

O-150-08

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION NO 2404164  
BY GARY MILTON MUNROE  
TO REGISTER THE TRADE MARKS (A SERIES OF FIVE):**



**IN CLASSES 9 AND 42**

**AND**

**THE OPPOSITION THERETO  
UNDER NO 94454  
BY INTEL CORPORATION**

## Trade Marks Act 1994

**In the matter of application no 2404164  
by Gary Milton Munroe  
to register the trade marks (a series of 5):**



**in classes 9 and 42  
and the opposition thereto  
under no 94454  
by Intel Corporation**

### Introduction

1) On 12 October 2005 Gary Milton Munroe applied to register the above trade marks. The application was published for opposition purposes on 31 March 2006 with the following specification:

*computers; computing hardware; computer software (including software downloadable from the Internet); computer gaming equipment;*

*design and development of computer hardware; installation, repair and maintenance of computer hardware and software; computer consultancy services; design, drawing and commissioned writing for the compilation of web sites; creating, maintaining and hosting the websites of others; compilation, creation and maintenance of a register of domain names; leasing of access time to a computer database.*

The above goods and services are in classes 9 and 42 respectively of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended.

2) Intel Corporation, which I will refer to as Corp, filed a notice of opposition to the registration of the application, it bases its opposition on sections 5(2)(b), 5(3) and 5(4)(a) of the Trade Mark Act 1994 (the Act). In relation to the first two grounds of opposition it relies upon the following trade mark registrations:

- United Kingdom registration no 969190 of the trade mark **INTEL**. The application for registration of the trade mark was made on 18 December 1970. The trade mark is registered for the following goods in class 9 of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended: *integrated electronic circuits; electronic data storage apparatus; and microcomputers.*
- United Kingdom registration no 1437993 of the trade mark:



The application for registration of the trade mark was made on 28 August 1990. The registration process was completed on 25 November 1994. The trade mark is registered for the following goods in class of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended:

*Apparatus and instruments, all for processing, storage, retrieval, transmission, display, input, output and printout of data; computers, computer terminals and printers for use therewith; video display units; floppy disc driving apparatus; modems; apparatus and instruments, all for monitoring, detecting, testing and measuring; electronic security apparatus; surveillance apparatus; electronic apparatus and instruments, all for recognising digital and analogue codes; control apparatus for all the aforesaid goods; cards, discs, tapes, wires, records, microchips and electronic circuits, all for the recordal of data; video processor boards; microprocessors; electronic circuit boards; integrated circuit memories; operating systems, computer programs; microcontrollers; computers; data processors; central processing units; computer components; semiconductor chips; computer input and output devices; work stations; data memories; storage devices; registers; apparatus for testing and programming integrated circuits; peripheral memory apparatus; microcomputers; minicomputers; computer installations; memory boards; processing apparatus; racks, cabinets and holders, all adapted for the aforesaid goods; parts and fittings for all the aforesaid goods; computer programs and computer software; all included in Class 9.*

- United Kingdom registration no 2159016 of the trade mark **INTEL**. The application for registration of the trade mark was made on 23 February 1998. The registration process was completed on 27 November 1998. The trade mark is registered for the following services in class 42 of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended:

*computer services; rental of computer hardware, computer software, computer peripherals, computer components and printers; support and consulting services for computers and related goods; computer help-desk services; providing information in the field of computer technology via the Internet; providing on-line publications, namely, books, brochures, white papers, catalogues and pamphlets in the fields of computer and information technology; computer programming services; computer site design; design and implementation of web pages for others; designing standards for use by others in the design and implementation of computer software, computer hardware and telecommunications equipment; computer software, computer hardware and network design services for others; information and advisory services relating to all the aforesaid services.*

- United Kingdom registration no 2227092 of the trade mark **INTEL**. The application for registration of the trade mark was made on 24 March 2000. The registration process was completed on 29 June 2001. The trade mark is registered for the following services in classes 38 and 42 respectively of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended:

*Internet and web service provider services;*

*consultancy and design services, all relating to computing; Internet consulting services, particularly by providing access to global computer networks for interactive use and similar services; web design, engineering and consulting services; Internet and web data services; digital identification and certification services; application service provider services.*

- Community trade mark registration no 464 of the trade mark:



The application for registration of the trade mark was made on 1 April 1996. The registration process was completed on 2 February 1998. The trade mark is registered for the following goods and services in classes 9, 16 38 and 42 respectively of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended:

*computers; computer hardware; computer software; computer firmware; semiconductors; electronic, electrical and electromechanical apparatus for use with computers; video apparatus; circuit cards for video; video system products; apparatus and equipment for recording, reproduction or modification of sound, images and data; recording of sound, images and data; data recorded in electronic, optical or magnetic form; microprocessors; integrated circuits;*

*microcomputers; computer programs; teaching material relating to computers and data, recorded magnetically, optically or electronically; apparatus and instruments, all for recording, processing, receiving, reproducing, transfer, modifying, compressing, decompressing, broadcasting, merging or enhancing of data; algorithms for the compression and decompression of data; testing and calibrating equipment; telecommunications apparatus and instruments; apparatus and instruments used for conferences, document exchange and editing, video cameras; headphones; mice; fittings for all the aforesaid goods;*

*printed matter; books; periodicals; newsletters; magazines; brochures; pamphlets; instructional matter, teaching aids and manuals; paper; articles of stationery; writing paper; memo pads; computer paper; paper tapes and cards for recordal of computer programs; office requisites; archive boxes, chests, shelving, trays, baskets, storage boxes for diskettes, all office requisites; fittings for all the aforesaid goods;*

*communication services, except satellite transmission services;*

*computer services.*

- Community trade mark registration no 1574516 of the trade mark **INTEL**. The application for registration of the trade mark was made on 24 March 2000. The registration process was completed on 24 July 2001. The trade mark is registered for the following goods in classes 9, 38 and 42 respectively of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended:

*semiconductor and microprocessor cartridges and packing; Internet and web servers; Internet and web catching servers; Internet and web terminals; Internet and web appliances, including personal digital assistants, web tablets or pads and any Internet or web accessing device; wireless and remote computer peripherals; computer hardware and software for enabling web portals; computer hardware and software for digital encryption, identification and certification; computer hardware and software to enable remote encrypted networking; computer hardware and software to enable secure data transmission via networks, the Internet and world wide web;*

*Internet and web digital transmission and broadcasting services;*

*web design, engineering and consulting services; Internet and web data services, including, digital identification and certification services; Internet and web service provider services; application service provider services.*

Corp states, in respect of the registrations subject to proof of use, that it has used its trade marks in respect of all of the goods and services for which they are registered.

3) Corp claims that the respective trade marks are similar and that the respective goods and services are identical or similar, consequently, there is a likelihood of confusion and registration of Mr Munroe's trade marks would be contrary to section 5(2)(b) of the Trade Marks Act 1994 (the Act).

4) Corp claims that it has a reputation in respect of all of the trade marks upon which it relies in relation to all of the goods and services for which they are registered. It states that its INTEL and stylised INTEL trade marks are well-known throughout the world, including the United Kingdom. Corp claims that it is inconceivable that Mr Munroe was not referring to them when he made his application. Corp claims that the respective trade marks are clearly similar. In the fifth trade mark of the series the INTEL element is highlighted by use of black lettering, with the ACTIV element being in white lettering. Corp states that it began using the term INTEL in the United Kingdom in 1971. It states that INTEL trade marks appear on the front of millions of personal computers in the United Kingdom and upon the boxes in which they come. Corp states that its INTEL trade marks are pervasive throughout the United Kingdom, it states that consumers from all walks of life and from all demographic groups see the INTEL trade marks in homes, workplaces and schools. Corp states that the reputation of the INTEL trade marks was considered in *Intel Corporation v Kirpal Singh Sihra* [2003] EWHC 17 (Ch). In that judgment Patten J stated "I consider that a fair view of the evidence is that by July 1995 the INTEL mark was widely known and recognised as a mark distinctive in its own right, with an established reputation in the eyes of the consumer in relation to computers and computer-linked products". Corp claims that use of the trade marks of Mr Munroe would allow another party to benefit from, and thus take advantage of, the extensive goodwill and reputation attached to the INTEL trade marks and the distinctive nature of the INTEL trade marks, enabling it to gain an unfair advantage in its business. In addition, use of the trade marks of Mr Munroe would be detrimental to the distinctive character of the INTEL trade marks by diluting them. The use of Mr Munroe's trade marks would diminish the value of the INTEL brand because the INTEL brand would no longer be viewed as unique to Corp. Corp claims that use of Mr Munroe's trade marks for goods and services over which Corp has no control could be detrimental to the repute of the INTEL trade marks. Consequently, registration of the trade marks would be contrary to section 5(3) of the Act.

5) Corp claims that it has an extensive goodwill in respect of the goods and services of its earlier trade mark registrations in relation to the signs INTEL and:



It states that it has used the sign INTEL in the United Kingdom since 1971 and the stylised INTEL for more than 15 years. Corp claims that use of the trade marks of Munroe would give rise to a belief that the goods and services were those of Corp or were connected to Corp or were endorsed by Corp. This misrepresentation will confuse

consumers causing damage to Corp. Use of the trade marks of Mr Munroe is liable to be prevented by virtue of the law of passing-off and so registration of the trade marks would be contrary to section 5(4)(a) of the Act.

6) Mr Munroe filed a counterstatement. In the counterstatement he accepted the statement of use made by Corp in respect of its earlier trade marks. In his counterstatement he states that the respective goods are similar to the extent that they fall in the same class. However, at this point the similarity ends as Corp produces micro-processors, chipsets, motherboards and other computer accessories, all of which are integral parts of computers and can be classified as computer hardware. Mr Munroe claims that Corp does not produce the end product but produces the elements that constitute the end product and it is for this reason that Corp is well-known in the marketplace. Mr Munroe claims that the respective trade marks are distinctively different. Consequently, the grounds of opposition under section 5(2)(b) of the Act are denied.

7) Mr Munroe states that there is no dispute as to the reputation of Corp but he claims that the respective trade marks are neither similar nor identical. Mr Munroe states that the INTEL logo is distinguished by the word INTEL or INTEL + one word, INTEL + two words or INTEL in a compound word. Mr Munroe states that ACTIVINTEL is not a compound word but an abbreviation of the words ACTIVE and INTELLIGENCE. Mr Munroe states that there is no likelihood of damage or confusion as the respective trade marks are distinctively different. Consequently, the grounds of opposition under section 5(3) of the Act are denied.

8) Mr Munroe puts forward similar arguments in the denial of the grounds of opposition under section 5(4)(a) of the Act.

9) Only Corp filed evidence. A hearing was held on 14 May 2008. Corp was represented by Ms Anna Carboni of counsel, instructed by Saunders & Dolleymore. Mr Munroe represented himself.

## **Evidence**

10) The evidence of Corp includes two witness statements made by Graham Fred Palmer, who is the United Kingdom and Ireland country manager for Intel United Kingdom at Intel Corporation (UK) Limited, a wholly owned subsidiary of Corp. There is also evidence in relation to a survey conducted by CMS Cameron McKenna LLP.

11) Part of Mr Palmer's evidence deals with what is in effect a given in this case, the reputation of Corp. The fame of the INTEL trade mark is a notorious fact. As well as an INTEL trade mark appearing upon apparatus that uses INTEL products, advertising of products that use INTEL products show an INTEL trade mark.

12) Mr Palmer refers to the use of INTEL trade marks with other matter. He refers to trade marks that show this type of use. Mr Palmer states that there has been use of trade

marks such as INTEL INSIDE, INTEL INSIDE PENTIUM, INTEL INSIDE XEON and INTEL INSIDE CENTRINO.

13) On 4 October 2005 Corp received an e-mail from Mr Munroe:

“Kirsty, I am setting up a company that will be selling all in one computers and I write to enquire if Intel has any objection to either of the names (Activintel or ActiveIntel or ActivIntell) being used. As a side note, the computers will use only Intel processors and I am more than happy to provide a demonstration of the product if required. In the interim, please visit [www.activintel.com](http://www.activintel.com) and advise if there are any objections to the name being used.”

On 5 October 2005 in an internal Corp e-mail the following query was raised:

“we received the below request to use the company name Active Intel. According to the company house Fastrack Promotion changed recently to Activintel. Can you please check if the director of this company listed with company house is a Mr. Munroe?”

On 5 October 2005 an e-mail was sent to Mr Munroe. The final paragraph of the e-mail reads:

“You indicate that you will use the company name Active Intel for reselling PCs. Intel is concerned that this use of any of the above mentioned terms as your company name as well as part of your company’s domain name will likely cause confusion as to the source of affiliation of your company with INTEL and is therefore actionable in passing off under UK law.”

On 5 October 2005 Mr Munroe replied by e-mail:

“Please confirm that you also express concern with the name “ActivIntell”.”

On 6 October 2005 a reply was sent to Mr Munroe:

“I have the same concerns of confusion of the consumer with the term “ActivIntell”. The term highlights the Intel part even more.”

On 12 October 2005 (the date of the application for registration) Mr Munroe responded:

“Thank you for your response of which the content is noted. However, I wrote to the Corporation on 20 July 2005 requesting confirmation of any objections within 3 weeks. As no response was received, I went ahead and have outlaid significantly on developing my brand; including production of the marketing material, logo development, and advertising and at present I have 2400 units with my “activintel” branding awaiting shipment.

In view of the significant outlay I have made as a small business that is looking to grow through development of my products and given that Companies House raised no objections, I request that I be given leeway to continue to use the name “activintel”. I trust that all my machines use an Intel chipset, Intel processor, Intel motherboard and Intel graphics, that you see the benefit to Intel Corporation. If possible I would like the opportunity to demonstrate our products to you in a bid that you can see the added value to your corporation.”

14) Mr Palmer states that Mr Munroe is not trading under or by reference to the ACTIVINTEL trade mark; his business uses the trade mark AI and a device in relation to its all-in-one computer business and trades from a website at [www.activeintelligence.biz](http://www.activeintelligence.biz).

15) Mr Palmer exhibits annual reports for Corp for the years 2000 to 2005 (inclusive). The 2005 report at page 1 describes the business of Corp. It states that the products that it produces are as follows:

“Our products include microprocessors; chipsets; motherboards; flash memory; wired and wireless connectivity products; communications infrastructure components, including network processors; application and cellular baseband processors; and products for networked storage.”

16) As the reputation of Corp is accepted by Mr Munroe and has been accepted in other judgments and decisions I do not see the need to delve into the detail of the statements of Mr Palmer. However, I produce below the United Kingdom turnover figures for goods and services bearing the trade mark INTEL:

<b>Year</b>	<b>Turnover in millions US\$</b>
1999	1,425
2000	1,398
2001	1,019
2002	1,138
2003	1,158
2004	780
2005	917

The expenditure of Intel and original equipment manufacturers in advertising the INTEL and INTEL INSIDE trade marks in the United Kingdom was as follows:

<b>Year</b>	<b>Expenditure in millions US\$</b>
2001	81
2002	57
2003	65
2004	68
2005	110

In his evidence Mr Palmer exhibits a judgment from the High Court and a decision of the registrar, at GFP8 and 9 respectively. At paragraph 19 of the judgment, *Intel Corp Inc v Sihra* [2004] ETMR 44, Patten J stated:

“I consider that a fair view of the evidence is that by July 1995 the INTEL mark was widely known and recognised as a mark distinctive in its own right, with an established reputation in the eyes of the consumer in relation to computers and computer-linked products. I accept Mr Mellor's submission that INTEL is not perceived by the public as merely a "microprocessor" mark, not least because the average consumer is unlikely to be so precise in his or her mental allocation of the mark, but is much more likely to make a general association between INTEL and computer-based technology, including both hardware and software. That much was accepted by the Hearing Officer, who (as I have already indicated) accepted in the passage quoted that the public was likely to believe that electronic hand-held construction puzzles bearing the INTEL-PLAY mark came from Intel or an economically linked undertaking.”

At paragraph 63 of *British Telecommunications public limited company v Intel Corporation* the hearing officer stated:

“There are dissimilarities between the trade marks clearly. However, owing to the enormous reputation of the trade mark I consider that the average consumer will identify the INTEL element of BT's trade mark. The reputation and fame of INTEL is too great to have, in my view, any other effect in relation to goods and services that are linked to new technology. BT's trade mark captures the essence of Intel's trade mark. I have no doubt that the average consumer in seeing BT's trade mark will consider that any goods or services sold under it are from Intel or an economically linked concern.”

There is nothing to suggest that anything has changed to the detriment of Corp's position since the above judgment and decision were given.

### **The Survey**

17) The survey was conducted by CMS Cameron McKenna LLP, a firm of solicitors. It took place on 1 June 2007. The survey was conducted at four locations in central London, Fleet Street, Upper Street, Paternoster Square/St Paul's Churchyard and Waterloo Station by two trainee solicitors and two paralegals. The survey teams were provided with two laminated cards; card A was an image of the first trade mark of the series, card B was an image of the last trade mark of the series. The questions asked on the survey are set out below; question 3 was only asked if the respondent had referred to INTEL at some point in his/her answers.

- 1a What do you think of when you see this company name?
- 1b Why do you say that?
- 2a What products do you think this company sells?

2b Why do you say that?

3 You mentioned Intel. Can you explain the reasons why you mentioned Intel? (The form refers to X rather than INTEL in case the respondent is able to read what is on the form.)

A copy of the instructions given to those conducting the survey is included in the evidence, exhibit TDS1. 113 responses to the survey were obtained, these are exhibited at TDS3.

18) The head note of *Imperial Group plc & Another v. Philip Morris Limited & Another* [1984] RPC 293 indicates as to the way that a survey should be conducted:

“If a survey is to have validity (a) the interviewees must be selected so as to represent a relevant cross-section of the public, (b) the size must be statistically significant, (c) it must be conducted fairly, (d) all the surveys carried out must be disclosed including the number carried out, how they were conducted, and the totality of the persons involved, (e) the totality of the answers given must be disclosed and made available to the defendant, (f) the questions must not be leading nor should they lead the person answering into a field of speculation he would never have embarked upon had the question not been put, (h) the exact answers and not some abbreviated form must be recorded, (i) the instructions to the interviewers as to how to carry out the survey must be disclosed and (j) where the answers are coded for computer input, the coding instructions must be disclosed.”

I am of the view that the survey satisfies all of the requirements from (c) onwards. There is no indication as to the statistical basis upon which the population for the survey was chosen. Consequently, I do not consider that the findings can be extrapolated to indicate what the average, relevant consumer in the United Kingdom would react. The single location and the number of respondents indicates that this survey was not conducted on the basis of a vigorous, statistically robust basis. In *Citibank NA and Citicorp v Citybond Holdings PLC* BL O/197/06 Mr Geoffrey Hobbs QC, sitting as the appointed person stated:

“34. If the research work provides no sufficient or proper basis for extrapolation, the responses of individual interviewees can really only be taken into account for what they may individually be thought to be worth. That may be little or nothing. This was forcefully pointed out by the Full Court of the Federal Court of Australia in *Arnotts Ltd. v. Trade Practices Commission* (1990) 97 ALR 555 where the Court observed at p.606:

“One theoretical possibility, in a case like the present, would be for a party to call such of the 1200 respondents to the Roy Morgan survey as were contactable. This course would have the advantage of providing a fairly selected group of witnesses, subject to any distortion which might be caused by difficulties in locating respondents. But it would add enormously to the cost and duration of a trial. The second possibility

would be for a party to call evidence from a lesser number of selected witnesses. This course was taken in *Ritz*. The plaintiff there called 152 members of the public. The majority of these witnesses were stopped in a public place by a representative of the plaintiff and questioned as to the significance to them of the word “Ritz”. It seems that those who gave answers favourable to the plaintiff’s case were asked to give evidence. Those who did not, were not. As a result, the evidence of these persons was of negligible value. All that it established was that, with the expenditure of sufficient effort and money, 152 people could be found somewhere in Australia who claimed to associate the word “Ritz” with the plaintiff. The 152 witnesses were not a fair sample of the general public; so that, as McLelland J noted (NSWLR at 215) there was “no ground in the evidence for any extrapolation on a statistical basis, or on the basis of any mathematical or logical probability, of the views of the ‘public’ witnesses (or any selection from them) as representing the views of the relevant class of the Australian public or a significant section of that class”. The plaintiff was not even willing to reveal the total number of persons interviewed; for all the judge knew, the persons who associated the word “Ritz” with the plaintiff may have been a tiny minority. The tender of such partisanly selected evidence was an absurdity.”

I note that in *Julius Sämann Ltd and others v Tetrosyl Limited* [2006] ETMR 75 Kitchin J stated:

“64 Tetrosyl criticised this approach root and branch. First it was said that there was no evidence from anyone who conducted the survey and secondly, no attempt has been made to establish that the selected witnesses are representative of any larger section of the public and it would be unsafe to attempt any such wider extrapolation. As to the first submission, I consider that I do have evidence as to how the survey was conducted from the witnesses who came to give evidence. As to the second submission, the claimants’ answer is that they were not attempting to rely upon the survey as such but rather as a witness gathering exercise. They relied not upon the survey but upon the evidence that the witnesses so identified actually gave in their witness statements and under cross examination. This is certainly a permissible approach and it is one that was followed in *United Biscuits (UK) Ltd v Asda Stores Ltd* [1997] R.P.C. 513 . Further, as was said in *Neutrogena Corp v Golden Ltd* [1996] R.P.C. 473 at 485 to 486, questionnaire evidence alone is seldom helpful and frequently unnecessarily elaborate and, I would add, very expensive. Unless the court has some real evidence, tested in cross examination, it is very difficult to determine what the respondents were actually thinking. However, it is also important that the court is given the full picture of any witness gathering exercise so that the court can assess whether the witnesses actually called truly reflect the views of the average consumer. In the present case I have not been given a complete picture because I have no evidence as to how the respondents or locations were selected. However, it is fair to say that all the questionnaires have been disclosed and I have been able to make an

assessment of the respondents upon whom the claimants have chosen to rely from the cross examination.”

If the survey was to be treated as a witness gathering exercise it would have the flaw that it was not followed up with cross-examination of the witnesses and so it is difficult to determine what the respondents were actually thinking. This problem is particularly strong in this case as there is a divergence in how Mr Scourfield (see below) analysed the responses and how Ms Carboni analysed them. (My analysis of the responses is more in keeping with that of Ms Carboni than with Mr Scourfield.) The flaw in the survey, arising from the nature of the population used, is such that it is not established that the respondents are representative of the average relevant consumer. Relying upon the survey, even as a witness gathering exercise, could, therefore, be akin to having a colour blind person acting as your interior designer. Ms Carboni in her submissions pressed the case for the survey, owing to the fundamental statistical flaw this is like expecting a goal that has been disallowed for being offside to still count towards that final score of a game. (In my findings in relation to the survey I have borne in mind the comments of Laddie J in *Wagamama Ltd v City Centre Restaurants Plc* [1996] ETMR 23 :

“A judge brings to the assessment of marks his own, perhaps idiosyncratic, pronunciation and view or understanding of them. Although the issue of infringement is one eventually for the judge alone, in assessing the marks he must bear in mind the impact the marks make or are likely to make on the minds of those persons who are likely to be customers for goods or services under the marks. Not all customers are the same. It is therefore sometimes of assistance for the court to hear evidence from witnesses who will help him to assess the variety of ways in which members of the target market will pronounce the marks and what, to them, will be the visual or phonetic impact of the marks. When considering infringement it is also necessary to bear in mind the possible impact of imperfect recollection on the part of members of the target market.....”

“This evidence, contained in the witnesses' respective witness statements, was confirmed in the witness box and either not challenged at all or to any significant extent in cross examination. It is consistent with what I would have expected.”)

19) Ms Carboni referred to *D Jacobson & Sons Limited v Globe GB Limited, Globe Europe SAS* 2008 EWHC 88 (Ch) and how this showed that a small percentage of confused consumers could establish that there was infringement of a trade mark. However, in that case a robust statistical method was used in relation to the survey and expert evidence was given in relation to the methodology used. Consequently, I cannot see that the above case aids Ms Carboni's argument.

20) The responses to the survey have been tabulated at exhibit TDS4, exhibited to a witness statement made by Tom Daniel Scourfield of Cameron McKenna LLP. Mr Scourfield gives a breakdown of the results obtained from the survey in the following terms:

“12. Having been provided with an image of the Applicant’s mark, overall, a total of 21 survey respondents, representing 18.58% of all respondents, referred to the Opponent and/or the INTEL trade mark in their answers.

13. For Card A, this reference was made by 7 respondents, see response numbers 5, 36, 53, 60, 62, 91 and 100. This represents 11.86% of the respondents shows Card A.

14. For Card B, this reference was made by 14 respondents, see response numbers 6, 14, 16, 18, 20, 24, 32, 33, 39, 44, 67, 94, 96 and 112. This represents 25.93% of the respondents shown Card B.”

I would note that respondent 16 was a software consultant from Australia, respondent 33 was from Lithuania, respondent 39 was from Canada, respondent 44 was from the United States of America, respondent 62 was a software engineer. All of these respondents were either resident outside the jurisdiction and/or specialists in the field and so not a reflection of the average, relevant consumer in the United Kingdom.

21) The responses give rise to a problem in that it is necessary to distinguish between those who identify INTEL as relating to Corp in some way and those who identify INTEL as relating to intelligence or some other concept. (Nine respondents identify INTEL with intelligence.) I consider that there are six responses where there is ambiguity as to whether the respondent is referring to Corp in some way or INTEL as indicating something else – the responses of respondents 79, 84, 87, 88, 105 and 106. I consider that there are in all 35 responses which associate the signs shown with Corp, 27 in relation to sign B and 8 with sign A. For sign B these are the responses of respondents 6, 14, 16, 18, 20, 24, 32, 33, 35, 39, 42, 44, 46, 50, 52, 54, 59, 61, 67, 77, 81, 94, 96, 98, 100, 110 and 112. For sign A the responses are those of respondents: 5, 36, 38, 53, 60, 62, 75 and 91.

22) Respondent 16 was a software consultant from Australia, respondent 33 was from Lithuania, respondent 35 from Denmark, respondent 39 from Canada, respondent 42 a software engineer, respondent 44 from the United States of America, respondent 59 from Canada, respondent 62 a software engineer, respondent 77 from Silicon Valley, respondent 98 an IT consultant, respondent 100 from the United States of America and respondent 110 support technician for computer company software. So twelve of the responses which are favourable to Corp do not come from those who can be described as the average United Kingdom consumer. Of these twelve, eleven were shown sign B and one sign A (respondent 62). So in relation to sign A there was an 11.86% identification of Corp’s trade mark (excluding no 62). In relation to sign B there was a 38% identification of Corp’s trade mark (after removing 11 respondents). Of course, as there is no verifiable, statistically sound basis for the population sample nothing can be extrapolated from these findings.

23) I have taken note of the following from the survey:

- Forty two respondents referred to what was described as the @ sign at the beginning of the signs, which indicates that this element does have an impact upon the perception of the consumer.
- Nine respondents saw intel as an abbreviation or synonym for intelligence eg respondent 65 – “well cos I’m into crime drama and intel is intelligence”.
- Eight respondents - 3A, 19A, 21A, 31A, 47A, 51A, 97A, 99A – identify tel at the end and link it to telecommunications not intel.
- There is a clear difference in the reactions to signs A and B, the reactions to sign B being much more favourable to Corp’s case.

24) I do not consider that anything turns upon my findings from the survey. That sign A and sign B have a significant difference is obvious to the eye, the INTEL element is identified separately by being put into a different colour. No reference in the survey questions was made to computing or computer services, I consider that this decontextualisation means that the rate of “positive” responses tells me little (and would have done so if the survey had been conducted with a statistically valid population). The consumer considers trade marks in a context and will react to that context; so if he or she sees the word Polo the reaction will vary depending on whether it is being used in the context of mints, cars, a brand of clothing, a type of clothing or an equestrian sporting activity.

### **Findings of fact**

25) From the evidence before me I come to the conclusion that Corp’s INTEL trade marks, whether word only or stylised, have an enormous reputation. In the words of Jacob LJ in *Intel Corporation Inc v CPM United Kingdom Ltd* [2007] ETMR 59:

“Anyone who saw the mark used in relation to computers or computer-linked products or services would take it as denoting a trade connection with the appellant.”

Intel may mean intelligence to some but in relation to computing goods and services (and this is the context in which this case has to be considered) this would be a secondary meaning, the primary meaning is to identify the goods and services of Corp. (This is obviously a position that very few trade marks enjoy.)

### **Section 5(2)(b) of the Act – likelihood of confusion**

26) The relevant part of section 5(2)(b) of the Act is as follows:

- “(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 marks 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.”

Section 6(1)(a) of the Act defines an earlier mark as:

“a registered trade mark, international trade mark (UK), Community trade mark or international trade mark (EC) 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”.

Corp’s trade marks upon which it relies are earlier marks as per section 6(1)(a).

27) The leading authorities which guide me in this ground are from the European Court of Justice: *Sabel BV v Puma AG* [1998] RPC 199, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] RPC 117, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel BV* [2000] FSR 77, *Marca Mode CV v Adidas AG & Adidas Benelux BV* [2000] ETMR. 723, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH* C-120/04 and *Shaker di L Laudato & C Sas v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) C-334/05 P (LIMONCELLO)*. They represent settled case law and for the benefit of the applicant, who is not professionally represented in these proceedings, 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*,

(b) the matter must be judged through the eyes of the average consumer of the average consumer for the goods/services in question; *Sabel BV v Puma AG*, 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 BV*,

(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*,

(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*,

(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,*

(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,*

(g) in determining whether similarity between the goods or services covered by two trade marks is sufficient to give rise to the likelihood of confusion, the distinctive character and reputation of the earlier mark must be taken into account; *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc,*

(h) 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,*

(i) 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 and Adidas Benelux BV,*

(j) 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.*

k) assessment of the similarity between two marks means more than taking just one component of a composite trade mark and comparing it with another mark; the comparison must be made by examining each of the marks in question as a whole, which does not mean that the overall impression conveyed to the relevant public by a composite trade mark may not, in certain circumstances, be dominated by one or more of its components; *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH,*

l) it is only when all other components of a complex mark are negligible that it is permissible to make the comparison on the basis of the dominant element; *Shaker di L. Laudato & C. Sas v OHIM.*

### **Comparison of goods and services**

28) Corp relies upon six earlier trade marks and provides a statement of use for those earlier marks requiring such a statement in its notice of opposition. The applicant has accepted Corp's statements. I am, therefore, required to compare the goods and services covered by Corp's earlier marks without restriction. The application is for:

computers; computing hardware; computer software (including software downloadable from the Internet); computer gaming equipment;

design and development of computer hardware; installation, repair and maintenance of computer hardware and software; computer consultancy services;

design, drawing and commissioned writing for the compilation of web sites; creating, maintaining and hosting the websites of others; compilation, creation and maintenance of a register of domain names; leasing of access time to a computer database.

I have identified a mixture of either identical or similar goods and services. In fact, there are a number of instances across the specifications where identity or similarity of goods or services is involved. However, to simplify matters, I have given below a comparison which gives the strongest result:

- Application: “computers”

is identical to “computers” of UK no. 1437993 and to “electronic data storage apparatus; and microcomputers” of UK 969190;

- Application: “computing hardware”

is identical to “computer hardware” of Community trade mark (CTM) no. 464 and similar to “rental of computer hardware” and “computer hardware and network design services for others” of UK no. 2159016;

- Application: “computer software (including software downloadable from the Internet)”

is identical to “computer software” of CTM no. 464 and “computer programs and computer software” of UK no. 1437993;

- Application: “computer gaming equipment”

is identical to “computer hardware” of CTM no. 464 and “computer programs and computer software” of UK no. 1437993;

- Application: “Design and development of computer hardware”

is identical to “computer services” and “computer hardware and network design services for others”, both of UK no. 2159016;

- Application: “Installation, repair and maintenance of computer... software”

is identical to “computer services” of UK no. 2159016;

- Application: “computer consultancy services”

is identical to “consultancy and design services, all relating to computing” of UK no. 2227092;

- Application: “design, drawing and commissioned writing for the compilation of web sites”

is identical to “web design, engineering and consulting services; Internet and web data services” of UK no. 2227092 and “design and implementation of web pages for others” of UK no. 2159016;

- Application: “creating, maintaining and hosting the websites of others”

is identical to “web design, engineering and consulting services; Internet and web data services” of UK no. 2227092 and “design and implementation of web pages for others” of UK no. 2159016;

- Application: “compilation, creation and maintenance of a register of domain names”

is identical to “Internet and web data services” of UK no. 2227092 and to “computer services” of UK no. 2159016.

This leaves “installation, repair and maintenance of computer hardware” and “leasing of access time to a computer database”, neither of which fall within the ambit of Class 42 of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended. “Installation, repair and maintenance of computer hardware” falls in Class 37. I consider these services to be highly similar to “rental of computer hardware” and “computer hardware and network design services for others”, both of UK no. 2159016, and also highly similar to “computer hardware” of CTM no. 464. “Leasing of access time to a computer database” falls in Class 38. I consider this service to be highly similar, if not identical, to “internet and web service provider services” of UK no. 2227092, and similar to “computer services” of UK no. 2159016.

I find that all of the goods and services in the application are either identical or similar to the goods and services of the earlier marks upon which Corp relies.

### **Average consumer and the purchasing process**

29) All of the goods and services are computer-related. Computer goods and services range from domestic personal computers and support services to powerful mainframes and networking services. The use of computers now pervades UK society; for example, they are used in workplaces, in schools and universities, in libraries, in shops and in homes. Corp, in its notice of opposition, says that INTEL appears on front of millions of personal computers and is encountered by people from all walks of life, from all demographic groups. Buying a computer is a considered purchase, whether one is doing

so for one's personal use or for a commercial requirement. They are relatively expensive and the inconvenience caused by faulty equipment or slow processing is considerable, such that the purchaser is likely to pay a good deal of attention when making the purchasing decision. The exposure to the mark will be primarily visual and I consider that visual selection is also the primary mode of research or purchase for someone buying computing equipment or services, for example, from a website or a computing shop or periodical. Oral use may play a part in the purchasing process, but I consider that visual selection will be more prominent.

### **Similarity of marks**

30) The authorities direct that, in making a comparison between the marks, I must have regard to each mark's visual, aural and conceptual characteristics. I have to decide which, if any, of their components I consider to be distinctive and dominant. The likelihood of confusion must be appreciated globally by evaluating the importance to be attached to those different elements, taking into account the degree of similarity in the goods and services, the category of goods and services in question and how they are marketed. However, I should guard against dissecting the marks so as to distort the average consumer's perception of them; the average consumer perceives trade marks as wholes and rarely has the opportunity to compare marks side by side, relying instead upon the imperfect picture he has of them in his mind

31) The application is for a series of five marks. I note that the survey questions and also the survey results differentiated between the first and fifth mark on the basis that the INTEL element in the fifth mark is picked out in black whereas the remainder of that mark is in white on a blue background, and that the letters in the other four marks are all in the same colour. I do not need the survey to reach the view that there is a difference between the first four marks and the fifth mark, since it is obvious to the eye, but whether or not the marks properly constitute a series is not an issue before me. The fact that they have been accepted for publication as a series of five marks does not mean that they are a series of five marks. I should not treat them homogeneously for the purposes of my comparison, but instead must compare each mark individually (I dealt with this point in *CICA BL O/224/07*). However, it seems to me a matter of logic that if Corp is successful against the first four marks, it must also be successful against the fifth, where its case could be said to be stronger. Beyond this observation, nothing turns upon the application's appropriateness as a series of five marks.

32) It is well established that the comparison of marks must be made on the basis of visual, aural and conceptual considerations. Corp's marks are either the unstylised or stylised versions of INTEL. Mr Munroe's marks commence with the same device and the subsequent element in all of the marks is the word ACTIVINTEL. I think it likely that both visually and in oral use there would be a split between the ACTIV and the INTEL elements; ACTIVINTEL is unlikely to be viewed or heard as a wholly invented word with no separately identifiable parts since ACTIV is so close visually to, and aurally indistinguishable from, the word ACTIVE. The marks converge in visual and aural similarity upon the INTEL element although, clearly, the applicant's marks consist of

more than INTEL. I consider that conceptually, ACTIV is a qualifier for INTEL, describing an ‘active’ aspect of the goods or services. INTEL may mean intelligence to some people, but it is a notorious fact that INTEL has become so well-known as Corp’s trade mark that for these goods and services any other meaning has been supplanted. The whole of Corp’s mark appears in the application as the element described by the adjectival ACTIV. Visually, aurally and conceptually, the marks are similar to a substantial extent. However, the device and the ACTIV elements are not negligible and taking into account the whole of Mr Munroe’s trade marks, I do not consider that it can be argued that INTEL is the dominant component.

### **Likelihood of confusion – conclusion**

33) Ms Carboni submitted that Mr Munroe’s e-mails to Corp were a clear indication that he himself considered there to be a likelihood of confusion between his trade mark and INTEL. At the hearing, Mr Munroe explained that he had been advised by an acquaintance (who was a Corp employee) that he should contact Corp, even though he had devised the mark to be a contraction of “Active Intelligence”. Nothing turns on this since it is for the tribunal to determine whether or not there is a likelihood of confusion based upon the facts and jurisprudence, not upon opinion. In considering the likelihood of confusion, I have to bear in mind the nature of the goods and services, the purchasing process and the relevant consumer, which have been dealt with above. I have to weigh the proximity of the goods and services against the relative distance between the marks - the interdependency principle – whereby a lesser degree of similarity between the goods and services may be offset by a greater degree of similarity between the trade marks, and vice versa (*Canon*, supra). I must consider what is the relative importance that the phonetic and visual similarities have in relation to the goods and services during the purchasing process; as stated above, the visual similarity is of greater importance than the aural similarity. I must also appraise the distinctive character of the earlier mark, because the more distinctive it is (either *per se* or by reputation), the greater will be the likelihood of confusion (*Sabel*, supra). The distinctive character of a mark must be assessed by reference to the particular goods or services to which it is attached and by reference to the relevant consumer’s perception of the mark. This is a case where the earlier trade mark is reproduced in the later trade marks. It is therefore relevant to consider the *Medion* judgment (supra). In that judgment the ECJ stated:

“29 In the context of consideration of the likelihood of confusion, assessment of the similarity between two marks means more than taking just one component of a composite trade mark and comparing it with another mark. On the contrary, the comparison must be made by examining each of the marks in question as a whole, which does not mean that the overall impression conveyed to the relevant public by a composite trade mark may not, in certain circumstances, be dominated by one or more of its components (see *Matratzen Concord*, paragraph 32).

30 However, beyond the usual case where the average consumer perceives a mark as a whole, and notwithstanding that the overall impression may be dominated by one or more components of a composite mark, it is quite possible that in a

particular case an earlier mark used by a third party in a composite sign including the name of the company of the third party still has an independent distinctive role in the composite sign, without necessarily constituting the dominant element.

31 In such a case the overall impression produced by the composite sign may lead the public to believe that the goods or services at issue derive, at the very least, from companies which are linked economically, in which case the likelihood of confusion must be held to be established.

32 The finding that there is a likelihood of confusion should not be subject to the condition that the overall impression produced by the composite sign be dominated by the part of it which is represented by the earlier mark.

33 If such a condition were imposed, the owner of the earlier mark would be deprived of the exclusive right conferred by Article 5(1) of the directive even where the mark retained an independent distinctive role in the composite sign but that role was not dominant.

34 This would be the case where, for example, the owner of a widely-known mark makes use of a composite sign juxtaposing this mark and an earlier mark which is not itself widely known. It would also be the case if the composite sign was made up of the earlier mark and a widely-known commercial name. In fact, the overall impression would be, most often, dominated by the widely-known mark or commercial name included in the composite sign.

35 Thus, contrary to the intention of the Community legislator expressed in the 10th recital in the preamble to the directive, the guarantee of the earlier mark as an indication of origin would not be assured, even though it still had an independent distinctive role in the composite sign.

36 It must therefore be accepted that, in order to establish the likelihood of confusion, it suffices that, because the earlier mark still has an independent distinctive role, the origin of the goods or services covered by the composite sign is attributed by the public also to the owner of that mark.

37 Accordingly, the reply to the question posed must be that Article 5(1)(b) of the directive is to be interpreted as meaning that where the goods or services are identical there may be a likelihood of confusion on the part of the public where the contested sign is composed by juxtaposing the company name of another party and a registered mark which has normal distinctiveness and which, without alone determining the overall impression conveyed by the composite sign, still has an independent distinctive role therein.”

The ECJ dealt with this matter again in *Shaker di L. Laudato* (supra):

“41 It is important to note that, according to the case-law of the Court, in the context of consideration of the likelihood of confusion, assessment of the similarity between two marks means more than taking just one component of a composite trade mark and comparing it with another mark. On the contrary, the comparison must be made by examining each of the marks in question as a whole, which does not mean that the overall impression conveyed to the relevant public by a composite trade mark may not, in certain circumstances, be dominated by one or more of its components (see order in *Matratzen Concord v OHIM*, paragraph 32; *Medion*, paragraph 29).

42 As the Advocate General pointed out in point 21 of her Opinion, it is only if all the other components of the mark are negligible that the assessment of the similarity can be carried out solely on the basis of the dominant element.”

34) Accordingly, I must assess the weight which each part plays in the overall impression of the marks and consider any conceptual similarities. The Court of First Instance (CFI), in *Citigroup, Inc v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) Case T-325/04* considered the weight and conceptual effect of the two elements of WORLDBLINK:

“82 Visually and phonetically, the weight of the two elements cited above in the perception of the relevant public is comparable, since the impact of the element ‘world’ is slightly more pronounced on account of its position at the beginning of the mark applied for. Conceptually, however, in accordance with the rules of English grammar, the element ‘world’ will be perceived by the relevant consumers, on account of its position at the beginning, as an adjective meaning ‘global’ and qualifying that element ‘link’. Thus, the conceptual weight of the element ‘world’ will be less than that of the element ‘link’, since the first element is subordinate to the second one. Moreover, on account of its meaning, the element ‘world’ will be perceived as being descriptive of one aspect of the services covered, since financial services are often provided at a global level, whilst the element ‘link’ is at most allusive in relation to those services, as was found at paragraph 68 above. It follows that, conceptually, the element ‘link’ is significantly more important in the overall impression given by the mark applied for. However, its distinctive character is not sufficient to render the other element negligible, which means that it cannot be regarded as the dominant element of that mark.”

I do not consider that INTEL is the dominant component of the applicant’s marks, but neither is it negligible. On the contrary, the adjectival use of ACTIV (because of its position in front of INTEL) makes ACTIV subordinate to INTEL in the overall impression of the mark. The corollary of this is that INTEL is more important in the overall impression given by the mark. It is necessary to consider the distinctive character of INTEL as the more important, though not dominant, element since the more distinctive the earlier trade mark (either by nature or nurture) the greater the likelihood of confusion (*Sabel BV v Puma AG*). The distinctive character of a trade mark can be appraised only,

first, by reference to the goods or services in respect of which registration is sought and, secondly, by reference to the way it is perceived by the relevant public (*Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91). In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, it is necessary to make an overall assessment of the greater or lesser capacity of the mark to identify the goods for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (*Windsurfing Chiemsee v Huber and Attenberger* Joined Cases C-108/97 and C-109/97 [1999] ETMR 585).

35) Mr Munroe submitted that ACTIVINTEL is a contracted form of “Active Intelligence” and that the device is comprised of an “a” and an “i”, taken from the initials of those words. Whether or not ‘intel’ means intelligence, the meaning of INTEL in the computing field is overwhelmingly that it distinguishes computing goods and services as emanating from Corp. INTEL is therefore highly distinctive for the goods and services in issue and has an independent distinctive role in the composite sign even though it is not dominant. This independence is achieved by virtue of INTEL’s status as a famous trade mark and by the natural visual and aural split between ACTIV and INTEL, stated above.

36) I have found that the marks are similar to a substantial extent and that the goods and services are either identical or closely similar. I think it unlikely that the marks would be directly confused with one another. However, according to the jurisprudence cited above, I must also have regard to a scenario where, although the marks are not mistaken directly, there is a belief or an expectation upon the part of the average consumer that the goods bearing the individual marks emanate from a single undertaking because there are points of similarity which lead to association. If the association between the marks causes the relevant consumer, who is reasonably well informed and reasonably circumspect and observant, wrongly to believe that the respective goods come from the same or economically linked undertakings, there is a likelihood of confusion (*Canon*, supra). This would include use by licensees, a key feature of Corp’s business strategy. Having regard to the identity or close proximity of the goods and services and the distinctive character of the word INTEL, described by ACTIV, I find that there is such a likelihood of confusion within the meaning of Section 5(2)(b) of the Act.

### **Sections 5(3) and 5(4) of the Act**

37) Owing to my findings under section 5(2)(b) of the Act I do not need to consider these grounds of opposition.

### **COSTS**

38) Corp has been successful and is entitled to a contribution towards its costs. Ms Carboni made submissions in relation to receiving compensation towards the costs of the survey that Corp submitted. If a party decides to commission a survey I can see no reason why it should gain special compensation for it, it is certainly not something that is envisaged in the scale of costs. Ms Carboni was requesting an award outwith the scale.

There is nothing in the behaviour of Mr Munroe that would merit, in my view such an award. It is also to be noted the survey was flawed and had no impact upon the proceedings, therefore, the filing of the survey has possibly put Mr Munroe to unnecessary effort; so if there were to be compensation it would be to Mr Munroe in respect of this possible effort. In fact, I have not varied the award that I making to Corp to take into account any possible additional effort to which Mr Munroe might have been put. I have, however, decided that no compensation should be given in relation to the survey. I note that in his counterstatement Mr Munroe accepted the reputation of Corp, if in respect of its core products. Mr Munroe did not require proof of use of any of Corp's trade mark registrations. So Mr Munroe lessened any evidential burden that Corp felt it needed to satisfy.

39) I award costs on the following basis:

Opposition fee	£200
Notice of opposition	£300
Considering the counterstatement	£200
Evidence	£500
Preparation and attendance at hearing	£500
TOTAL	£1700

I order Gary Milton Munroe to pay Intel Corporation the sum of £1,700 . 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 29<sup>th</sup> day of May 2008**

**David Landau  
For the Registrar  
the Comptroller-General**