management culture that condones and encourages such behavior?**

**Have you EVER heard of another UK university being slapped with an injunction to cease harassment of one of its students?**

How about criminal charges being accepted by a Magistrates Court charging a top university official with witness intimidation?

Is this the NORM in Britain, or merely an aberration?

---

### ***Newsflash:***

#### **DATELINE - July 28, 2008: Dr Howard Fredrics Speaks Out About Bullying in Academia On BBC Radio**

Howard Fredrics, in an interview on the BBC Good Evening Wales programme, spoke about why he became a singing telegram performer after he was bullied out of his position at Kingston University.

To listen to the interview, click to listen directly to a downloaded excerpt.

---

### ***Newsflash:***

#### **DATELINE - July 26, 2008: Kingston University Psychology Department Is Expelled From The League Tables**

The BBC has reported on its website that Kingston University's Psychology Department, under the leadership of Fiona Barlow Brown and Fred Vallee-Tourangeau, has been removed from this year's League Tables because of the fraudulent manner in which it administered the National Student Survey.

To learn more about this latest development in the ongoing scandal at Kingston University and about the way in which Kingston has responded to the actions of these and other staff members, click here.

---

### ***Newsflash:***

**DATELINE - July 9, 2008:**  
**Kingston University External Examiner Scandal**  
**Authenticity of E-mails Denied**



The Surrey Comet now reports that Kingston University never referred to the e-mails documenting attempts to pressurize an External Examiner into changing her critical report on the School of Music, nor the subsequent e-mails from Senior staff encouraging the appointment of more 'sympathetic' Examiners as 'bogus.' Kingston University did, however categorically deny the authenticity of the e-mails, which were allegedly sent to all full-time teaching staff in the School.

But given the multiplicity of recipients who have come forward to verify that the e-mails are genuine, and given that the BBC reported that the Examiner has acknowledged that she was pressurized to change her report and that she did, indeed comply, can Kingston University reasonably expect the public to accept that these revealing internal e-mails were not, in fact, genuine?

---

***Newsflash:***

**DATELINE - June 24, 2008:**  
**Kingston University External Examiner**  
**Bullied into Dropping Course Criticism**

By Sean Coughlan  
 BBC News education reporter

Should examiners judge against similar institutions or national standards?

An external examiner who judged that a university course had not reached the necessary standard was later contacted and persuaded to change her mind. An internal e-mail, forwarded by readers of the BBC News website, shows efforts at Kingston University to avoid "bad publicity". "We must avoid externals with these attitudes in future," says an e-mail.

The university says there was no pressure applied to the external examiner.

The external examiner told the BBC that "the kind of pressure that was applied was that it would have dire consequences for the music school if I didn't change the report".

'Devalue'

The e-mails surrounding a report into Kingston University's music degree were forwarded in the wake of academic whistleblowers claiming that degree standards were being lowered. The external examiner system, which brings in academics from other universities to provide an independent perspective, is under scrutiny from the higher education watchdog. A report from the Quality Assurance Agency warns that there can be "gaps between institutional ambitions... and the practices of staff in departments".

E-mails submitted to the BBC raise questions about the selection of external examiners and what happens to unflattering reports. An external examiner's report on a music degree course at Kingston University in 2004 identified weaknesses. The report observed that students "producing not just barely acceptable but sometimes unacceptable work are attaining passes at Honours level". The examiner warned that some work had been "overmarked" and that "it is surely important not to over-reward this work and thereby devalue the Degree".

### 'Damning'

On a crucial "yes" or "no" question about whether the standards were comparable with similar programmes in other UK institutions, the examiner answered "no". An e-mail to department staff highlights the response: "Can we ask her to amend that so it is less damning... We must avoid externals with these attitudes in future - we cannot afford this type of bad publicity."

A member of the university staff then contacted the external examiner - and following this conversation, the examiner changed their view.

To read the rest of this article link here.  
To read the External Examiner's report, link here.

## ***Newsflash:***

**DATELINE - May 16, 2008:**

### **Government Responds to Kingston University National Student Survey Scandal**

Government and opposition ministers respond on the floor of Parliament to the scandal as follows:- The UK Government Response

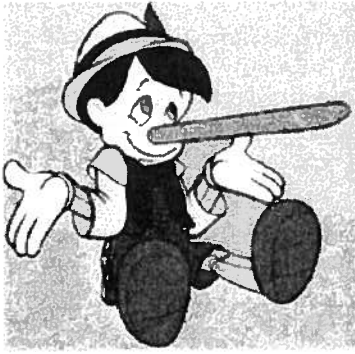
## ***Newsflash:***

**DATELINE - May 13, 2008:**

### **CAUGHT: Can We Get A Witness?**

Kingston University Caught RED-HANDED Faking the National Student Survey

Well, the story just keeps growing, **AND GROWING**



And yet, Kingston University continues to say this was an 'isolated incident.'

The University also claims to have launched an investigation into this matter.  
Who will they hire to perform this investigation?  
Will they hire Zafar Ali?

What do YOU think?



# Students were told to lie to boost college's rank in government poll

► Glowing report helps your degree, staff said

► Manipulation of the survey is 'widespread'

**Alison Mostrous**

The reputation of a crucial government-backed league table was undermined yesterday after two senior lecturers were caught telling students to boost their college's rankings.

Fiona Barlow-Brown and Fred Vallee-Tourangeau, psychology lecturers at Kingston University, were secreted recording undergraduates to Kingston a glowing report in this year's National Student Survey (NSS). More than 100 students were told by Dr Barlow-Brown that their degrees would be "s\*\*\*" unless the university, in southwest London, did well.

The recording came to light weeks after a top educationalist criticised the "widespread" manipulation of the survey by universities. In a letter to *Times Higher Education* in March, Professor Lee Harvey said that the NSS, which asks final-year students 22 questions about their college experience, was a "hopelessly inadequate improvement tool". Examples of institutions encouraging students to provide good NSS ratings were rife, he added.

Professor Harvey was suspended later from his post as a director of the Higher Education Academy — partly for criticising the survey, which was introduced in 2005 by the Higher Education Funding Council for England and is sent to the majority of final-year students.

Kingston University admitted today that the recording was authentic and expressed regret for the "inappropriate comments".

Dr Barlow-Brown, who is now on maternity leave, was heard telling students that their employment chances would be directly affected by Kingston's standing in the NSS.

"The results of this survey get fed... into league tables," she said. "The league tables are what prospective employers and graduate courses use to assess the value of your degree."

"If Kingston comes down the bottom, no one's going to want to employ you because they're going to think your degree is s\*\*\*," she added. "Although this is going to sound incredibly biased, if you think something's a four, my encouragement



Students at Kingston yesterday. Some of their peers were told: "If you think something's a four... give it a five"

would be to give it a five. Because that's what everyone else is doing."

Dr Vallee-Tourangeau then urged students to use internal university feedback forms for "all that garbage you're spewing out about us. But that



**This survey is an inadequate tool**  
Lee Harvey

is not the place of National Student Survey to do so," he said.

The Higher Education Funding Council said that it was aware of the incident and was taking it very seriously. "If evidence of this is formally brought

to us we may either request an explanation or require an investigation to be carried out," a spokesman said.

The funding council admitted that other "isolated" cases of alleged manipulation had been made known to them, but insisted that the survey remained "a very valuable source of information for prospective students".

Professor Peter Scott, Vice-Chancellor at Kingston University, said: "We believe this to be an isolated incident and regret the inappropriate comments made to students. As soon as we were alerted to this allegation we investigated the matter and looked at ways to ensure that such a mistake was not repeated. We have kept Hefce [the funding council] fully informed about our investigation."

The National Student Survey was

introduced by the council as part of its quality assurance process — "to gather feedback on the quality of students' courses in order to contribute to public accountability". It costs £2 million a year to run.

The results are incorporated into the main university league tables, including *The Times' Good University Guide*.

Last year the student unions at Cambridge and Oxford boycotted the NSS, saying they thought that it was "oversimplistic". The University of Oxford has developed its own questionnaire, prompting allegations of elitism from other university unions.

 **Good University Guide online**  
[timesonline.co.uk/gug](http://timesonline.co.uk/gug)

Source: *The Times*, May 14, 2008 pg. 11



Click above to listen to the original recording of Kingston staff instructing students on how to fraudulently complete the

## National Student Survey

And what has become of Dr Fiona Barlow-Brown and Dr Fred Vallee-Tourangeau since this illustrious incident?

Has the University disciplined these staff members?

Is Dr Barlow-Brown on cozy terms with a member of the University's Board of Governors, and if so, is that why she's escaped without even a formal warning?

***Newsflash:***

**DATELINE - November 13, 2008:**

**Sir Peter Scott Website Reaches 250,000 Hit Milestone**

Since April 2007, this site has attracted a huge number of visitors from all over the world. Traffic has been growing steadily, as public attention becomes increasingly focused on the issue of bullying in higher education.

November, 2008 is well on its way to being the most trafficked month ever for the site. Help it to get there by spreading the word to all of your friends and colleagues.

***Newsflash:***

**DATELINE - 14 April, 2008:**

**Exposed**

**Impact of Bullying on Students at Kingston University**

The following is from a letter received from a current student at Kingston University. Names and other identifiers have been redacted at the request of the student, who fears retribution: -

*"I would like to remain anonymous until at least after I graduate but bullying within Kingston University is not just limited to academic staff. Students particularly postgraduate students are bullied if they raise any grievance about the way that the university is run, some are threatened with suspension from their course. A part time [DEPARTMENT REDACTED] professor, [NAME REDACTED] I think his name is has made allegations to his students about the bullying of staff/postgraduate students including to the point that several of them left/dropped out.*

*The university would often use technicalities to suspend students, one student who had a grievance about the university was suspended for a week because he forgot to update a change in his term time address for example. There is an article in this issue of the River that claims one student was bullied by her fellow students who when she made a formal complaint was suspended from her course for a day. For lack of attendance (she wasn't attending because she was getting bullied).*

*One way to test what I am saying is to make a FOI request for reasons why students have been suspended from the university and watch them either delay or not honour it. It is widespread.*

*The student union lacks enough independence from the university to deal with this issue. The [NAME OF CLUB REDACTED] club was threatened with having its funding removed if it didn't remove one student from it. This often encourages the clubs and societies to take matters into their own hands and encourages student members of these clubs to intimidate members of the club into leaving.*

*Bullying does not only occur among academic staff, It seems to be almost institutional. "*

For further info on alleged bullying of students in connection with their responses to the National Student Survey, link to the following story published by the Kingston University Student Union, where you can read the University's response to the allegations:-

National Student Survey Scandal

Click [HERE](#) to read more about the National Student Survey and Kingston's methods for administering it.

## ***Newsflash:***

**DATELINE - 8 April, 2008:**

**Exposed**

**Shocking Evidence of Past Abuses**

**by Kingston University Personnel Director, Liz Lanchbery**

**Kingston loses tribunal  
Times Higher Education Supplement  
20 October 2000  
by Phil Baty**

"Kingston University dismissed senior lecturer Agi Oldfield unfairly, giving her an ultimatum to "resign or be sacked" after she made informal complaints of harassment against her line manager and complained about breaches of her contract, a tribunal has ruled.

Ms Oldfield, a principal lecturer at the school of human resources management, resigned from Kingston, but the South London tribunal ruled that she was constructively dismissed. The university "repudiated" her contract by giving her the ultimatum, said the tribunal chair, Mr I. S. Lamb, in his judgment.

In late 1997, Ms Oldfield complained orally to David Miles, dean of the business faculty, saying she felt harassed and bullied by her line manager, Christine Edwards, who had questioned Ms Oldfield's competence.

The tribunal did not adjudicate on the allegations and counter-allegations between Ms Oldfield and Professor Edwards, but found that the difficulties were handled badly, at the expense of Ms Oldfield's career.

The university repeatedly asked Ms Oldfield to withdraw her allegations, she was assigned a new line manager and removed as an MA course director. In June 1998, Ms Oldfield brought a formal grievance, saying she had been "summarily removed" as course director of an MA in breach of her contract.

"The considerations of the continued employment of Ms Oldfield, her role and job title, responsibilities and pursuit or withdrawal of the allegations against Professor Edwards, were overlapping with each other," said Mr Lamb in his written judgment.

During the grievance hearing Ms Oldfield was told by personnel director Elizabeth Lanchbery - criticised by the tribunal for being "underhand" - that if the issues could not be resolved, Ms Oldfield might have to be "sacked", Mr Lamb said. Ms Oldfield's grievance was rejected and rejected again at appeal by vice-chancellor Peter Scott.

In October 1998, Ms Oldfield was offered a job at Surrey University, despite an "unfavourable verbal reference from somebody at Kingston", the tribunal said. "By then, Ms Lanchbery had said to Ms Oldfield that it would be best if she accepted the position, because unless she resigned, she would be sacked," said the judgment.

Mr Lamb said: "Up to September (when the job at Surrey came up) Ms Oldfield was pursuing the internal grievance procedure. As she did so, there was a gradually deteriorating background state of affairs relating to her relationship with Christine Edwards, in particular the factor that Christine Edwards questioned her competence.

"(Ms Oldfield) was constantly told to withdraw her allegations, although she was not formally pursuing them... We accept the evidence that the final straw in the course of events was the statement by Ms Lanchbery that the applicant should resign or be sacked," he said.

The university believed "there had been a breakdown of relationships and that Ms Oldfield was behaving unreasonably", said Mr Lamb. "The university did not act reasonably in treating that as a sufficient reason for dismissal.

"What (Ms Oldfield) had done was to pursue the grievance procedures... as she was entitled to do. She was willing to record that she was not pursuing her complaints against Christine Edwards. The university's responsibility in that situation was to find her alternative responsibilities commensurate with her position as a principal lecturer. Instead it adopted the 'take it or leave it' attitude...

"We accept that the effective cause of her resignation was the breach of contract by the (university) and the outright repudiation of her contract by the ultimatum."

The tribunal decided unanimously that Ms Oldfield's complaint of unfair dismissal was "well-founded".

A remedies hearing will be held next month. The university said it could not comment until the case was finished."

Here is an excerpt from the above decision in the case of Oldfield v Kingston University:-

45. In her evidence, Mrs Oldfield asserted that the post at Surrey University was financially disadvantageous to her: it was worth £10,000 per annum less, overall, than her earnings at Kingston. Under cross-examination, her evidence was that the basic salary was less, and given differences in terms and conditions, there was a reduction in net income of £10,000. It was put to her that there were additional benefits related to overseas trips. On these points, we accept the evidence of Mrs Oldfield. We also note that Mrs Lanchbery obtained information on the remuneration of Mrs Oldfield by writing to her opposite number at Surrey University on 30 November 1999. She received a reply dated 3 December 1999. Those documents were put into the bundle before the Tribunal at the last minute, and as a result, caused distress to Mrs Oldfield. She saw them as a grave breach of confidence. After the lunchtime adjournment on the second day of the hearing, when she had just seen the exchange of letters between Mrs Lanchbery and Surrey University, she stated that she was so upset that she could not carry on, but having been given a short time to compose herself, she was able to do so, because of the need to complete the hearing. The Tribunal noted that there had been no request for disclosure of documents related to the remuneration details, and it was not therefore a case where Mrs Lanchbery needed to obtain the evidence as she had because of any refusal by the Applicant of disclosure or any refusal by the Tribunal of a disclosure order. The Tribunal considered this behaviour by Mrs Lanchbery as underhand and to be corroboration of the evidence of Mrs Oldfield about her dealings with Mrs Lanchbery, and in particular, the allegation that Mrs Lanchbery told her to resign or be sacked.

A complete copy of the decision is available here.

*Site Webmaster's Commentary:*

*As you read through this site, ask yourself whether history has a tendency to repeat itself?*

Click [HERE](#) to view more examples drawn from a broad range of Employment Tribunal cases against Kingston University.

***Coming Soon To A Theatre Near You:***

## **LOTS more recordings of *shocking* statements by Kingston University *staff & students***

---

### ***Newsflash:***

**DATELINE - February 26, 2008:**

### **University's Denial of Freedom of Information Request Called Into Question**

*The following is a letter written to Mr Chris Ince, FOI officer and Head of Secretariat at Kingston University in response to the University's denial of a request for information under the Freedom of Information Act. They have claimed that they do not hold records on out of court settlements between 1998-2007.*

Dear Mr Ince,

I refer to the University's response of 30 January 2008 to my request for information under the FOI Act from the University's Freedom of Information Co-ordinator in which she states, "*..information relating to the amounts spent on out of court financial settlements is not held. The University does not collate information of this nature.*"

In light of an article in the Times Higher Education Supplement, dated 14 October 2005, in which it is revealed that in 2002-2003, the University settled three cases for a total of £60,936, how is it that the University can rightly claim not to collate information of this nature? Where did these figures come from? Indeed it is evident to me that they must have been provided by the University in connection with the aforementioned article. Surely if the Times Higher Education Supplement obtained access to this information, the University must also have access to it.

Under these circumstances, I must insist that the University provide all of the requested information as set forth in my original requests, as its denials now appear to lack credibility.

I await your prompt response.

Thank you for your assistance.

*n.b. In the interest of fairness, the following is from a reply of 6 March 2008 by Chris Ince:-*

"In the University's response to your initial request the information provided was that University does not collate this information. Therefore it is not possible to provide the information requested. In a previous e-mail you have drawn attention to the fact that the Times Higher published information that in 2002-2003, the University settled three cases for a total of £60,936. It is possible that they obtained this from the University at the time but it is not something that is currently recorded."

Several questions remain:-

WHAT happened to the information? Was it merely discarded?

And what responsibility does the University have to the public interest to maintain important financial records of this sort?

What responsibility, indeed?

---

**Newsflash:****DATELINE - February 12, 2008:****Tribunal Rules Against Dr. B**

In a ruling that should surprise no one, the Employment Tribunal dismissed RB's case against Kingston University. By failing to take note of key aspects of Dr B's evidence that proved that she was singled out for disciplinary action, the Tribunal, in its stated reasons for finding against Dr. B, whitewashed yet another case of targetting for elimination of one of Kingston University's employees, who had filed complaints regarding harassment/bullying.

The following document, entered into evidence in this case, was sent from Sir Peter Scott to then Personnel Director, Liz Scholey (Lanchbery) and Dean, Reg Davis following a grievance appeal hearing before the Board of Governors at Kingston University:-

From: "Peter Scott" [REDACTED]  
 Organization: Kingston University  
 To: E.Lanchbery [REDACTED]  
 R.Davis [REDACTED]  
 Date sent: Fri, 14 Jun 2002 16:07:47 +0100  
 Subject: R [REDACTED]  
 Copies to: R.Abdulla [REDACTED]  
 J.Morris [REDACTED]  
 C.Gipps [REDACTED]  
 A.Popham [REDACTED]  
 Priority: normal

Dear Liz and Reg,

The good news, which you may have heard already, is that the Governors panel has decided to reject R [REDACTED]'s appeal and uphold my findings.

The bad news, which will probably not be communicated publicly, is that they felt our procedures had not been followed properly - in particular they felt that R [REDACTED]'s complaint that she was being harassed had not been properly investigated (the pattern of events rather than the specific episodes) but also specific incidents (e.g. the refusal to allow R [REDACTED] to take her holidays - which they suspected was an example of double standards, i.e. the same didn't happen to other staff). They were also suspicious of the Irish Tolman episode (and will say that the informal warning letter should be removed from R [REDACTED]'s file - they say that, according to our own procedures, it shouldn't be there).

So, all in all, a narrow escape. But there is no point re-arguing the case now. However, these are implications for how we proceed. In the light of their concerns I believe we cannot act too precipitately, whatever the legal advice is. Instead I think that, once the outcome of her appeal is communicated to R [REDACTED], I must write to her urging her to draw a line etc. - and give her the opportunity to demonstrate that she is prepared to try to rebuild relationships. I cannot see how I can offer her less than six months in which to do so. Only then, in the light of subsequent events, can we take further action.

You may disagree - but I will take a lot of dissuading.

Peter

A number of questions remain about the Employment Tribunal's handling of evidence in this case, which suggest that it may have erred in its ruling:-

- Why was '244' (the page number of this document in the bundle of documented evidence) the only information from this document that appeared in the 11.02.08 judgment of the Employment Tribunal? Weren't its contents relevant, worthy of consideration or mention?
- Why didn't the Governors of Kingston University, who heard Dr B's grievance for harassment by her line managers Professors R Davis and J Morris, include their criticisms in their findings, instead choosing to communicate them privately

to Sir Peter Scott?

• If it was not for the fact that the managers involved just had a 'narrow escape' from being found guilty of harassment, what precipitous action had been *planned* against Dr B that Sir Peter Scott decided to postpone for 6 months? Could it be Dr B's dismissal that the Personnel Director, Mrs Lanchbery, had advocated in her earlier email to the Dean, Professor R Davis?

• What was the 'further action' Sir Peter Scott proposed to take after the passage of 6 months? Did that have anything to do with the action that led to Dr B's dismissal?

What do YOU think?

## ***Newsflash:***

**DATELINE - January 7, 2008:**

### **Sir Peter Scott Testifies at Employment Tribunal**

On 7 January 2007, Sir Peter Scott testified before the London South Employment Tribunal in the case of B v Kingston University. Dr B, a former lecturer at the University, has sued for unfair dismissal and victimization, which, as alleged in her claim, the Vice Chancellor did nothing to prevent.

Sir Peter suggested in his testimony that it was perfectly reasonable for him to have placed Dean Reg Davis in the position of presiding over Dr B's disciplinary hearing, despite the fact that, contrary to University policy, he had for some time been involved in her case, having expressed clear irritation at being named as defendant in her bullying and victimization grievance and Tribunal case, which would have made it highly likely that he could not act in a fair and impartial manner in her disciplinary hearing.

In light of the significant potential for retribution on the part of Prof Davis towards Dr B, do YOU think it would have been MORE REASONABLE for Sir Peter to have appointed an independent and impartial disciplinary chairperson to preside, for example a dean of another faculty?

Is it surprising to you that Prof Davis did, indeed, find against Dr B and ordered her dismissal?

## **Artressa Phunding believes in celebrating the Christmas spirit**

**Here is Artressa's latest recording of a performance of the traditional carol,  
which is dedicated to bullying managers around the world:-**



(Lyrics courtesy of Lin Johnson)  
**THE TWELVE DAYS OF CHRISTMAS**

On the twelfth day of

Christmas my bully  
manager gave to me:

Twelve calls a-  
criticising  
Eleven taunts a-  
teasing  
Ten bullies back-  
biting  
Nine notes a-nit-  
picking  
Eight ideas ignoring  
Seven molehills  
mounting  
Six goal-posts going  
Five mock h-e-a-r-i-n-  
g-s  
Four bullying rages  
Three lying records  
Two misconduct  
meetings

And a dismissal  
disciplinary

---

**Here is a recent music video by Artressa Phunding, which is dedicated to the principles set forth by Thomas Jefferson:**



Help Artressa Phunding Celebrate Over 1000 YouTube Viewings of Her Video, "Scott Song"  
Click above to watch the video so that Artressa can reach her next milestone: 2000 viewings!

---

## **Artressa Phunding Collaborates**

Here's yet another anti-bullying music video by  
**Artressa**  
made in collaboration with



## composer, Adrian Melia



**It's Finally Here!**

***NEW* Music Video**

**by Artressa Phunding!**



**Please Tell Us...**

**WHO is That Man?**



Click [HERE](#) to download previous music and video releases  
by Artressa Phunding

**Coming Soon:  
Loria Tosca: The Opera**

*Starring*

Chiquita Rivera  
(Tue, Thu, Sat)

Carmen Banana  
(Wed, Fri, Sun mat)



Click [HERE](#) to read the synopsis

***Newsflash:***

**DATELINE - November 8, 2007:**

**Kingston University Silences Key Witness at Employment Tribunal**

On 8 November, 2007, Kingston University's barrister successfully lodged a formal objection to the presentation of key relevant witness testimony during an Employment Tribunal hearing in a case brought by a former staff member alleging victimization.

Like the claimant, this witness also allegedly suffered victimization at the hands of the University, which involved, among others, the now former Personnel Director, Liz Lanchbery (aka Liz Scholey), and was prepared to bring forth a formal acknowledgement by the University of improper treatment.

The claimant had NO OTHER WITNESSES to be brought forward during a scheduled eight day hearing, while Kingston University is bringing Prof Peter Scott, Liz Lanchbery (Scholey), and a number of other staff members to defend against various allegations.

Do YOU think it is fair for Kingston University to be able to parade a large number of witnesses before the Tribunal while denying the right of the claimant to bring in one single witness to read a short one page statement detailing experiences of being victimized after bringing forward a grievance?

WHY is Kingston University afraid of having this witness testify?

Could it be that they KNOW that the witness would help to PROVE that the University engaged in victimization of its staff members on a regular basis?

How many MORE times will the University try to silence this same witness when they are asked to come forward in other cases against the University, and in which their testimony would be extremely compelling?

What do YOU think?

---

**DATELINE - October 17, 2007:**

**Kingston University Delivers Alleged Witness Statements UNSIGNED**

On 17 October 2007, Kingston University FINALLY delivered a set of UNSIGNED alleged witness statements by complainants against Dr Fredrics, which were allegedly provided to the University's 'independent' investigator, Zafar Ali. To learn more about the SHOCKING revelations of involvement by HR and Dean of FASS, Prof Gail Cunningham in the unlawful filing of a collective grievance and the conflicting statement by Zafar Ali regarding the willingness of Dr Fredrics' colleagues to engage in mediation with him, click [HERE](#).

---

**DATELINE - September 4, 2007:**

**Kingston University Threatens Website Host**



Dr Chris Ince

On 4 September 2007, head of the University Secretariat, Dr Chris Ince sent a threatening letter to the web hosting company that hosts this site.

The letter suggests that Kingston University would take legal action unless the host takes down the site.

What has Kingston University got to be afraid of?

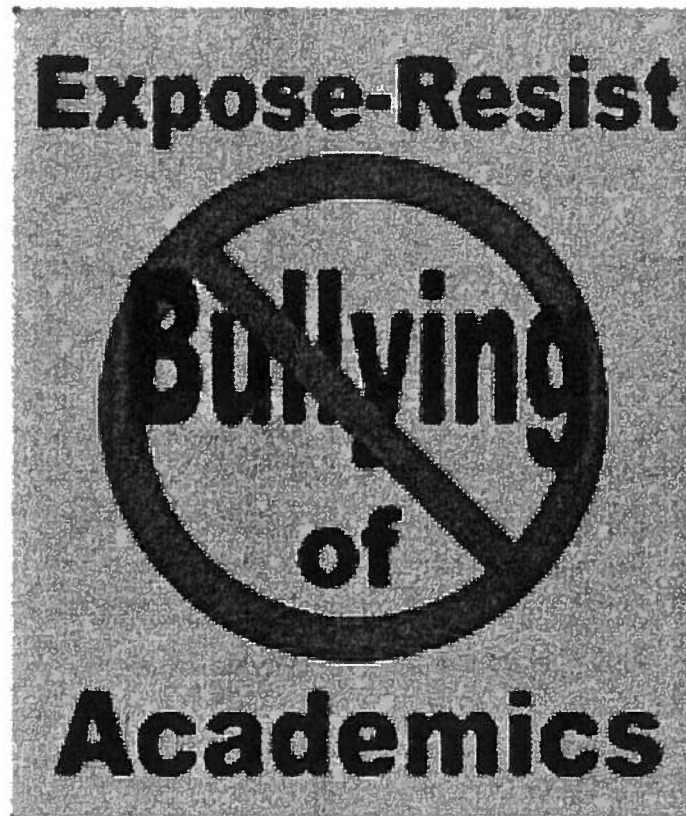
Could it be that it is afraid that the world will find out the truth about its actions?

What sort of University tries to silence free speech with threats?

---

**DATELINE - August 31st 2007:**

**Kingston University Inducted Into  
The Divestors of People 'Hall of Shame'**



**Donald Beaton, University Secretary of Kingston University  
is Charged with Witness Intimidation**



The following is a copy of a summons issued by Richmond Magistrates' Court on April 20, 2007:-

**SUMMONS**  
**IN THE AREA OF SOUTH WEST LONDON**  
**THE PETTY SESSIONAL DIVISION OF RICHMOND UPON THAMES**

TO: Mr Donald Beaton

OF: River House, 53/57 High Street, Kingston upon Thames, Surrey, KT1 1LQ.

*Information as*  
(~~Information~~) (~~Complaint~~) has been (~~made~~) (*laid*) by: [REDACTED]

Who (upon oath) states that Mr Beaton was in violation of Section 39 (1 – 7) of the Criminal Justice and Police Act 2001 as follows:-

Mr Beaton sent a total of 5 letters to the complainants, via their solicitor Mr [REDACTED] of [REDACTED] Solicitors, one each of Dr and Mrs [REDACTED] on 25<sup>th</sup> January 2007, one to Dr [REDACTED] on 21<sup>st</sup> February 2007 and one each to Dr and Mrs [REDACTED] on 6<sup>th</sup> March 2007 in which Mr Beaton:-

- i) indicated that Mrs [REDACTED] had, by virtue of her having gathered evidence of a civil matter, as a matter of fact, committed a criminal offence and that both Dr [REDACTED] and Mr [REDACTED] were complicit in this alleged criminal offence, statements which Mr Beaton knew to be patently false, and since the alleged conduct by Mrs [REDACTED] was, indeed entirely legal and lawful, thereby rendering any alleged conduct by Dr [REDACTED] and Mr [REDACTED] legal and lawful.
- ii) demanded that the originals and all existing copies of said evidence gathered by Mrs [REDACTED] by forwarded by Dr and Mrs [REDACTED] to Mr Beaton on threat of initiating criminal prosecution through the Information Commissioner's Office and on threat or pursuing costs orders against Dr and Mrs [REDACTED] in relation to an ongoing civil dispute between Mr Beaton's employer and Dr [REDACTED].

Given that no such threatened action, as outlined in 1a above, was taken by Mr Beaton against Dr and Mrs [REDACTED], notwithstanding Mr Beaton's repeated written statements alleging illegal conduct on the part of Mrs [REDACTED], and given that Mr Beaton was and is aware that Dr and Mrs [REDACTED] immigration status as US citizens residing legally in the UK would, in all likelihood, be negatively impacted were criminal proceedings to be initiated against them, the purpose of sending the aforementioned letters could, barring evidence to the contrary, only have been to intimidate Dr and Mrs [REDACTED] into providing all copies of potentially damaging evidence in an ongoing civil case so that such evidence could not be brought forth by Dr [REDACTED] and Mrs [REDACTED] in its original form, and so that Dr and Mrs [REDACTED] as well as Mr [REDACTED] would then have no evidentiary corroboration of any personal and written statements they might otherwise have made in the ongoing civil case against Mr Beaton's employer, on whose behalf he represented that he was acting.

**YOU ARE THEREFORE SUMMONSED to appear before the Magistrates' Court sitting at The Court House, Parkshot, Richmond, Surrey TW9 2RF**

**on: Thursday, 10<sup>th</sup> May 2007 at 9.45am**

to answer to the said *Information* ~~Information~~ ~~Complaint~~.

Dated 20<sup>th</sup> April 2007

Summons issued by

*Atty*  
.....  
Clerk to the Justices

NB: All communications should be made to The Clerk to the Justices, The Court House, Parkshot, Richmond, Surrey TW9 2RF

## **Several important questions arise from this serious criminal indictment:**

1. If the allegations are correct, who, if anyone, ordered Mr Beaton to commit such acts? Would he have REALLY decided on his own to write such letters?
2. If the allegations are correct, what was so important about the evidence that would have motivated someone to go to such lengths to retrieve ALL existing copies?
3. Given the very serious nature of the criminal charges against Mr Beaton, what action, if any, has Kingston University taken with respect to his duties, pending the outcome of the case before the Court?
4. Does the fact that the Criminal Justice and Police Act 2001 does not explicitly reference Employment Tribunal proceedings among the list of "relevant proceedings" for the purposes of the Act mean that intimidation of a witness in an Employment Tribunal proceeding is perfectly LEGAL?

Click [HERE](#) to VIEW a petition to Parliament and the CPS to revise the Act to explicitly refer to Employment Tribunal proceedings - SIGNATURES NEEDED!!

---

UPDATE: Following a hearing before the Court on 22 June 2007 and a decision by the Richmond CPS to take over the case so that they could then DROP it, the charges have been, FOR NOW, dismissed.

But is this matter REALLY going to end with this decision by the CPS?

REMEMBER, no Court of Law has rendered a final decision on whether or not an Employment Tribunal constitute a "relevant proceeding" for the purpose of the Criminal Justice and Police Act 2001.

And Donald Beaton has NOT been found to be innocent of the charges by any Court of Law.

Could the Clerk of the Court AND a panel of THREE Magistrates all have been wrong to have handed down a summons, which REQUIRES that there be a prima facie case to answer?

STAY TUNED to this website to learn what will happen NEXT.

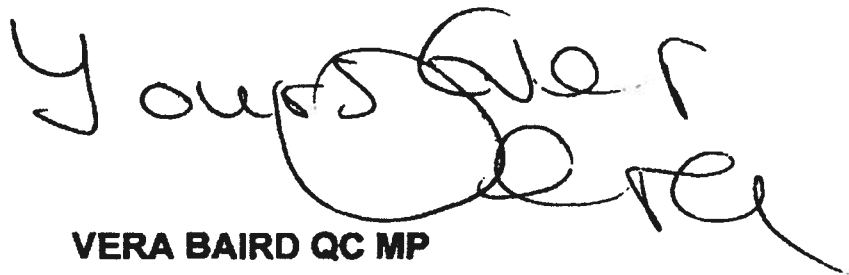
---

## **UPDATE: 2 Nov 2007:-**

**Justice Ministry rules that Witness Intimidation is NOT legal when it involves parties to an Employment Tribunal proceeding**

The following is an excerpt from a statement by Vera Baird MP QC of the Solicitor General's Office regarding the instances where witness intimidation IS a criminal offence:-

However, tribunal witnesses are protected by other provisions of the criminal law. For example, intimidating, bribing or improperly influencing a witness or potential witness with a view to affecting his evidence constitutes an offence under the Contempt of Court Act 1981 and the courts have held that an employment tribunal is a "court" for the purposes of that Act. Also potentially relevant in this context are the Malicious Communications Act 1988 (under which it is an offence for a person to send any message or article which conveys a threat, with the intention that it should cause distress or anxiety to the recipient, or any other person to whom he intends that the contents shall be communicated); and the Protection from Harassment Act 1997 (under which it is an offence for a person to pursue a course of conduct which amounts to harassment, or which he knows or ought to know amounts to harassment of another).



**VERA BAIRD QC MP**

The question remains, what will the Courts do with Mr Donald Beaton and Sir Peter Scott?  
Will the Courts find that they did, indeed, commit criminal acts?  
Or will they be found innocent of allegations of witness intimidation?

The Employment Appeals Tribunal has held, in *Force One Utilities v Hatfield* (2008), that it is appropriate to strike out an employer's ET3 Response when the employer threatens the Claimant. According to the EAT, once intimidation of this kind has occurred, no fair trial is possible. The only fair remedy is removal of the employer from the entire Tribunal process.

Similarly in *Nicholls v Corin Tech Ltd*, the EAT held that the Respondent employer threatened a Claimant, using unpleasant and intimidating language, outside the lifts at the Southampton tribunal. The EAT held that conversations outside the lift did not form any part of the judicial proceedings and were not, therefore, immune from the legal ramifications of acts of intimidation. The EAT also held that conduct intended to deter a Claimant from enforcing his statutory employment rights would be sufficiently closely connected with the employment relationship to amount to a (potentially) unlawful act by an employer within the meaning of the discrimination legislation.

---

HERE is some of the evidence that forms the basis of the charges against Mr Beaton.

Why not decide for yourself whether or not you think that what Mr Beaton wrote is proper? Are these the sort of letters that ought to be written by public officials to former employees who have LEGALLY and LAWFULLY obtained evidence of wrongdoing?

And what of this evidence of wrongdoing?  
Shall we have a few examples?

And HERE is some of the evidence that forms the basis of allegations that Peter Scott was aware of and/or ordered his subordinate, Mr Beaton to write the series of intimidating and threatening letters to Mrs Fredrics, Dr Fredrics and their solicitor.

---

And what of the basis for Dr Fredrics' grievance appeal? What led him to conclude that the process of developing and investigating the allegations against him was unfair?

Click [HERE](#) to learn more about how allegations were developed and put forth. Then decide for yourself whether or not there was undue pressure placed upon staff to invent complaints against Dr Fredrics.

Click [HERE](#) to learn about a secret meeting held on 25 May 2006 between Dean of FASS, Prof Gail Cunningham, Personnel Director, Liz Lanchbery (aka Liz Scholey) and Personnel Officer, Jas Lally just over a month prior to Dr Fredrics' disciplinary hearing, which led to his dismissal.

Click [HERE](#) to learn more about Zafar Ali, the barrister, whom Kingston University appointed to investigate allegations against Dr Fredrics.

Click [HERE](#) to see evidence of possibly anti-Semitic actions by certain Kingston University officials and their associates. Then decide for yourself whether or not the allegations against Dr Fredrics (and the way his case was subsequently handled) were motivated by anti-Semitism.

Click [HERE](#) to learn more about Dr David Osbon, Head of Performance at the now former School of Music at Kingston University, and decide for yourself whether or not Kingston University and/or its management staff engage in discriminatory practices against members of minority races and religious groups.

Click [HERE](#) to learn more about how Kingston University staff help to maintain access to high quality education for all.

Click [HERE](#) to learn more about how Kingston University staff view students, as well as how plagiarism is dealt with.

Click [HERE](#) to VIEW a petition to the Prime Minister to outlaw the easily abused SOSR (some other substantial reason) basis for dismissal of British workers.

Here is an interview with Dr Howard Fredrics, author of the petition to outlaw SOSR:-



Here is a blurb on the legal limitations of using SOSR as the basis for dismissal:-

As a practical point, in most cases involving personality clashes the employer will require to show that the breakdown in relationships is irretrievable prior to dismissal of employees as a result. At the very least employees should be warned that dismissal may result and be given an opportunity to change their behaviour. Generally, employers should be able to show that they have considered all other alternatives, such as mediation and/or change of location for one/both employees, prior to proceeding with dismissal.

Employers will also need to ensure that they have complied with their own policies on performance and coaching before relying on this defence. Many employers have detailed procedures on the steps which need to be taken to challenge inappropriate behaviour, with warnings to be issued if the behaviour does not change.

Source: Dundas & Wilson LLC Bulletin 2006



**DISCLAIMER: ALL PERSONS ARE PRESUMED UNDER THE LAW AND FOR THE PURPOSES OF THIS WEBSITE TO BE INNOCENT OF ALL CRIMES UNTIL PROVEN GUILTY BY A COURT OF LAW**

---

This site is dedicated to the memory of Aaron Fruchtman, whose approach to dealing with corrupt and powerful forces, has been the inspiration for its development.

---

## **URGENT CALL FOR ASSISTANCE - Tell the truth about life at Kingston**

Have you worked for Kingston University?  
Have you been mistreated by Kingston University?  
Were you bullied and/or unfairly dismissed by Kingston University?

Or were you a staff member who **participated** in bullying or corruption at Kingston University?  
If so, it's NOT too late to seek redemption by coming forward NOW and telling the truth about WHY you may have done what you did and WHO may have told you that you HAD to do this to save your own job.

We want to know YOUR story.  
Tell us about what happened to you.  
We promise to keep it STRICTLY confidential.  
Send e-mail to: [blowthewhistle@sirpeterscott.com](mailto:blowthewhistle@sirpeterscott.com)  
Site maintained by L. J. Fredrics



BEFORE THE: WORLD INTELLECTUAL PROPERTY ORGANIZATION  
ARBITRATION AND MEDIATION CENTER

**Sir Peter Scott  
(Complainant)**

V

**Howard Fredrics  
(Respondent)**

---

ANNEX 6

---



Kingston university music

Search

Advanced Search  
Preferences

Search:  the web  pages from the UK

Web

Results 1 - 10 of about 381,000 for **kingston university music** with Safesearch on. (0.06 seconds)

**Kingston University**

www.simpeterscott.com Pay £3000 to purchase YOUR degree! Clearing SPECIAL-guaranteed places

Sponsored Link

Sponsored Links

**Music @ Coombehurst - Kingston University London**

Music at Kingston University offers a comprehensive training, with a balance between the practical and academic aspects of music. ...  
fass.kingston.ac.uk/music/ - 12k - [Cached](#) - [Similar pages](#)

**Brighton Music University**

Courses in Music management, Drums, Guitar, Bass, Vocals & Songwriting.  
www.Bimm.co.uk

**Postgraduate music courses - Kingston University London**

The postgraduate courses in Music at Kingston enable you to follow one of five specialist pathways or to create your own by choosing from a range of module ...  
fass.kingston.ac.uk/schools/performance/music/postgraduate/index.shtml - 14k - [Cached](#) - [Similar pages](#)  
[More results from fass.kingston.ac.uk »](#)

**The Faculty of Art, Design & Architecture, Kingston University London**

courses in Art and Design, Architecture and Surveying. Subjects include Graphics, Photography, Television production Design, Screen Design, Illustration, ...  
www.kingston.ac.uk/design/ - 8k - [Cached](#) - [Similar pages](#)

**Performance, Film, Media and Music - Courses - Undergraduates ...**

Kingston University Tel: +44 (0)20 8547 2000. Contact Kingston University · How to get to ... Undergraduate courses in Performance, Film, Media and Music ...  
www.kingston.ac.uk/undergraduate/courses/2009/subject-areas/performance-film-media-