

O-410-14

TRADE MARKS ACT 1994

**IN THE MATTER OF THE APPLICATION
BY MARKO MEDIA LTD
UNDER NO. 2638444
FOR REGISTRATION OF THE TRADE MARK**



AND

**IN THE MATTER OF OPPOSITION NO. 400894 THERETO
BY HUSH HOMEWARE LTD**

THE BACKGROUND AND THE PLEADINGS

1) On 16 October 2012 Marko Media Ltd (“the Applicant”) filed application no. 2638444 to register the following trade mark for the following services:



Class 35: Retail services via a website, mail order or via a global computer network connected with the sale of clothing, jewellery and watches, kitchenware, bed and table linen, towels, gardening tools, garden furniture, luggage, food, beverages (alcoholic and non-alcoholic), pet accessories, pet food, children's toys, games, fitness equipment, outdoor furniture, DIY tools, domestic electrical appliances, communication devices, and motor vehicle accessories.

Class 41: Ticket booking agency service for events and performances.

The application was published in the Trade Marks Journal on 21 June 2013.

2) On grounds under sections 5(2)(a) and 5(2)(b) of the Trade Mark Act 1994 (“the Act”) Hush Homewear Ltd (“the Opponent”) opposes the registration of the Applicant’s mark in respect of the following services:

Class 35: Retail services via a website, mail order or via a global computer network connected with the sale of clothing, jewellery and watches, bed and table linen, towels, luggage, food, beverages

For the purposes of its claims the Opponent relies on the following series of two trade marks registered under number 2477396 for the following goods:

HUSH

hush

Class 4: Candles.

Class 24: Textiles and textile piece goods, blankets, throws, bed linen, table linen, bathroom linen, hot water bottle covers.

Class 25: Clothing, headwear and footwear; lingerie, nightwear, eye masks.

Class 30: Confectionery, chocolate, cocoa, products of chocolate or cocoa, tea, coffee, preparations for making drinking chocolate.

Class 35: Retail services, including online retail services, relating to candles, textiles and textile piece goods, blankets, throws, bed linen, table linen, bathroom linen, hot water bottle covers, clothing, headwear and footwear, lingerie, nightwear, eye masks, confectionery, chocolate, cocoa, products of chocolate or cocoa, tea, coffee, preparations for making drinking chocolate; mail order retail services relating to candles, textiles and textile piece goods, blankets, throws, bed linen, table linen, bathroom linen, hot water bottle covers, clothing, headwear and footwear, lingerie, nightwear, eye masks, confectionery, chocolate, cocoa, products of chocolate or cocoa, tea, coffee, preparations for making drinking chocolate.

There is no material difference in the assessment regardless of which mark of the Opponent's series is to be considered. I will focus on the first mark in the series, HUSH, and will from this point on refer to the earlier mark in the singular.

3) The mark relied on by the Opponent was filed on 18 January 2008, and completed its registration procedure on 7 May 2010. The consequences of these dates are that: i) the Opponent's mark constitutes an earlier mark in accordance with section 6 of the Act, and ii) it is not subject to the proof of use conditions contained in section 6A of the Act, the registration procedure having been completed less than five years before the publication of the Applicant's mark.

4) The Applicant filed a counterstatement, denying the grounds of opposition. Neither side filed evidence. Neither the Applicant nor the Opponent filed separate written submissions, though submissions were included in the Applicant's counterstatement and (very briefly) in a letter of 19 December 2013 from the Opponent's representatives. I have taken these into consideration.

SECTION 5(2)

5) Section 5(2) of the Act reads:

"A trade mark shall not be registered if because –

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

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark."

I shall turn first to the Applicant's claim under section 5(2)(b).

Section 5(2)(b)

6) I have taken into account the guidance provided by the Court of Justice of the European Union (“CJEU”) in a number of judgments: *Sabel BV v. Puma AG* [1998] R.P.C. 199, *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* [1999] R.P.C. 117, *Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V* [2000] F.S.R. 77, *Marca Mode CV v. Adidas AG + Adidas Benelux BV* [2000] E.T.M.R. 723, Case C-3/03 *Matrazen Concord GmbH v GmbGv Office for Harmonisation in the Internal Market* [2004] ECR I-3657 *Medion AG V Thomson multimedia Sales Germany & Austria GmbH* (Case C-120/04) and *Shaker di L. Laudato & Co. Sas* (C-334/05). In *La Chemise Lacoste SA v Baker Street Clothing Ltd* (O/330/10) (approved by Arnold J in *Och-Ziff Management Europe Ltd v Och Capital LLP* [2011] FSR 11), Mr Geoffrey Hobbs QC, sitting as the Appointed Person, quoted with approval the following summary of the principles which are established by these cases:

"(a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, 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, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may, in certain circumstances, be dominated by one or more of its components;

(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a great degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either *per se* or because of the use that has been made of it;

- (i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;
- (j) 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;
- (k) if the association between the marks causes the public to wrongly believe that the respective goods [or services] come from the same or economically-linked undertakings, there is a likelihood of confusion."

Comparison of the goods and services

7) When comparing the respective goods and services, if a term clearly falls within the ambit of a term in the competing specification then identical goods/services must be considered to be in play (see *Gérard Meric v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) Case T-133/05 – “Meric”*) even if there are other goods/services within the broader term that are not identical. When making the comparison, all relevant factors relating to the goods and services in the specifications should be taken into account. In *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* the CJEU stated at paragraph 23 of its judgment:

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

8) Guidance on this issue has also come from Jacob J In *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281 where the following factors were highlighted as being relevant when making the comparison:

- “(a) The respective uses of the respective goods or services;
- (b) The respective users of the respective goods or services;
- (c) The physical nature of the goods or acts of service;
- (d) The respective trade channels through which the goods or services reach the market;
- (e) In the case of self-serve consumer items, where in practice they are respectively found or likely to be found in supermarkets and in particular whether they are, or are likely to be, found on the same or different shelves;
- (f) The extent to which the respective goods or services are competitive. This inquiry may take into account how those in trade classify goods, for instance whether market research companies, who of course act for industry, put the goods or services in the same or different sectors.”

9) With regard to complementarity (one of the factors referred to in *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer*), it was stated in *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) Case T-325/06*:

“It is true that goods are complementary if there is a close connection between them, in the sense that one is indispensable or important for the use of the other in such a way that customers may think that the responsibility for those goods lies with the same undertaking (see, to that effect, Case T-169/03 *Sergio Rossi v OHIM – Sissi Rossi (SISSI ROSSI)* [2005] ECR II-685, paragraph 60, upheld on appeal in Case C-214/05 P *Rossi v OHIM* [2006] ECR I-7057; Case T-364/05 *Saint-Gobain Pam v OHIM – Propamsa (PAM PLUVIAL)* [2007] ECR II-757, paragraph 94; and Case T-443/05 *El Corte Inglés v OHIM – Bolaños Sabri (PiraÑAM diseño original Juan Bolaños)* [2007] ECR I-0000, paragraph 48).”

10) I also bear in mind the guidance given by Mr Daniel Alexander QC, sitting as the Appointed Person, in case B/L O/255/13 *LOVE* where he warned against applying too rigid a test with regard to complementarity:

“20. In my judgment, the reference to “legal definition” suggests almost that the guidance in *Boston* is providing an alternative quasi-statutory approach to evaluating similarity, which I do not consider to be warranted. It is undoubtedly right to stress the importance of the fact that customers may think that responsibility for the goods lies with the same undertaking. However, it is neither necessary nor sufficient for a finding of similarity that the goods in question must be used together or that they are sold together. I therefore think that in this respect, the Hearing Officer was taking too rigid an approach to *Boston*.”

11) In relation to understanding what terms used in specifications mean and cover, the guidance in the case-law is to the effect that “in construing a word used in a trade mark specification, one is concerned with how the product is, as a practical matter, regarded for the purposes of the trade”¹ and that I must also bear in mind that words should be given their natural meaning within the context in which they are used; they cannot be given an unnaturally narrow meaning². I also note the judgment of Mr Justice Floyd in *YouView TV Limited v Total Limited* where he stated:

“..... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IPTRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. *Treat* was decided the way it was because the ordinary and natural, or core, meaning of “dessert sauce” did not include jam, or because the ordinary and natural description of

¹ See *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281

² See *Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another* [2000] FSR 267

jam was not "a dessert sauce". Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question."

12) It is the inherent nature of the goods/services of the specification which I have to consider; actual use and business strategy are irrelevant to this notional comparison (see *Devinlec Développement Innovation Leclerc SA v OHIM* Case T- 147/03).

13) The Opponent's best case appears to lie with its services in Class 35 and I shall focus initially on these, considering its goods in other classes only if it becomes necessary. I will make the comparison with reference to the Applicant's services. I will go through them term by term (but grouping them when it is useful and reasonable to do so – see the comments of the Appointed Person in *Separode* BL O-399-10).

14) *Retail services via a website or via a global computer network connected with the sale of clothing* are covered by the Opponent's *online retail services, relating to clothing*; they are identical. *Retail services via a website or via a global computer network connected with the sale of bed and table linen* is identical with the Opponent's *online retail services, relating to bed linen, table linen*. *Towels* are covered by the term *bathroom linen*; thus *retail services via a website or via a global computer network connected with the sale of towels* is identical with *online retail services, relating to bathroom linen* under the guidance in *Meric*; even if not identical, the services are certainly in any event very highly similar.

15) With regard to *retail services via a website or via a global computer network connected with the sale of jewellery and watches* the opponent's specification does not cover identical services, but it does cover *online retail services, relating to clothing*. I note that the General Court in *Oakley* T-116/06 (at paragraph 86) found no complementarity, and no similarity, between jewellery and clothing. However, that finding related to a direct comparison of jewellery with clothing, rather than to a comparison of the respective retail services in connection with those goods. At the most general level, of course, the retailing of any product might be said to have the same nature, purpose and (broadly) method of use as the retailing of any other product. However, this is too high a level of generality to give rise to similarity, and could result in any retail service being regarded as similar, even if the goods retailed are poles apart and, as importantly, the inherent nature and characteristics of the retail service are completely different. I bear in mind the CJEU's ruling in Case C-418/02 *Praktiker* that in registering a trade mark for retail services the goods or types of goods to which those services relate must be specified. The reason given (in paragraph 51 of that judgment) is that this will make it easier to apply the legal provisions relating to similarity of goods and services and genuine use.

16) The users of online retail services for jewellery and watches on the one hand and online retail services for clothes on the other consist of the general public. However, this is a fairly superficial point of similarity. In both cases the purpose of the services is to provide the facility for consumers to select the relevant goods and to induce the consumer to purchase them from the trader in question rather than a

competitor. The service provider will offer product information, descriptions, depictions, price comparisons, etc. enabling the consumer to ascertain from the point of view of his own particular requirements the suitability, fitness for purpose, etc of products offered. These services will apply in the same way to watches, jewellery and clothing, although I accept that there is a degree of generality in this assessment, as all online retail services are likely to be offered in this way. However, the precise retail services here are both aimed at the retail of items which may be purchased for personal adornment, even if the actual goods themselves are not similar. They may be offered by specialist retailers, such as jewellers and clothes retailers. But the average consumer will also be well used to finding them provided by the same retailer, often in fairly close proximity (in the case of online or mail order retailing, in associated categories) i.e. the retailing of what can loosely be described as fashion goods. The depictions on websites will no doubt feature models sporting the respective goods which are the subject of the retail service. I therefore find that there is a medium degree of similarity between *retail services via a website or via a global computer network connected with the sale of jewellery and watches* and *online retail services, relating to clothing*.

17) In connection with the *retail services via a website or via a global computer network connected with the sale of luggage* and *online retail services, relating to clothing* the connective tissue I have described above is missing, other than the more general, superficial aspects I have described. Here I consider that the nature of the goods which are the subject of the retail service is too different for the retail services to be considered similar. None of the Opponent's other goods and services offer the Opponent a better case.

18) *Retail services via a website or via a global computer network connected with the sale of food* covers the Opponent's *online retail services, relating to confectionery, chocolate, cocoa, products of chocolate or cocoa, tea, coffee, preparations for making drinking chocolate*; they are identical under the guidance in *Meric*. The Opponent's *online retail services, relating to tea, coffee, preparations for making drinking chocolate* are also covered by the Applicant's *retail services via a website or via a global computer network connected with the sale of beverages (non-alcoholic)*; they are identical. Moreover, consumers are used to being able to cover the whole range of their food and drink requirements from one source. I think that online retail services in respect of all food and drink share at least a medium degree of similarity.

19) The analysis I have made above with regard to the respective online retail services of the Applicant and the Opponent applies by analogy to their respective specifications for *retail services via mail order* and *mail order retail services* in respect of the same lists of goods, resulting in the same findings respectively in each case. In order to avoid superfluous and tedious repetition, therefore, I shall not set out separately my findings on these.

The average consumer and the purchasing process

20) According to the case-law, the average consumer is reasonably observant and circumspect (*Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V* paragraph

27). The degree of care and attention the average consumer uses when selecting goods can, however, vary depending on what is involved.

21) The average consumer of the retail services in question will be a member of the general public. It must be remembered that one is considering the selection of the service provider for the retailing of particular goods, not the goods themselves, although, the nature of the goods is not wholly irrelevant. Food and beverages are everyday purchases. Clothing is bought regularly. Items such as bed, table and bathroom linen, and luggage will also be fairly routine (although not frequent) purchases for any household. The goods concerned are not specialist ones and, although their cost can vary, they are not, generally speaking, highly expensive purchases. Overall, consumers will normally pay a reasonable degree of attention, neither higher nor lower than the norm, when selecting an appropriate retail service provider for the goods being retailed. Jewellery can range from ordinary, relatively inexpensive items of everyday wear to very expensive and infrequent purchases. Whilst the average consumer of expensive jewellery will likely pay higher attention to the selection of an appropriate retailer, the position must also be considered from the perspective of more ordinary jewellery for which there will be just a reasonable degree of care and attention in the selection of an appropriate retailer. The purchasing of all these goods online or by mail order, and the selection of the online or mail order retail outlet through which they are purchased, is a predominantly visual process, so visual aspects of the marks take on more importance; but there may be some scope for aural use of the mark – over the telephone where goods are retailed by mail order, for example – so aural aspects will not be overlooked in my comparison of the marks.

The distinctiveness of the earlier mark

22) The degree of distinctiveness of the earlier mark must be assessed. This is because the more distinctive the earlier mark (on the basis either of inherent qualities or because of use made), the greater the likelihood of confusion (see *Sabel BV v. Puma AG*, paragraph 24). The distinctive character of a trade mark must be assessed by reference to the goods or services in respect of which registration is sought and by reference to the way it is perceived by the relevant public (see *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91). No evidence of enhanced distinctiveness was submitted, so I have only the inherent distinctiveness of the earlier mark to consider.

23) In the submissions included in its counterstatement the Applicant suggests that, as the word “hush” relates to silence or quiet, this ties in with items relating to sleep, such as bed linen. Such potential associations might theoretically be argued to have some weak allusiveness in connection with bed linen, but I do not think that this will strike the average consumer in practice; even if it did it would not be strong enough to affect materially the distinctiveness of the mark. The word HUSH is not descriptive of any of the Opponent’s services or their characteristics. I consider that it enjoys a normal degree of distinctiveness in respect of all of them.

Comparison of the marks

24) The average consumer normally perceives a mark as a whole and does not proceed to analyse its various details. The visual, aural and conceptual similarities of the marks must be assessed by reference to their overall impressions, bearing in mind their distinctive and dominant components.

25) The marks to be compared are shown below:

The Applicant's Mark	The Opponent's Mark
	HUSH

26) The Opponent's mark consists exclusively of the word HUSH, which is therefore its sole element for the purposes of comparison. The Applicant's mark consists of HUSH shown in white in capitals and in a plain font, and repeated immediately below in a different shade, but otherwise in identical format, the whole being presented against a simple, plain, dark, circular background. The consumer is used to seeing marks presented against such backgrounds; it will play very little role in the consumer's perception of the mark in this case. The word component of the mark is manifestly its dominant and distinctive element, although I bear in mind the whole mark comparison that must be made.

27) Used as a noun the word "hush" means quiet or silence. Used as a verb, it means to produce quiet or silence, for example by requesting or ordering it. In the submissions included in its counterstatement the Applicant argues that the words "hush hush" appearing in the Applicant's mark have a completely different meaning, referring to a secret or something confidential. It contends that this relates to the actual use of the mark applied for, since it is used in connection with a website where users have to be members to obtain the benefit of deals which have been put in place for a short time and are not known about by others. No evidence was submitted for this contention which, moreover, relates to a matter of marketing strategy, rather than to the actual specification of the services as registered. It is the inherent nature of the services of the specification as registered which I have to consider; current use and business strategy are irrelevant to the notional comparison I am required to make (see *Devinlec Développement Innovation Leclerc SA v OHIM* Case T- 147/03).

28) It is true that the word “hush-hush” means secret or confidential. However, it should be noted that it is conventionally spelt with a hyphen, binding the two components together to form a new word. It may well be that the absence of the grammatically correct hyphen would not necessarily prevent a reader from understanding the words “hush hush” in this sense when encountering them in a line of text; this would no doubt depend on context. The separation of the words in the Applicant’s mark is not only indicated by the absence of the hyphen, but emphasised by the fact that the words appear on different lines, presented in different shades. For a conceptual meaning to be relevant in a mark, it must be one capable of immediate grasp. This has been emphasised in a number of judgements of both the GC and the CJEU (see, for example, *Ruiz Picasso v OHIM* [2006] ETMR 29). Whilst I accept that some of the relevant consumers may see the conceptual message put forward by the Applicant, a significant section of the relevant public (probably even the majority) will not, for the reasons I have given, with the result that for such people there is no conceptual dissonance between the marks, the conceptual content of the word “hush” being shared by both marks, which are thus conceptually similar to a high degree.

29) Visually the word component dominates the Applicant’s mark, the other visual elements playing little role beyond focusing attention on the word component. The most obvious difference between the marks is that HUSH appears only once in the Opponent’s mark, but is repeated in the Applicant’s. The repetition immediately makes the Applicant’s mark larger but, at the same time, also gives prominent play to the word HUSH, which appears on its own on different lines. There is a high degree of visual similarity between the marks. This analysis largely carries over into the aural comparison. Where the Applicant’s mark is pronounced as “hush hush” there is a high degree of aural similarity with the Opponent’s.

Likelihood of confusion under 5(2)(b)

30) I have found no similarity between the *retail services via a website, mail order or via a global computer network connected with the sale of luggage* and any of the Opponent’s services. Where there is no similarity of services, there is no likelihood of confusion to be considered³. Accordingly, the opposition fails in respect of *retail services via a website, mail order or via a global computer network connected with the sale of luggage*.

31) I have found identity between *retail services via a website, mail order or via a global computer network connected with the sale of clothing, bed and table linen, food, beverages (alcoholic and non-alcoholic)* and services of the Opponent. I have found identity or, even if not identity, a very high degree of similarity between *retail services via a website, mail order or via a global computer network connected with the sale of towels* and services of the Opponent. I have found a medium degree of similarity between *retail services via a website, mail order or via a global computer network connected with the sale of jewellery and watches* and services of the Opponent. It therefore remains for me to make a global assessment of the likelihood of confusion in respect of these services of the Applicant.

³ See *Waterford Wedgwood plc v OHIM – C-398/07 P*; also Arden LJ at paragraph 49 in *eSure Insurance v Direct Line Insurance*, [2008] ETMR 77 CA

32) The factors assessed so far have a degree of interdependency (*Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17), a global assessment of them must be made when determining whether there exists a likelihood of confusion (*Sabel BV v. Puma AG*, paragraph 22). However, there is no scientific formula to apply. It is a matter of considering the relevant factors from the viewpoint of the average consumer and determining whether they are likely to be confused.

33) I have found the marks to have a highly similar conceptual content and a high degree of both visual and aural similarity. I have found the earlier mark to possess a normal degree of inherent distinctive character. Bearing all this in mind, together with my assessment of the nature of the average consumer and their purchasing process, and having regard to the interdependency principle, I think there is likelihood of confusion in respect of those opposed services which I have found to be identical with, or to have a very high or a medium degree of similarity with, those of the Opponent. When the concept of imperfect recollection is borne in mind, the repetition of HUSH in the Applicant's mark may well be forgotten. Even if it is not, there will in any event be indirect confusion; the similarity of the marks will lead the average consumer to believe that the services which I have found to be identical or similar originate from the same or a linked undertaking. Even if I am wrong on my conceptual assessment, and the meaning put forward by the Applicant would be perceived by all relevant consumers, I still feel that there would be a likelihood of indirect confusion; a conceptual difference is not always sufficient to trump other factors (as per the decision in *Nokia*), particularly in a case such as this where the meaning of hush-hush has the same root in language as hush.

Section 5(2)(a)

34) In view of my finding under section 5(2)(b) it is unnecessary for me to consider the Opponent's claim under section 5(2)(a).

Outcome

35) The opposition has succeeded in respect of the following services of the application which were opposed:

Class 35: Retail services via a website, mail order or via a global computer network connected with the sale of clothing, jewellery and watches, bed and table linen, towels, food, beverages (alcoholic and non-alcoholic).

The Applicant's mark can therefore proceed to registration only in respect of the following services, which were not opposed, or in respect of which I found no similarity with services of the Opponent:

Class 35: Retail services via a website, mail order or via a global computer network connected with the sale of kitchenware, gardening tools, garden furniture, luggage, pet accessories, pet food, children's toys, games, fitness

equipment, outdoor furniture, DIY tools, domestic electrical appliances, communication devices, and motor vehicle accessories.

Class 41: Ticket booking agency service for events and performances.

Costs

34) The Opponent has been largely successful and is entitled to a contribution towards its costs. I hereby order Hush Homeware Limited to pay Marko Media Limited the sum of £500. This sum is calculated as follows (I have taken into account that brief submissions were included in the Applicant's counterstatement):

<i>Preparing a statement and considering the other side's statement</i>	£300
<i>Opposition fee</i>	£200

The above sum should 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 29th day of September 2014

Martin Boyle
For the Registrar,
The Comptroller-General