

O-037-10

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION No 2376026  
BY WOODBRIDGE ESTATES LIMITED TO REGISTER THE TRADE MARKS**

**THIRTYSOMETHING  
THIRTY SOMETHING  
THIRTY-SOMETHING  
30SOMETHING  
30 SOMETHING  
30-SOMETHING**

**IN CLASSES 9, 16, 25 AND 41**

**AND IN THE MATTER OF OPPOSITION  
THERE TO UNDER NO 96239  
BY METRO-GOLDWYN-MEYER STUDIOS, INC**

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**IN THE MATTER OF application No. 2376026  
by Woodbridge Estates Limited to register the trade marks:**

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**in Classes 9, 16, 25 and 41**

**and**

**IN THE MATTER OF Opposition thereto under No. 96239  
By Metro-Goldwyn-Meyer Studios, Inc.**

1) On 20 January 2010 I issued a decision (O-019-10) in these proceedings on behalf of the Registrar. I have become aware of a number of errors in that decision and this supplementary decision corrects these.

2) At paragraph 88 of the decision, I found that the opposition was successful in respect of a list of goods and services that included the following Class 9 goods:

*[C]ompact discs; DVDs; records; recorded magnetic and/or optical data carriers; films, video and audio recordings; recorded audio and/or video tapes*

3) I also found that the opposition was not successful in respect of all the *parts and fittings* listed in Class 9, including *parts and fittings* for the goods listed above. As such the list of Class 9 goods that appear in both paragraphs 95 and 102 of the decision should reflect this. However, this is not the case because of the use of semi-colons after the term *compact discs* and the subsequent terms. Therefore, I correct this error by amending the list of Class 9 goods that appear in both paragraphs 95 and 102 so that these paragraphs now read as follows:

“95) Before considering the extent of reputation MGM enjoys in respect of its THIRTY SOMETHING mark, I should point out that I will consider the grounds under Section 5(3) insofar as they may improve MGM’s case beyond what I have already found in respect to its grounds under Sections 5(1) and 5(2) of the Act. It is, therefore, useful to highlight the surviving goods and services in Woodford’s application following my findings in respect of these other grounds. These are:

Class 09

*Apparatus for recording, transmission, editing and/or reproduction of sound and/or images; magnetic and/or optical data carriers; recording discs; computer programs; computer games; digital music (downloadable) from the Internet; publications in electronic form and data supplied online or provided through the Internet; spectacles, sunglasses and cases for spectacles and sunglasses; parts and fittings for all the aforementioned goods; **parts and fittings for compact discs, DVDs, records, recorded magnetic and/or optical data carriers, films, video and audio recordings, recorded audio and/or video tapes.***

...

102) The opposition is, however, unsuccessful in respect of the following list of Woodbridge's goods and services:

Class 09

*Apparatus for recording, transmission, editing and/or reproduction of sound and/or images; magnetic and/or optical data carriers; recording discs, computer programs; computer games; digital music (downloadable) from the Internet; publications in electronic form and data supplied online or provided through the Internet; spectacles, sunglasses and cases for spectacles and sunglasses; parts and fittings for all the aforementioned goods; **parts and fittings for compact discs, DVDs, records, recorded magnetic and/or optical data carriers, films, video and audio recordings, recorded audio and/or video tapes.***

..."

5) Further, the reference to paragraph 86 that appears in paragraph 90 of the decision should, in fact, be a reference to paragraph 88. I correct this error so that paragraph 90 now reads:

"90) In respect to all of Woodbridge's goods and services that have not fallen foul of the grounds under Section 5(1) or listed in paragraph 88 above, I find that there is no likelihood of confusion. Here, Woodbridge's goods and services share low, very low or no similarity with MGM's services. In addition, I have taken account of all other the relevant factors including the fact that the distinctive character of the earlier marks is only at a low level. This is because of the meaning endowed in the phrase THIRTYSOMETHING may take on a more descriptive, non-trade mark significance when used on goods and services less closely associated, or not associated at all, with MGM's television programme. This is despite

there being identity or a very high level of similarity between the respective marks.”

6) The appeal period will be reset and will now start from the date of this decision.

**Dated this 02 day of February 2010**

**Mark Bryant  
For the Registrar,  
the Comptroller-General**