

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION No. 2116192 BY
SEGAFREDO-ZANETTI S.P.A. TO REGISTER
A SERIES OF MARKS IN CLASS 30**

AND

**IN THE MATTER OF OPPOSITION THERETO UNDER No. 48329
BY SEGA ENTERPRISES LTD**

TRADE MARKS ACT 1994

**IN THE MATTER OF Application No. 2116192 by
Segafredo-Zanetti S.p.A. to register
a series of marks in Class 30**

and

**IN THE MATTER OF Opposition thereto under No. 48329
by Sega Enterprises Ltd**

DECISION

1. On 20 November 1996 Segafredo-Zanetti S.p.A. applied to register the following series of three marks for "beverages with coffee, cocoa or chocolate base":

SEGALIGHT
SegaLight

The logo for 'Sega Light' is displayed in a bold, italicized, sans-serif font. The word 'Sega' is in a dark color, and 'Light' is in a lighter color, possibly white or light grey, with a slight shadow effect behind it. The letters are slanted to the right.

2. The application is numbered 2116192.
3. On 11 March 1998 Sega Enterprises Ltd filed notice of opposition to this application. They say

"The Opponent has been using the trade marks SEGA and SEGA (stylised) (hereinafter "the Sega marks") in respect of a large number of goods in particular electronic games apparatus, games software and games programs, and services, in particular theme park services and amusement services (hereinafter "the Sega goods and services") on a substantial scale for a number of years. As a result of this substantial use, the Opponent has built up a substantial goodwill and reputation in the Sega marks in the United Kingdom to the extent that the Sega marks have become extremely well known in the United Kingdom".
4. The opponents claim to be the proprietors of the earlier trade marks, details of which are shown in the Annex to this decision. I have recorded full details of the Community Trade Mark registration which was mainly relied on at the hearing and which covers a broad range of goods and services. Brief details only are given of the other earlier trade marks claimed though I should say that a number of them are for series of marks which include SEGA in plain block capitals.

5. There follows some 21 heads of opposition which appear to be more an attempt to keep every conceivable option open rather than a focussed statement of the opponents' objections. It is customary for hearing officers to set out in full the grounds relied on. I do not propose to do so here and will instead simply record that the grounds relied on at the hearing were those under Section 5(2), 5(3) and 5(4) of the Act. In the absence of better particularisation or evidence bearing on the other grounds I dismiss them.
6. The applicants filed a counterstatement denying each of the grounds, referring to a number of registrations of their own and claiming the benefit of honest concurrent use.
7. Both sides ask for an award of costs in their favour.
8. Both sides filed evidence. The matter came to be heard on 30 January 2001 when the applicants were represented by Dr H Forsyth of Keith W Nash & Co and the opponents by Dr S R James of RGC Jenkins.

Opponents' evidence

9. The opponents filed a statutory declaration by Kazutoshi Miyake, the Chief Operations Officer of Sega Europe Ltd (Sega), a wholly owned subsidiary of the opponents.
10. He exhibits (KM1) certified copies of the UK trade mark registrations and the CTM application (now registration) relied on.
11. Mr Miyake says that the principal commercial and business activity of Sega in the UK is the sale of computer and video games equipment together with the operation of amusement arcades and theme parks and other entertainment centres.
12. Sales and advertising expenditure is given for the computer and video games equipment. Suffice to say that sales of the computer games equipment amounts to many hundreds of millions of pounds and very substantial sums have been spent on promoting the products. Sample games labels along with advertising material is exhibited (KM2).
13. Sega is also said to have been involved with a number of drink and food companies in the co-promotion of the two companies' brands. By way of example, from 1 September 1993 to 31 January 1994 Sega and The Coca-Cola Company co-promoted SONIC/SONIC THE HEDGEHOG and FANTA. A sample can is exhibited at KM3. A campaign involving BURGER KING (and SONIC) is also referred to but falls some time after the material date. Mr Miyake suggests that registration of SEGALIGHT by a third party for beverages would place an unfair restraint on Sega's ability to co-promote its brands with well known beverage and fast food suppliers.
14. Mr Miyake goes on to say that Sega has operated the SEGAWORLD theme park at the Trocadero in London since 7 September 1996. In the theme park, there are SEGA amusement arcades, a SEGA retail shop, a refreshment vending operation, a number of refreshment outlets, corporate hospitality and, from October 1998, a licensed bar and coffee shop.

15. Mr Miyake suggests that the sale of a SEGALIGHT beverage in SEGAWORLD would lead to the assumption that the product was connected with Sega. Visitor numbers to and advertising expenditure on the theme park are given for 1996 and after but there is no breakdown covering the short period up to 20 November 1996 (the material date).
16. Finally Mr Miyake refers to amusement arcades and family entertainment centres operated by a subsidiary company and which, from time to time, have used certain Sega branded food items. The examples given are a SEGA SONIC themed popcorn vending machine used at the company's entertainment centre in Bournemouth from July 1993 to November 1994 (a photocopy of a paper popcorn cup is at KM6) and SEGAPARK lollies. The latter appear to have been used as prizes but only since April 1998.

Applicants' evidence

17. Keith Wilfrid Nash, the applicants' professional representative, filed a statutory declaration. Much of his declaration is in the nature of commentary and submissions on the opponents' evidence. I bear his points in mind. The only points I need to record are that reference is made to a (now) expired registration of the mark SEGA in Class 30. The current applicants obtained the consent of the proprietors of this registration. It is thus suggested that this third party was the only person able to claim rights in relation to the mark in this Class. Mr Nash suggests that the opponents have failed to demonstrate any common law rights. He also advises that the adoption of the current mark is an extension of the applicants' SEGAFREDO marks.

Opponents' evidence in reply

18. The opponents filed evidence in reply by Stephen Richard James, their professional representative in this country. Again much of his declaration is in the nature of submissions. He does, however, refine the opponents' objection somewhat by identifying that the CTM registration claims 'canteen and restaurants' in Class 42. He says that according to the Registry's Cross Search list beverages with coffee etc are considered to be similar to these services (in fact the cross search went between restaurants and prepared meals rather than beverages).
19. Mr James acknowledges that some of the opponents' evidence relates to activities after 20 November 1996 but says that the purpose of this evidence was to illustrate their past and continuing interest in the supply of refreshments both from outlets at their own amusement centres and parks and for the purpose of co-promotion with third parties. Registration of the mark in suit would, it is suggested, inhibit such legitimate commercial activity.

That completes my review of the evidence.

20. Section 5(2) reads:

"5.-(2) A trade mark shall not be registered if because -

- (a) it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is protected, or

- (b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark."

21. As identical marks are not involved sub paragraph (b) applies here.

22. I take into account the guidance provided by the European Court of Justice (ECJ) in *Sabel BV v. Puma AG* [1998] E.T.M.R. 1, *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc* 1999 RPC 117, *Lloyd Schufabrik Meyer & Co. GmbH v. Klijsen Handel B.V.* [2000] F.S.R. 77 and *Marca Mode CV v. Adidas AG* [2000] E.T.M.R. 723.

It is clear from these cases that:-

- (a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors; *Sabel BV v. Puma AG*, paragraph 22;
- (b) the matter must be judged through the eyes of the average consumer of the goods/services in question; *Sabel BV v. Puma AG*, paragraph 23, who is deemed to be reasonably well informed and reasonably circumspect and observant - but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind; *Lloyd Schufabrik Meyer & Co. GmbH v. Klijsen Handel B.V.* paragraph 27;
- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel BV v. Puma AG*, paragraph 23;
- (d) the visual, aural and conceptual similarities of the marks must therefore be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components; *Sabel BV v. Puma AG*, paragraph 23;
- (e) a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods, and vice versa; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17;
- (f) there is a greater likelihood of confusion where the earlier trade mark has a highly distinctive character, either per se or because of the use that has been made of it; *Sabel BV v. Puma AG*, paragraph 24;
- (g) mere association, in the sense that the later mark brings the earlier mark to mind, is not sufficient for the purposes of Section 5(2); *Sabel BV v. Puma AG*, paragraph 26;
- (h) further, the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense; *Marca Mode CV v. Adidas AG*, paragraph 41;

- (i) but if the association between the marks causes the public to wrongly believe that the respective goods come from the same or economically linked undertakings, there is a likelihood of confusion within the meaning of the section; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 29.

- 23. Dr James relied primarily on the opponents' CTM registration (No 76794) details of which are shown in the Annex to this decision. That registration covers a wide range of goods including the computer games and associated games machines etc. in Class 9 for which the opponents undoubtedly have a very substantial reputation. It also covers aspects of their business which appear to be rather more recent in origin, that is to say the operation of a theme/amusement park along with canteens and restaurants. Dr James approached the Section 5(2) ground on the basis that not only was the opponents' mark SEGA distinctive in its own right but that inherent distinctiveness had been enhanced by the use that had been made of it. Dr Forsyth for the applicants, acknowledged the opponents' reputation in their core business area (computer games etc) but took issue with the claim that the opponents' reputation extended beyond this to amusement parks and more specifically restaurant or canteen services by the material date.
- 24. It is not, I think, suggested that the opponents can bridge the gap and establish a likelihood of confusion between their Class 9 goods and the applicants' Class 30 beverages. That is also my view of the matter. The opponents' strongest case, therefore, rests on whether there would be a likelihood of confusion if the applicants' mark was to be registered in the face of the opponents' registration covering canteen and restaurant services.
- 25. My decision in this respect needs to take into account the extent to which the distinctive character of the opponents' mark has been enhanced by use. The opponents rely on three circumstances - co-promotional activity with third parties; refreshment services offered as an integral part of the SEGA WORLD theme park; and goods offered at SEGA operated amusement arcades and family entertainment centres.
- 26. The only co-promotional activity in the evidence that falls within the period prior to the material date is that between Sega and The Coca-Cola Company whereby Sega's SONIC (THE HEDGEHOG) character features on cans of FANTA soft drink. There is no obvious promotion of SEGA as such. In my view this is more likely to be seen as Sega using the Coca Cola drink product as a vehicle for promoting their computer games involving SONIC. There is nothing to suggest that the purchasing public would assume that Sega themselves had entered the beverage market. Nor, of course, does it establish or build on a reputation for restaurant or canteen services which, in the absence of a registration in the drinks (goods) classes, is what the opponents rely on. The later co-promotion with Burger King is well after the relevant date and in other respects suffers from similar defects.
- 27. The second thing relied on is the SEGA WORLD theme park at the Trocadero which was opened on 7 September 1996. As Dr James pointed out this was accompanied by substantial advertising in 1996. It seems likely with such a high profile venture that most of the advertising would have taken place at the outset. That would place it within the relevant period (just). It is said that in the SEGA WORLD theme park "there are SEGA amusement arcades, a SEGA retail shop, a significant refreshment vending operation, a number of refreshment outlets, corporate hospitality and, from October 1998, a licensed bar and coffee shop". The evidence in support of this can be found in Exhibit KM5 which contains a number of leaflets and brochures promoting the theme park. Most do not appear to carry a

date. Those that do are dated in or for 1998. Not surprisingly the brochures promote the games and rides. Evidence that restaurant or canteen facilities are provided is to say the least thin. There are a few references to corporate hospitality but this appears to be provided by an organisation called Crown Society, special event caterers. I cannot with confidence infer from the evidence that restaurant or canteen services were on offer by the material date or whether such services were promoted under the mark SEGA, SEGAWORLD or other indicia (I note a reference to a corporate party venue called 'Bar on 4').

28. The third prong of the opponents' case is the sale of items from vending machines. Again there is scant evidence and part of it is after the material date. The SEGA SONIC popcorn vending machine operated in one centre only between July 1993 and November 1994. There is just a single exhibit in support of this trade with SONIC as the most prominent element. Furthermore it relates to goods which are not covered by the earlier trade mark (76794). It does not, therefore, advance the opponents' case.
29. On the basis of this evidence I am unwilling to accept that the opponents' are entitled to claim any enhanced degree of distinctive character of their mark for restaurant or canteen services through use. I accept, however, that SEGA is an invented word and has a reasonably strong distinctive character. I also accept Dr James' submission that the applicants' marks (or at least 2 of the 3 marks in the series) are presented in a way that draws attention to the elements SEGA and LIGHT. The latter being of potential descriptive significance is unlikely to attract as much attention as the element SEGA. For that reason I find the applied for marks to be similar to the mark of No. 76794 even allowing for the degree of stylisation in the presentation of that mark.
30. Turning to the goods and services at issue it was said in the CANON case:

"22. It is, however, important to stress that, for the purposes of applying Article 4(1)(b), even where a mark is identical to another with a highly distinctive character, it is still necessary to adduce evidence of similarity between the goods or services covered."

and

"23. In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, *inter alia*, their nature, their end users and their method of use and whether they are in competition with each other or are complementary."

31. Does the opponents' evidence bridge the gap between 'beverages with coffee, cocoa or chocolate base' and 'restaurant or canteen' services? The nature and use of goods and services is of necessity different albeit that at a high level of generalisation the users may be the same. The Registry has in the past accepted that restaurant services may be similar to prepared meals because some restaurants offer take-away meals as an alternative to service on the premises. It seems doubtful whether similar arguments exist in relation to the goods at issue here. It may be that in certain specialist establishments such as coffee shops/cafes it is possible to find a trade in the goods, that is coffee or coffee beans say, as well as for consumption on the premises as part of a service. Even if that were the case it would require a further step to establish that similar practices and expectations exist in

relation to restaurants and canteens. There is nothing in the opponents' own trade which assists me to reach a view on the matter. Nor is there any independent evidence to suggest that contrary to my own impression trade practice generally should point me to a different conclusion. In the final analysis the test under Section 5(2) raises a single composite question (see *Balmoral Trade Mark* 1998 RPC 297) as to whether there are similarities in terms of marks and goods/services which would combine to create a likelihood of confusion. Taking all the circumstances into account I am not persuaded that the opponents have made out their case. The opposition, therefore, fails under Section 5(2)(b).

32. Section 5(3) reads:

"(3) A trade mark which -

- (a) is identical with or similar to an earlier trade mark, and
- (b) is to be registered for goods or services which are not similar to those for which the earlier trade mark is protected,

shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a Community trade mark, in the European Community) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark."

33. I have already decided under Section 5(2) that the applied for mark is similar to the opponents' earlier trade marks and is sought to be registered for goods which are not similar to the goods and services for which the opponents' earlier trade marks are protected. Criteria (a) and (b) above are, therefore, satisfied. Reputation is a necessary ingredient for an action under Section 5(3). In *General Motors* 1999 All E.R. (EC) the ECJ held that:

"23. Insofar as Article 5(2) of the Directive, unlike Article 5(1) protects trade marks registered for non-similar products or services, its first condition implies a certain degree of knowledge of the earlier trade mark upon the public. It is only where there is a sufficient degree of knowledge of that mark that the public, when confronted by the later trade mark, may possibly make an association between the two trade marks, even when used for non-similar products or services and that the earlier trade mark may consequently be damaged."

and

"26. The degree of the knowledge required must be considered to be reached when the earlier mark is known by a significant part of the public considered by the products or services covered by that trade mark.

"27. In examining whether this condition is fulfilled, the national court must take into consideration all the relevant facts of the case, in particular the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it."

34. Commenting on this in *LOADED* Trade Mark, O/455/00 Simon Thorley QC, sitting as the Appointed Person concluded that :

"it is plain that the extent of the reputation is of particular significance when considering Section 5(3) or Section 10(3) since an analysis of the likelihood of unfair advantage and/or detriment must be dependent upon the magnitude of the reputation in the earlier mark."

35. I have accepted on the evidence before me and from my own knowledge that the opponents have a significant reputation in the mark SEGA for computer and video games and associated goods. Dr James also argued that a reputation existed in the theme park by the material date. As already indicated it only opened a matter of just over two months before the material date in these proceedings. Due to its prominent location in central London and visitor numbers it is likely to have made some impact in quite a short space of time. On the basis of the limited evidence before me it seems that the main indicium used is SEGAWORLD. This is not the subject of any of the earlier trade marks. Furthermore it is not made clear whether or to what extent SEGA alone features. There are problems, therefore, with taking this part of the evidence into account. There is no or insufficient evidence to establish a reputation in any goods or services covered by the earlier trade marks beyond the above. The opponents are thus heavily reliant on their undoubted reputation for computer and video games and equipment as a basis for their Section 5(3) case. Would use of the applied for mark take unfair advantage, or cause detriment to, the distinctive character or repute of the earlier trade marks in respect of such goods?

36. Dr James put his case on two main fronts. Firstly it is said that there would or could be detriment as the opponents would have no control over the quality of the applicants' goods. Hence there could be damage to the reputation of their mark. I was referred during the course of submissions to *Audi-Med Trade Mark* 1998 RPC 863 and *Visa Trade Mark*, a decision of Geoffrey Hobbs QC, sitting as the Appointed Person (decision dated 28 September 1999 under reference O/340/99). I also bear in mind Neuberger J's comments in *Premier Brands UK Ltd v Typhoon Europe Ltd*, 2000 ETMR 1071. Previous cases have mainly turned on potential detriment arising from the nature of the goods involved. That is to say the sort of potential tarnishing by undesirable product association that arose in the VISA and EverReady cases (condoms) and can be seen in cases such as *Lucas Bols. v Colegate Palmolive* (CLAERYN/KLAREIN for gin and detergents respectively). It is not clear from these cases whether or in what circumstances this type of objection can be extended to cover tarnishing arising not from any adverse associations between the products (or services) themselves but as a result of the risk that an applicants' product might be of inferior quality and that factor rubbing off on the opponents' goods/services. If that were possible it seems to me that, potentially at least, it opens up the possibility of attack on a much broader front and one which may go wider than the real intention behind the legislation. However I do not think I need to take a view on that particular point because even were I to accept it I would have great difficulty in holding that it assisted the opponents here. Even if I were to allow for the possibility that the applicants' beverages sold under the mark SEGALIGHT might be of inferior quality can it really be suggested that this would impact adversely on the opponents' reputation for computer games equipment? I find that such an unlikely proposition given the distance between the goods that the opponents cannot hope to succeed with that argument.

37. The second basis on which the opponents base their claim to detriment is that, if the applicants are allowed to enter the beverage field, it would impact adversely on the opponents' ability and freedom to broaden their existing range of commercial activities. I take this to be the sort of 'inhibition' on

future trade point that was considered by Simon Thorley QC sitting as the Appointed Person in *Loaded Trade Mark*, O/455/00.

38. As there is no very obvious or natural progression in trade from computer games equipment to beverages this argument is heavily dependent on the opponents' claim to a reputation in their theme park/family entertainment centres etc. and the fact that it is to be expected that such establishments would offer refreshment services. Hence the argument would run that registration of the applicants' mark for beverages would act as a restraint on that trade.
39. The facts of this case are quite different to those in *LOADED* but I draw some assistance from Mr Thorley's consideration of the issues involved and his general approach to the matter. The mark *LOADED* had been applied for in respect of clothing and was opposed by IPC Magazines on the basis of their earlier trade marks for an identical mark covering printed publications (it was the title of a magazine). The evidence showed inter alia that the opponents had previously distributed T-shirts and jackets bearing the mark; that the magazine was devoted in part to the fashion industry; and that clothing suppliers advertised in the magazine. In finding for the opponents Mr Thorley concluded as follows:

"I regard this as a borderline case and have hesitated in reaching a conclusion. The evidence is not strong. There is however expert evidence on which I can place some weight for the reasons given above and there are the undoubted facts that the trade marks are the same, that *LOADED* is not a natural term to use as a trade mark in relation either to magazines or clothing and that the reputation which I have found to be established in the word *LOADED* in relation to a magazine is in relation to a magazine a significant proportion of which is devoted to the fashion industry. It is I believe inescapable that some of the kudos of *LOADED* magazine will accrue to any clothing sold under the *LOADED* trade mark. Equally the possibility that the widespread use of the trade mark on clothing could materially affect the ability of *LOADED* magazine to obtain advertisements from others for their clothing in the magazine is real not fanciful for the reasons not given by Mr Paul."

40. Clearly Mr Thorley foresaw that tangible detriment would be caused to the opponents for the reasons given. I do not say that a case could not in principle be developed around the sort of circumstances in play before me but I am not persuaded that the opponents have discharged the onus that is on them. Their best chance of success lay with establishing a reputation for theme park/entertainment services and associated refreshment facilities. But the theme park appears to operate under the mark *SEGA*WORLD and had been open for a short period only by the material date and there is no or insufficient evidence as to use in relation to restaurant or canteen services at that date. To the extent therefore, that the opponents rely on their reputation in Class 9 goods I can see no basis for concluding that use of *SEGALIGHT* on beverages would cause detriment in terms of loss of future trading opportunities based on *SEGA*'s reputation for computer and video games equipment. The Section 5(3) objection fails.
41. Finally there is the ground based on Section 5(4)(a) and the law of passing off. To succeed under this head the opponents would need to establish the three elements of such an action, that is goodwill, misrepresentation and damage (*Wild Child Trade Mark* 1998 RPC 455). Dr James conceded at the hearing that the opponents were unlikely to be in a better position under this head than other grounds already considered. In terms of substantiated reputation/goodwill their main claim must be based on

their use in relation to computer and video games equipment. I acknowledge that it is well established that in the law of passing off there is no limitation in respect of the parties' fields of activity (*Lego System v Lego M Lemelstrich Ltd* 1983 FSR 155). But for the reasons given above, having regard to the marks and the evidence, I do not think the opponents would find it any easier to establish misrepresentation and damage for Section 5(4)(a) purposes than the adverse consequences contemplated by Section 5(3).

42. There remains the matter of costs. The applicants have been successful and so are entitled to an award in their favour. Dr Forsyth asked for a somewhat larger sum than the standard scale figure to reflect the large number of grounds that had to be considered, most of which were not in the event pursued. It is fair to say that the opponents over-pleaded and under-particularised their case. To that extent Dr Forsyth's claim is justified. Against that the applicants counterstatement and evidence do not suggest that a great deal of unnecessary work was involved in dealing with what were always likely to be redundant grounds. Taking these factors into account I order the opponents to pay the applicants the sum of £900. This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 20th day of February 2001

M REYNOLDS
For the Registrar
the Comptroller-General

Scanned Marks to go with Annex only available as a paper copy

Earlier CTM trade mark relied on by the opponents:

No.	Mark	Class	Specification
76794		09	<p>Electronic apparatus; games adapted for use with television receivers; computers; computer peripheral devices; data and image processing apparatus; computer software; computer programs; electronic game programs; computer game programs; discs, tapes and cassettes all bearing or for the recordal of data and/or images, sound and/or video recordings; game machines, video game machines, home video game machines and amusement apparatus all for use with television receivers; coin, card or counter operated arcade game machines and amusement apparatus; electronic game cartridges, discs and cassettes; computer game and video game cartridges, discs and cassettes; data-processing apparatus and instruments for management of amusement centres; computer game equipment containing memory devices; memory devices for computer game equipment; CD-ROM players; television receivers; peripheral devices for use with home video game machines; parts and fittings for all the aforesaid goods, none of the aforesaid goods being measuring, control, regulating, signalling, checking, recording devices, apparatus and instruments and their software or software associated with medical, veterinary and dental devices, instruments and apparatus.</p>
		28	<p>Electronic games and amusement apparatus other than for use with television receivers; video game machines, home video game machines and hand held video game machines, none being for use with television receivers; games and playthings; gymnastic and sporting articles and apparatus; toys and dolls; parts and fittings for all the aforesaid goods.</p>

- 41 Providing recreation facilities; amusements, and amusement parks; Provision of programming for television stations and cable operators.
- 42 Providing hotel accommodation; accommodation bureaux; canteens or restaurants; photography; industrial design, design of interior decor, packaging design services, dress designing, graphic arts designing, designing amusement parks and amusement facilities; rental of computers (including central processing units, electronic circuits, magnetic discs and magnetic tapes on which computer programs are recorded and other peripheral devices).

Earlier UK trade marks relied on by the opponents (brief details only):

No.	Mark	Class(es)
829879	SEGA	09
1204598		09
1204599		28
1501621		41
2015065		38, 41, 42
2023716		09, 16
2058145		09

