

O-278-04

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. 2247557
IN THE NAME OF HARJEET SINGH JOHAL**

AND

**IN THE MATTER OF
OPPOSITION THERETO UNDER NO. 52622 IN THE NAME OF
MICHAEL KORS, LLC**

Trade Marks Act 1994
In the matter of application No. 2247557
in the name of Harjeet Singh Johal

And

In the matter of opposition thereto
under No. 52622 in the name of
Michael Kors, LLC

SUPPLEMENTARY DECISION

1. It has been brought to my attention that my decision issued on 12 August 2004 in respect of the above proceedings did not cover the grounds under Section 5(2)(b) of the Act in respect of four earlier marks in the ownership of proprietors other than the opponents. Details of these earlier marks are set out in paragraph 5 of the Statement of Case, and are as follows:

930800	KORET	Class 25
1132889	KORY	Class 25
1418687	KORO (stylised)	Class 25
2123113	KORN & Device	Classes 9, 16, 25 and 41

2. Self-evidently, all of these registrations cover goods that are either identical and or similar to the goods and services covered by the opposed application. I have no evidence that these marks are, or have ever been used so my consideration is one based on notional use in a normal and fair manner. All would have constituted “earlier marks” at the relevant date.

3. In my decision I determined that the opponents’ earlier marks, KORS and MICHAEL KORS, were neither the same or similar to the mark applied for, KÖRE, giving my reasons for this finding. Having considered these other marks, and applied the same reasoning, I come to the same view that whilst they bear some resemblance, they are neither the same or similar to the mark applied for. I am fortified in this view by the fact that these marks are co-existing on the register although place no reliance on this in my decision.

4. The position in relation to the respective goods and services, channels of trade, consumer, etc, is identical to those set out in my decision. Taking all of the factors into account and adopting the Aglobal@view advocated, I find that there is no likelihood that the public will be wrongly led into believing that goods bearing the mark applied for come from the proprietors of these earlier marks or some economically linked undertakings, and that there is no likelihood of confusion. The opposition in respect of these marks fails on the section 5(2)(b) ground.

5. The position, therefore, is that my decision remains unchanged and the opposition fails in its entirety. However, given that this supplementary decision finally determines the proceedings, the period for appeal will run for 28 days from the date of this decision.

Dated this 15th day of September 2004

Mike Foley
For the Registrar
the Comptroller-General