

O-152-03

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION No 80021
BY SEGA CORPORATION
FOR A DECLARATION OF INVALIDITY
IN RESPECT OF TRADE MARK No 2116192
IN THE NAME OF SEGAFREDO-ZANETTI S.P.A.

BACKGROUND

1) On 20 November 1996 Segafredo-Zanetti S.p.A., applied under the Trade Marks Act 1994 to register the following trade mark:



2) In relation to the following goods in Class 30: “Beverages with coffee, cocoa or chocolate base”.

3) The application was accepted and published and proceeded to registration on 16 May 2001. On 3 August 2001, Sega Corporation filed an application for a declaration of invalidity of the registration. The grounds upon which the application is based can be summarised as follows:

(a) the applicant has been using the trade marks SEGA and SEGA (stylised) on a substantial scale in the European Union and in particular in the UK since at least 1991. The use has been in respect of a large number of goods, in particular electronic games apparatus, games software and game programs, and services. As a result of this use the applicant has built up substantial goodwill and reputation in the UK. The applicant has also used the trade mark SEGA WORLD on a substantial scale in the UK since 1996 in respect of Sega goods and services. As a result of this use it has built up substantial goodwill and reputation in the UK in SEGA WORLD. Full details of all the applicant's trade marks are provided at Annex A.

b) The applicant contends that registration 2116192 is contrary to Sections 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994, and that under Section 47 of the Trade Marks Act 1994 the registration should be declared invalid.

4) On 19 September 2001, the registered proprietor filed a counterstatement. The

counterstatement accepted that the Trade Mark registrations referred to by the applicant were present on the UK Trade Marks Register. The applicant denied all the grounds of invalidity, and also pointed out that it has a number of UK Trade Mark Registrations for SEGA FREDO marks which have been used for years, and that the mark in question is merely a natural extension of this position.

5) Only the applicant filed evidence. Both asked for an award of costs in their favour.

6) The matter came to be heard on 20 February 2003, where the applicant was represented by Dr James of Messrs R G C Jenkins & Co., and the registered proprietors by Dr Forsyth of Messrs Keith W. Nash & Co.

APPLICANT'S EVIDENCE

7) The applicant filed a statement by Yoshio Sakai the Chief Operations Officer of Sega Europe Limited. Mr Sakai states that he joined Sega Europe Ltd in May 2001. He also states that Sega Europe Ltd and Sega Enterprises Ltd are wholly owned subsidiaries of Sega Corporation. Mr Sakai states that he is fully acquainted with the commercial and business activities of all three companies in Europe and in particular in the UK.

8) Mr Sakai states 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". He provides the following turnover and advertising figures for SEGA products in the UK:

Year	Turnover £ million	Advertising & promotion £million
1992 / 93	239.4	18.7
1993 / 94	127.2	16.5
1994 / 95	58	6.6
1995 / 96	60.2	6.3
1996 / 97	53.1	5.0

9) At exhibit KM1 Mr Sakai provides samples of computer and video games equipment labels, as used in the UK, and also advertising and promotional literature for such products in the UK. These show use of "Sega Saturn", "Sega stylised", "Sega" & "Sega World". The few that are dated are from 1996 and 1997.

10) Mr Sakai states that during the years 1992 - 1997 his company's advertising campaigns attracted considerable media attention. He states that articles were also written regarding the "marketing wars" between his company and Sony Corporation. The applicant sponsored major events such as the European Champions League and the European Championships in 1992, they also sponsored Williams formula one racing team in 1993 and Arsenal Football Club in

1999. Copies of examples of such articles are provided at exhibits KM2 & 3. They have numerous references to Sega and the electronic or computer games they manufacture.

11) Mr Sakai states that his company has been involved with a number of drink and food companies in co-promotions. In 1991 they carried out co-promotions with Golden Wonder crisps and also Wimpey burger bars. At exhibit KM4 he provides extracts from articles written about these co-promotions. Both articles are very short and give little detail as to the exact nature of the promotions. From September 1993 to January 1994 Sega and Coca-Cola co-promoted Sonic/Sonic the Hedgehog and Fanta. At exhibit KM5 he provides a copy of a promotional sheet. This shows the character and the name SONIC on a can of FANTA drink. The promotional sheet does not mention SEGA other than in very small print, the can pictured does not show the mark at all. In addition Mr Sakai provides extracts from articles written which refer to the co-promotion by Sega.

12) In a similar co-promotion Mr Sakai states that in 1995 his company undertook a campaign with McVities. At KM6 he again provides extracts from articles written about this campaign which mentions Sega. From November 1998 his company and Burger King carried out a joint promotion. A free "SONIC R" figure was given away with every meal purchased at Burger King and posters appeared in Burger King stores. In addition an advertising campaign on television was undertaken and the tray liners in Burger Kings carried competitions with trips to Segaworld theme park in London being one of the prizes. At exhibit KM7 he provides copies of advertising and promotional material which show on certain items use of the SEGA stylised and SEGA WORLD marks.

13) Mr Sakai states that in his view use of the trade mark SEGALIGHT by a third party for beverages would "place an unfair restraint on Sega's ability to co-promote its brands, especially Sega itself". He claims that the public would recognise the SEGA element of the mark as being of significance because they would regard the LIGHT part of the mark as denoting that the product was a low calorie version. He claims that such use is common and at exhibit KM8 he provides examples of trade marks which have the term LIGHT or LITE in them and are registered for food and drink products.

14) Mr Sakai states that his company operated the SEGA WORLD theme park at the Trocadero in London between September 1996 and 1999. He states that although based in London it is a national attraction and is promoted throughout the UK. At KM9 he provides copies of such promotional material. A number of items are dated 1998, the rest are undated, all show use of the mark SEGA WORLD and a number refer to the SEGA shop. All concentrate on the games and rides although they do mention the catering and bar in their corporate hospitality advertising. However, there is also a reference on the pages referring to catering and hospitality to "Crown Society, special event caterers". Mr Sakai states 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 a licensed bar and coffee shop".

15) Mr Sakai states that when launched the venue was the biggest indoor theme park in the world and attracted significant media attention. At exhibit KM10 he provides extracts from articles dated 1996 which refer to the theme park by its name, SEGA WORLD, and also refer

to Sega. He provides the following figures in relation to the Sega World theme park in London:

Year	Number of visitors	Advertising £
1996 (4months)	234,000	1,500,000
1997	800,000	400,000
1998	4,000,000 (estimation)	

16) Mr Sakai states that his company has used certain SEGA branded food at its amusement arcades and family entertainment centres. Two examples are provided:

“a) SEGA SONIC popcorn shop - a themed popcorn vending machine with moulded figures of the cartoon characters SONIC and TAILS and bearing the trade mark SEGA. A video display of animations involving SONIC and TAILS was shown while the popcorn was being microwaved in paper cups. The paper cups also bore pictures of SONIC and TAILS, as well as the SEGA trade mark. The machine was in use at Sega’s entertainment centre in Bournemouth from July 1993 to November 1994.”

“b) SEGA PARK lollies which are raspberry boiled sweet lollies bearing moulded SONIC and SEGA PARK logos. These lollies have been used as prizes at various SEGA entertainment centres since April 1998.”

17) At exhibit KM11 is a photocopy of a popcorn cup which shows the SEGA mark, and at exhibit KM12 is a photocopy of a lolly which shows the mark SEGA PARK.

18) That concludes my summary of the evidence.

DECISION

19) At the hearing the applicant withdrew the ground of invalidity relating to Section 5(4) of the Trade Marks Act 1994. The request for the declaration of invalidity is made under the provisions of Sections 47(2)(a), 5(2)(b) & 5(3) of the Act which state:

“47. (2) The registration of a trade mark may be declared invalid on the ground -

- (a) that there is an earlier trade mark in relation to which the conditions set out in section 5(1), (2) or (3) obtain, or
- (b)

unless the proprietor of that earlier trade mark or other earlier right has consented to the registration.

5.-(1)....

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

(a)....

(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.

(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.”

20) An earlier right is defined in Section 6, the relevant parts of which state:

“6.-(1) In this Act an "earlier trade mark" means -

(a) a registered trade mark, international trade mark (UK) or Community trade mark which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks,”

21) The applicant has nine UK marks and one Community Trade Mark (CTM) as detailed at Annex A. All have registration dates prior to the relevant date, 20 November 1996, of the mark in suit. They are therefore “earlier trade marks” for the purposes of Section 5(2). At the hearing Dr James stated that the applicant’s strongest case was under their UK registration 2017223 SEGA WORLD which, inter alia, is registered in Class 42 for “Restaurant, cafe and catering services; cafeteria services; canteen services; snack-bar services; self-services restaurant services; provision of food and drink.” and CTM 76794 SEGA (stylised) registered in Class 42 for, inter alia, “Canteens and restaurants.” It is these two trade marks that I shall be considering in my decision.

Inherent distinctiveness

22) I must consider how distinctive the applicant’s earlier marks are. The marks all consist of or contain the word “Sega”. The word “Sega” is the dominant feature in all the marks. It is not a normal English word, it is an invented word which has considerable inherent

distinctiveness irrespective of the goods or services on which it is applied.

Evidence of enhanced distinctiveness through use

23) I will deal with the evidence provided by the applicant first as this affects matters that are to be considered under both heads of invalidity.

24) I have to consider the issues before me as of the relevant date, which is the date of the filing for registration, 20 November 1996. The applicant has to demonstrate that it had a valid case at this date.

25) The proprietor accepted at the hearing that the applicant enjoyed reputation under its “Sega” marks in relation to goods in Class 9. The applicant claims that its reputation goes beyond this core activity. I was referred to the co-promotions with various food and drink companies and in particular the SegaWorld theme park.

Effect of evidence under Section 5(2)(b)

26) As per *Sabel BV v. Puma AG* [1998] RPC 199 and *Canon Kabushiki Kaisha v. Metro-Goldwyn-Meyer Inc.* [1999] RPC 117 the reputation of a trade mark has to be taken into account in the global appreciation of likelihood of confusion. In *Sabel* the European Court of Justice (ECJ) held that:

“In that perspective, the more distinctive the earlier mark, the greater will be the likelihood of confusion. It is therefore not impossible that the conceptual similarity resulting from the fact the two marks use images with analogous semantic content may give rise to a likelihood of confusion where the earlier mark has a particularly distinctive character, either *per se* or because of the reputation it enjoys with the public.”

27) In *Canon* the ECJ held that:

“The distinctive character of the earlier trade mark, and in particular its reputation, must be taken into account when determining whether the similarity between the goods or services covered by the two trade marks is sufficient to give rise to the likelihood of confusion.”

28) Consequently, the reputation of a trade mark can assist where it enhances the inherent distinctive character of the earlier mark and particularly where there is a low degree of similarity between the respective goods or services.

29) As previously stated the proprietor accepts that the applicant has reputation under its “Sega” marks in relation to Class nine goods. This reputation is significant and in the electronic games field I am prepared to accept that the mark is a household name. The applicant claims that its co-promotions of food and drinks has extended its reputation into these fields of activity. Whilst I accept that in 1991 the applicant was involved in co-promotions with Golden Wonder crisps and Wimpey burger bars, and in 1996 with McVities

there is no evidence of the exact nature of these co-promotions. The applicant cannot therefore rely upon this activity to extend its reputation. Between September 1993 and January 1994 the applicant entered into a co-promotion with The Coca-Cola Company whereby Sega's SONIC (THE HEDGEHOG) character featured on cans of FANTA orange drink. The evidence provided shows no mention of Sega on the can, whilst on the promotional sheet Sega is only mentioned in the small print. In my view this is more likely to be seen as Sega using the Fanta orange drink as a vehicle for promoting their computer games involving the character SONIC. There is no evidence to suggest that the purchasing public would assume that Sega themselves had entered into the beverage market. Nor does it establish or build on a reputation for the class 42 services (cafes, canteens, snack bars, provision of food and drink) for which the applicant's marks are registered. The applicant also showed evidence of a co-promotion with Burger King but this was in November 1998, two years after the relevant date. The evidence of this co-promotion was defective in the same manner as the earlier promotions.

30) From the evidence before me I do not consider that the applicant can claim an enhanced distinctive character based on use, with regard to its "SEGA" (stylised) marks other than in relation to electronic games in Class Nine.

31) With regard to the use of the applicant's SEGA WORLD mark, the evidence filed shows that the theme park in London opened in September 1996. Dr James pointed out that, although this was only ten weeks prior to the relevant date, the facility benefited from a considerable amount of pre-publicity and also most of the publicity and advertising took place at the time of the launch. He contended that it was entirely possible to obtain a significant reputation in this length of time. In his evidence Mr Sakai stated 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 a licensed bar and coffee shop".

32) The applicant supported these statements with copies of leaflets promoting the theme park. Most do not show a date. Those that do are dated 1998. Inevitably these concentrate on the rides and games available. There are no references to food and refreshments other than those available as part of a package for corporate hospitality of party hire, which appear to be provided by a company called Crown Society. From this evidence I cannot infer that restaurant or canteen services were on offer by the material date or whether such services were promoted under the SEGA or SEGA WORLD marks. Indeed at the hearing Dr James stated that in relation to the refreshment /vending operation that "it could be McDonald's, and in fact I think it probably was, but to my mind that still provides the necessary link".

33) The applicant also provided evidence of use of the SEGA mark in relation to popcorn and boiled sweet lollies. The popcorn was provided in paper cups which along with representations of cartoon characters SONIC and TAILS also showed the name SEGA. It is claimed that these were on sale in Bournemouth from July 1993 to November 1994. Also in April 1998 (after the relevant date) boiled sweet lollies bearing the name SEGA PARK and SONIC were presented as prizes at "various Sega entertainment centres". I do not regard either instance as advancing the applicant's case. From the evidence before me I do not consider that the applicant can claim an enhanced distinctive character based on use, with regard to its "SEGA

WORLD” mark in Class 42.

Effect of evidence under Section 5(3)

34) In *General Motors Corporation v. Yplon SA* Case C-375/97 (*Chevy*) the European Court of Justice established the parameters for claiming a reputation in relation to Section 5(3):

“Article 5(2) of the First Council Directive (89/104/EEC) of 21 December 1988 to approximate the laws of the Member States relating to trade marks is to be interpreted as meaning that, in order to enjoy protection extending to non-similar products or services, a registered trade mark must be known by a significant part of the public concerned by the products or services which it covers. In the Benelux territory, it is sufficient for the registered trade mark to be known by a significant part of the public concerned in a substantial part of that territory, which part may consist of a part of one of the countries composing that territory.”

35) The proprietor’s specification in class 30 is such that “the public concerned” must be regarded as the general public. The applicant has to show that its trade marks are known to a significant part of the public concerned in a substantial part of the United Kingdom. Whilst I accept that a substantial part of the concerned public in the UK will be aware of the applicant’s “Sega” trade marks, the applicant’s reputation does not extend beyond the field of electronic games in Class 9. It does not enjoy a relevant reputation in its other trade marks.

Section 5(2)(b) - Likelihood of confusion

36) In determining the question under section 5(2), I take into account the guidance provided by the European Court of Justice (ECJ) in *Sabel Bv v Puma AG* [1998] RPC 199, *Canon Kabushiki Kaisha v Metro-Goldwyn-Meyer Inc.* [1999] E.T.M.R. 1, *Lloyd Schuhfabrik 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.

37) As stated earlier, at the hearing Dr James nominated two marks as providing the applicant’s strongest case. These are CTM 76794 for SEGA (stylised) in relation to canteens and restaurants and UK 2017223 for SEGA WORLD for its Class 42 specification.

Comparison of goods and services

38) The goods and services of the various marks are as follows:

Proprietor’s specification	Applicant’s specification
In Class 30: “Beverages with coffee, cocoa or chocolate base.”	CTM 76794 in Class 42: “Canteens or restaurants”

	UK2017223 in Class 42: “Restaurant, cafe and catering services; cafeteria services; canteen services; snack-bar services; self-services restaurant services; provision of food and drink.”
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39) The European Court of Justice held in *Canon* in relation to the assessment of the similarity of goods and/or services that the following factors, inter alia, should be taken into account: their nature, their end users and their method of use and whether they are in competition with each other or are complementary.

40) I also take into account the comments of Jacob J. in *Avnet Incorporated v. Isoact Ltd* [1998] FSR 16 where he said:

“In my view, specifications for services should be scrutinised carefully and they should not be given a wide construction covering a vast range of activities. They should be confined to the substance, as it were, the core of the possible meanings attributable to the rather general phrase.”

41) In comparing the goods in the proprietor’s specification to the services in the applicant’s specifications Dr James invited me to take account of the comments of the Hearing Officer in the *South Beach Café* case (0/196/00) and also those of the Fourth Board of Appeal in an OHIM decision *Coca-Cola Company v Club Aquarius* (R542/2000-4).

42) In the OHIM case the Board of Appeal found that “mineral and carbonated water, lemonades and other non-alcoholic beverages” in Class 32 were similar to “Provision of food and drink” in Class 42. Their reasoning behind this being that the provision of drinks is similar to beverages because the latter goods may, in fact, be offered to consumers in the course of the rendering of the former services; customers would, then, be confused to see the same mark distinguishing the service and the product.

43) In *South Beach* the Hearing Officer stated “I accept that on the basis of the evidence the opponents have made out a persuasive case that there is certainly a sector of the café/restaurant/sandwich bar market which has developed a trade in goods (particularly coffee beans and ground coffee) as an adjunct to the provision of the core services.” The hearing officer then came to the conclusion that “it seems to me to reinforce the fact that the sale of coffee beans/ground coffee is entirely complementary to, and a natural extension of, the provision of the coffee shop, café etc services.”

44) The above cases do not appear to me to be on all fours with the instant case. In the *Coca-Cola* case the opponent had reputation in its mark, whilst in the *South Beach* case the Hearing Officer was provided with evidence by an investigator which appears to have established that coffee houses and coffee shops sell coffee beans or ground coffee as an adjunct to their core services.

45) In the instant case the applicant has shown no use of its mark in relation to the provision

of any of the services for which it is registered in Class 42. Nor has it provided any evidence that bridges the gap between the proprietor's goods and its own services. Clearly the nature and the use of goods and services is different, although I accept that at a very high level of generalisation the users could be said to be the same. It may be that there are some specialist establishments in the café/restaurant/sandwich bar sector that in addition to selling beverages with a coffee/cocoa/chocolate base for consumption on the premises also sell the raw ingredients, but this is not something which I feel able to take judicial notice of in the absence of any evidence regarding this trade. However, there is then a further step to establish that similar practices and expectations exist in relation to restaurants and canteens. The applicant has provided no evidence to assist in this, nor has it produced any independent evidence on the issue. In my view the applicant's services in Class 42 are not similar to the proprietor's goods in Class 30.

Comparison of signs

46) When comparing the signs of the two parties I take into account the following:

(a) the matter must be judged through the eyes of the average consumer, of the goods / services in question; *Sabel Bv v Puma AG* page 224, 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 Schuhfabrik Meyer & Co. GmbH v Klijsen Handel B.V.* page 84, paragraph 27;

(b) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel Bv v Puma AG* page 224;

(c) 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* page 224.

47) For ease of reference I have reproduced below the marks of the two parties.

Proprietor's Mark	Applicant's Mark
	CTM76794 
	UK2017223 SEGA WORLD

48) In two of the applicant's three marks the letters "S" and "L" are presented such as to emphasise that the mark should be seen as two words "Sega" and "Light". In the context of the goods the word "Light" is clearly descriptive. It could be taken to imply that it is a low-fat product or in the case of coffee that it is a light roasted variety. Despite the stylisation of the applicant's CTM mark it would be seen as the word SEGA. Equally the UK mark has as its dominant feature the word SEGA. The second part of the mark "World" being a non-distinctive term. The marks of the two parties are therefore similar.

Conclusion

49) Earlier in the decision I found that the applicant's mark was inherently distinct. I found that the marks were similar but that there was no similarity between the applicant's services and the proprietor's goods.

50) I have to take into account that a lesser degree of similarity between the goods and services may be offset by a greater degree of similarity between the marks; *Canon Kabushiki Kaisha v Metro-Goldwyn-Meyer Inc.* page 7 paragraph 17. Also that 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* page 8, paragraph 24.

51) The likelihood of confusion must be appreciated globally, taking account of all relevant factors; *Sabel Bv v Puma AG* page 224. Although the marks are similar, and that the applicant's mark is distinctive being an invented word and therefore deserving of a wider penumbra of protection I believe that the dissimilarity between the applicant's services and the proprietor's goods is such that the average consumer would not be confused. I accept that the mark in suit may bring to mind the marks of the applicant but 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* page 224. I do not believe that the association between the marks would cause the public to wrongly believe that the respective services came from the same or economically linked undertakings.

52) Consequently, the request for a declaration of invalidity under Section 5(2) fails.

Section 5(3)

53) To succeed under this ground the applicant must show that it enjoys a reputation in the earlier right. Earlier in this decision I found that, as at the relevant date, the applicant possessed a reputation in its CTM 76794 "SEGA" (stylised) trade mark for electronic games in Class 9 such that it is "known by a significant part of the public concerned" (*General Motors Corp. v Yplon SA (Chevy)* [1999] ETMR 122 and [2000] RPC 572). The applicant thus qualifies for the first requirement of Section 5(3) in respect of CTM 76794. Earlier in this decision I also found that the applicant did not enjoy reputation in relation to theme parks, despite the submissions put forward by Dr James at the hearing.

54) The applicant's "SEGA" (CTM76794) trade mark has, inter alia, electronic games within its Class Nine specification which are dissimilar goods. Dr James contended that the

proprietor's mark is detrimental to the applicant in that it adversely affects the applicant's freedom and ability to broaden their existing range of commercial activities. However this was based upon his contention that the applicant enjoyed reputation in its SEGA WORLD mark and its theme parks. Given my earlier finding that the applicant does not have reputation in its SEGA WORLD mark for theme parks then this avenue of invalidity cannot succeed. The inability to extend one's activities cannot, in any event, be sufficient to constitute a detriment to the (existing) repute of the earlier trade mark. Clearly the applicant's reputation for computer games will not be damaged.


55) The applicant has not shown that use of the proprietor's mark for dissimilar services would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier mark SEGA (stylised). I note that the Advocate General in *Chevy* pointed out that Section 5(3) does not talk of a likelihood or risk of detriment. The request for a declaration of invalidity under Section 5(3) with regard to "SEGA" therefore fails.




56) The application for invalidity having failed the proprietor is entitled to a contribution towards costs. The applicant is therefore ordered to pay the proprietor the sum of £1,800. This sum 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 5TH day of June 2003

George W Salthouse
For the Registrar
The Comptroller General

ANNEX A

Mark	Number	Effective Date	Class	Specification
SEGA	829879	22.01.62	9	Coin-operated phonographs and coin-operated amusement machines, but not including coin-operated photographic apparatus.
	1204598	05.10.83	9	Coin-operated gramophones; coin-operated amusement machines (other than coin-operated billiard tables); electronic amusement apparatus adapted for use with television sets; computers; visual display units, data stores, printers, plotters, readers, interfaces to remote units, disc drives, keyboards, converters and data input and output apparatus, all being parts of computers; computer programmes; magnetic tapes and magnetic discs, punched (encoded) tapes, (encoded discs and cassettes for use therewith, all for computers; and punched (encoded) cards for use with computers.
SEGA WORLD	2017223	10.04.95	9	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, disks and cassettes; computer game and video game cartridges, disks 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; parts and fittings for all the aforesaid goods.
			28	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.
			41	Provision of recreation facilities; amusement park services; amusement arcade services.
			42	Restaurant, cafe and catering services; cafeteria services; canteen services; snack-bar services; cocktail lounge services; lounge services; self-services restaurant services; provision of food and drink; hotels; provision of hotel accommodation.

	2023716	13.06.95	9	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, disks and cassettes; computer game and video game cartridges, disks and cassettes; data-processing apparatus and instruments for management of amusement centres; computer game equipment containing memory devices for computer game equipment; CD-ROM players; television receivers; parts and fittings for all the aforesaid goods.
			16	Printed matter, periodical publications, books, magazines and newspapers; paper; cardboard; cardboard articles; artists materials; writing instruments, pencils, pens, paint brushes, stationery, writing pads, greeting cards, transfers (decalcomanias), photographs; figurines (statuettes) of paper mache; ordinary playing cards; instructional and teaching materials, office machines and typewriters.
	2058145	26.02.96	9	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.
	1204599	05.10.83	28	Toys, games (other than ordinary playing cards) and playthings.

	2015065	23.03.95	38	Broadcasting; television broadcasting; cable television broadcasting; communications by computer terminals; computer aided transmission of messages and images.
			41	Film production; presentation of live performances; cinema studios; providing cinema theatre facilities; organisation of competitions for entertainment; amusement parks; video tape film production; production of television programmes; production of shows; recording studio services; television entertainment; theatre productions.
			42	Computer programming; computer software design; computer programming for use in television broadcasting and the production of television programmes.
	1501621	19.05.92	41	Arranging and conducting of conventions and exhibitions for entertainment purposes; operation of amusement centres, parks and arcades; operation of pleasure grounds, funfairs and theme parks; provision of recreation facilities; leisure centre services; operation of entertainment venues containing video machines, simulators, virtual reality machines, electronic and/or mechanically operated amusement devices; provision of sing-along machine services; role playing and/or team game facilities; laser and lighting shows; gaming services; all included in Class 41.
SEGA PARK	2070118	30.04.96	41	Entertainment services; providing recreation facilities; amusements; amusement park services; amusement arcade services.
	CTM76794	01.04.96	9	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.

			28	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.
			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).