

O/216/12

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO 2543659A
BY
YOUVIEW TV LIMITED
TO REGISTER THE TRADE MARK**



(AN APPLICATION FOR A SERIES OF SIX MARKS)

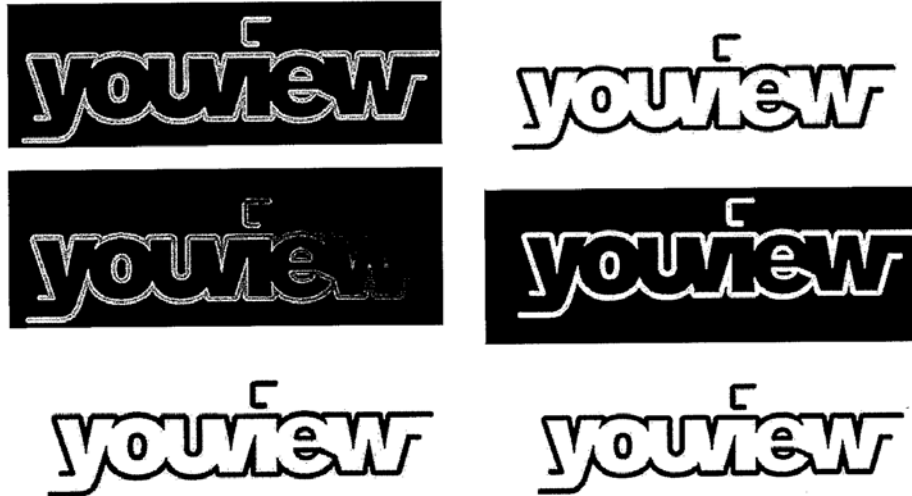
IN CLASSES 9, 38 AND 42

AND

**THE OPPOSITION THERETO
UNDER NO 101097A
BY
TOTAL LIMITED**

Background and pleadings

1. Trade mark application number 2543659 was applied for on 1 April 2010 and was published in the *Trade Marks Journal* on 23 July 2010, following which it was opposed by Total Limited (“the opponent”) and divided into two parts. Only the ‘A’-suffixed application is relevant to these proceedings. The application stands in the name of YouView TV Limited (“the applicant”) and is for a series of six marks:



Since nothing in this decision turns upon the fact of the marks being a series, I will refer to the marks in the singular from here onwards.

2. The following goods and services are applied for:

Class 09: Data recordings including audio, video, still and moving images and text in compressed and uncompressed form; computer software, including software for use in downloading, storing, reproducing and organising audio, video, still and moving images and data in compressed and uncompressed form; downloadable electronic publications; computer, electronic and video games programmes and equipment; mouse mats; electronic instructional and teaching apparatus and instruments; apparatus for telecommunications, data communications, satellite broadcasting and transmission, television and radio broadcasting, transmission and reception, electronic messaging, access to interactive services and access to the internet; mobile telephone fascias and covers; and parts for all the aforesaid goods.

Class 38: Broadcasting; communications; transmission, broadcast and reception and other dissemination of audio, video, still and moving images, text and data whether in compressed or uncompressed form and whether in real or delayed

time; electronic mail services; television screen based information broadcasting and retrieval services; interactive broadcasting services; news information and news agency services; rental of radio and television broadcasting equipment; simultaneous broadcasting, transmission and delivery via the internet, television and radio of audio, video, still and moving images and data whether in compressed or uncompressed form, whether downloadable or non downloadable and whether in real or delayed time; provision of discussion forums; provision of information and advisory services relating to any of the aforesaid services.

Class 42: Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; design and development of systems for the processing, storage, security, delivery and transmission of data, and research relating thereto; design and development of systems to enable simultaneous broadcasting, transmission and delivery via the internet, television and radio of audio, video, still and moving images and data whether in compressed or uncompressed form, whether downloadable or non downloadable and whether in real or delayed time, and research relating thereto; computer programming; computer consultancy services; installation, maintenance, repair and upgrading of computer software; graphic design services; design, drawing and commissioned writing for the compilation of websites; creating and maintaining websites; hosting the websites of others; provision of information and advisory services relating to any of the aforesaid services.

3. The opposition is brought under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”) which states:

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

....

(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.”

The ground is based upon all the goods and services of the opponent’s earlier registered trade mark:

2518843B

YOUR VIEW

Class 09: *Database programs and Databases.*

Class 35: *Provision of commercial business information by means of a computer database; computerised database management; compilation of information into a database.*

Class 38: *Providing access to computer databases; telecommunication services.*

Date of application: 18 June 2009.

Date of completion of registration procedure: 20 November 2009.

4. The opponent's mark had been registered for less than five years at the date on which the application was published and is therefore not subject to the proof of use provisions¹. It must be considered on the basis of notional and fair use across the breadth of the goods and services for which it is registered.

5. The opponent claims that there is a likelihood of confusion under section 5(2)(b) because of the similarity between the parties' marks and the identity or similarity between their respective goods and services. The applicant filed a counterstatement in which it denies the grounds of opposition, while admitting that the "word element to each mark is similar".

6. The opponent filed evidence, following which the applicant filed written submissions. The matter then came to be heard before me on 14 March 2012 when the applicant was represented by Mr James Abrahams, of Counsel, instructed by Bristows, and the opponent was represented by Mr Simon Malynicz, of Counsel, instructed by Wynne-Jones, Lainé and James LLP.

Evidence

7. The opponent's evidence comes from Mr Stuart Baikie, who is the opponent's managing director. Mr Baikie has twenty years experience of the telecommunications industry and the purpose of his evidence is to explain the nature of the various goods and services used in that industry in order to support the opponent's claim that the parties' goods and services are identical or similar. Mr Baikie's witness statement is accompanied by, amongst other documents, Ofcom² reports. The exhibits run to several hundred pages, but only a very small proportion of the pages are referred to by Mr Baikie. Mr Malynicz highlighted a few more pages at the hearing. Rather than give a summary of the evidence in the abstract, I will refer to the relevant parts during my comparison of goods and services.

¹ See section 6A of the Act (added by virtue of the Trade Marks (Proof of Use, etc.) Regulations) 2004 (SI 2004/946) which came into force on 5th May 2004.

² The regulatory body for the communications industries in the UK.

Decision

8. The leading authorities which guide me in relation to section 5(2)(b) of the Act are from the Court of Justice of the European Union ('CJEU'): *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 B.V.* [2000] F.S.R. 77, *Marca Mode CV v Adidas AG & Adidas Benelux BV* [2000] E.T.M.R. 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). 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 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 B.V.*,

(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) 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*

f) 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*.

(g) 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*,

(h) 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*,

(i) 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*,

(j) 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*,

(k) 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*,

(l) 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*.

Comparison of goods and services

9. In comparing the respective specifications, all relevant factors should be considered, as per *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*. where 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.”

‘Complementary’ was defined by the General Court (“GC”) in *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) Case T-325/06*:

“82 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...”.

10. Additionally, the criteria identified in *British Sugar Plc v James Robertson & Sons Limited (“Treat”)* [1996] R.P.C. 281 for assessing similarity between goods

and services also include an assessment of the channels of trade of the respective goods or services.

11. If goods or services fall within the ambit of terms within the competing specification, they are considered to be identical, as stated by the General Court (“GC”) in *Gérard Meric v OHIM*, case T-133/05.

12. A great deal of the submissions made at the hearing, in writing and via evidence, focussed on the meanings of terms in the specifications. The significance of classification and the relevance of class numbers were considered by the Court of Appeal by the courts in *Altecnic Ltd's Trade Mark Application (CAREMIX)* [2002] R.P.C. 639³. In *Avnet Incorporated v Isoact Limited* [1998] F.S.R. 16 Jacob J held that:

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

Jacob J also said, in *Treat*:

“When it comes to 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 trade. After all a trade mark specification is concerned with use in trade”.

³ In *Proctor & Gamble Company v. Simon Grogan*, O-176-08, Anna Carboni, sitting as the appointed person, referred to *Caremix* and said: “32. The International Classification system also applies to Community trade marks. Rule 2(4) of Commission Regulation 2868/95/EC implementing the Regulation on the Community trade mark (40/94) states as follows:

(4) The classification of goods and services shall serve exclusively administrative purposes. Therefore, goods and services may not be regarded as being similar to each other on the ground that they appear in the same class under the Nice Classification, and goods and services may not be regarded as being dissimilar from each other on the ground that they appear in different classes under the Nice Classification.

33. It is thus made plain under the Community trade mark system that class numbers are irrelevant to the question of similarity of goods and services.

34. There is no similarly plain provision in the Act or the Directive. The Court of Appeal has held that, although the purpose of classifying goods and services is primarily administrative, that does not mean that the class numbers in an application have to be totally ignored in deciding, as a matter of construction, what is covered by the specification: *Altecnic Ltd's Trade Mark Application (CAREMIX)* [2001] EWCA Civ 1928, [2002] RPC 639. But neither the Court of Appeal, nor the ECJ, nor any other court or tribunal in the United Kingdom, has gone so far as to state that class numbers are determinative of the question of similarity of goods in the case of national trade marks. On the contrary, they are frequently ignored.”

13. Specifications should not be given an unnaturally narrow meaning, as per *Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another* [2000] FSR 267. In *Thomson Holidays Ltd v Norwegian Cruise Lines Ltd* [2003] RPC 32, although in the context of a non-use issue, the court considered interpretation of specifications:

“In my view that task should be carried out so as to limit the specification so that it reflects the circumstances of the particular trade and the way that the public would perceive the use. The court, when deciding whether there is confusion under section 10(2), adopts the attitude of the average reasonably informed consumer of the products. If the test of infringement is to be applied by the court having adopted the attitude of such a person, then I believe it appropriate that the court should do the same when deciding what is the fair way to describe the use that a proprietor has made of his mark. Thus, the court should inform itself of the nature of trade and then decide how the notional consumer would describe such use”.

14. As referred to above, the opponent filed evidence about the parties' goods and services. This sort of evidence can be of assistance, for example to show what is normal in trade or to explain the nature of complex goods or services. However, as both Counsel themselves said, assessing levels of similarity between the parties' goods and services is ultimately a question of trade mark law, for the decision-taker to decide, and that in these proceedings it is an assessment on the basis of the notional scope of the goods and services, whether defined narrowly or broadly. I will make the comparison by grouping together the applicant's goods or services if they are susceptible to common reasoning⁴.

15. *Data recordings including audio, video, still and moving images and text in compressed and uncompressed form;*

The parties take opposite positions in comparing these goods to the opponent's *Databases*. The opponent says that a database is a collection of data so the applicant's goods are identical to the opponent's *Databases*. The applicant, however, says that databases are simply a way of storing or organising data and that the opponent's argument is akin to saying that a warehouse is identical to whatever is stored within it. This may be true of *Database programs* but, as the applicant's written submissions say, databases are sets of data. Sets of data could be recorded electronically e.g. on a CD or memory stick. There does not seem to be any difference between sets of data (i.e. databases) and data recordings: the content of both is data. The applicant has defined its audio, video and still and moving images and text as being data and so must be taken as such. The applicant's goods *Data recordings including audio, video, still and*

⁴ As per the decision of Mr Geoffrey Hobbs Q.C., sitting as the appointed person, in *Separode Trade Mark* BL O/399/10.

moving images and text in compressed and uncompressed form are identical to the opponent's *Databases*.

16. *Computer software, including software for use in downloading, storing, reproducing and organising audio, video, still and moving images and data in compressed and uncompressed form;*

This term covers software at large. 'Programs' is another term for software so the applicant's *computer software* (at large) is identical to the opponent's *Database programs*. In relation to the specific type of software identified after the word 'including' in the applicant's specification, the software is for use in manipulating data. This must include database software/programs. *Computer software for use in downloading, storing, reproducing and organising audio, video, still and moving images and data in compressed and uncompressed form* is also identical to the opponent's *Database programs*.

17. *Downloadable electronic publications;*

Mr Malynicz cited the Intellectual Property Office's database of trade mark decisions as an example of downloadable publications which are organised on a database. I agree that the publications are not identical to the database in which they are held; they are not the same in nature. However, a database which holds downloadable publications has a symbiotic relationship with the publications: it is a complementary relationship in the sense that to get to the publication one has to interrogate the database and the database would not exist without the publications. The users of the database will be the readers of the publication. There is a good deal of similarity between these goods in the application and the opponent's *Databases*.

18. *Computer, electronic and video games programmes and equipment;*

This section of the applicant's specification is not clearly worded; there is ambiguity over whether *Computer, electronic and video games programmes* are just games or whether there is coverage for computer software at large. Unlike Mr Malynicz, I interpret the wording as computer [games programmes], electronic [games programmes], video [games programmes] and equipment [for] computer games, electronic games and video games. There is no similarity between any of the opponent's class 9 goods (*Database programs and Databases*) and these goods. Database programs may share a similar nature to a game program[me] because they are both computer programs, but this is at the most general of levels: the purpose for the consumer would be that one is for entertainment and the other is for organisation and data access purposes⁵. There is no shared

⁵ In *Galileo International Technology, LLC v European Union (formerly European Community)* [2011] EWHC 35 (Ch) Floyd J stated: "39. The unrestricted specification is of enormously wide scope. The Hearing Officer wisely reminded himself of what Laddie J had said about wide

purpose, no competition, and no complementary relationship. The users may not even be the same. Computer games are often sold on the high street in discrete stores, although online retailers such as Amazon and Play.com sell software for all manner of applications, so there may be some element of shared trade channel, but the same could be said of the multitude of goods sold in supermarkets. This alone does not make them similar.

19. The closest of the opponent's services to these particular goods in the application are *telecommunication services*. There was some debate at the hearing over what this term means. Some of the opponent's evidence was directed towards its interpretation. Mr Malynicz took a broad view of telecommunications as encompassing, e.g. movies, mobile phone use, downloadable publications, downloadable music, wi-fi access, broadcasting, electronic mail services and broadband. Mr Abrahams favoured a narrower interpretation which was essentially that telecommunication services are provided by British Telecom, Orange, Vodafone and the like, but that the term does not cover broadcasting. At this point, it is helpful to turn to the evidence; in particular exhibit SB6, the Ofcom "Communications Market Report" from 2009.

20. Mr Malynicz described the report as providing a snapshot of consumer uses of communications technology and their convergence, up to March 2009. Ofcom, being the regulatory body for these industries, is by definition not the average consumer. However, its report provides some assistance in the task of comparing goods and services because the report looks at the behaviour of the average consumer in purchasing and using the types of goods and services which are reflected in the parties' specifications.

21. The first sentence of the second paragraph of the report refers, separately, to the "UK television, radio and telecoms markets" (and all three as 'communications'). The report itself follows this tripartite approach. The 'key

specifications for computer software in *Mercury Communications Ltd v Mercury Interactive (UK) Ltd* [1995] FSR 850. Laddie J considered that:

"... there is a strong argument that a registration of a mark simply for "computer software " will normally be too wide. In my view the defining characteristic of a piece of computer software is not the medium on which it is recorded, nor the fact that it controls the computer, nor the trade channels through which it passes but the function it performs. A piece of software which enables a computer to behave like a flight simulator is an entirely different product to software which, say, enables a computer to optically character read text or design a chemical factory. In my view it is thoroughly undesirable that a trader who is interested in one limited area of computer software should, by registration, obtain a statutory monopoly of indefinite duration covering all types of software, including those which are far removed from his own area of trading interest. If he does he runs the risk of his registration being attacked on the ground of non-use and being forced to amend down the specification of goods. I should make it clear that this criticism applies to other wide specifications of goods obtained under the 1938 Act. I understand that similar wide specifications of goods may not be possible under the 1994 Act."

40. That was a case decided under the Trade Marks Act 1938, but, like Laddie J, I see no reason why the views there stated should not apply under the [1994] Act. "

points' pages for 'telecoms' focus on use of broadband, fixed telephone lines and mobile phone use. Ofcom's glossary of terms used throughout its report has the following definition for telecommunications (or 'telecoms'):

"Conveyance over distance of speech, music and other sounds, visual images or signals by electric, magnetic or electro-magnetic means".

There is no definition in the glossary for broadcasting but I do not think it is in doubt that TV communications and radio communications would be termed as broadcasting.

22. I have highlighted below a selection of points from the report which help to give some consumer-usage context to the parties' goods and services:

- Page 5 of the report refers to the fact that during 2008/9, 46% of homes in the UK took two or more services from a communications supplier as a 'bundle', e.g. TV, broadband and phone services, as a single service package.
- Page 263: 'Converging technologies' describes different content formats (audio, video, text, pictures) which reach consumers via a range of digital networks (the internet, mobile infrastructure, satellite, cable, digital terrestrial) and consumer devices (PC, TV, mobile etc).
- 85 billion text messages were sent in 2008. Messages are also sent via the internet such as through e.g. Facebook and via gaming consoles (see below).
- Page 266: A growing number of consumers are watching TV and listening to radio online, e.g. "catch-up TV and radio" via computers and mobile handsets (25% of households with the internet). "Customers of Virgin Media, BT Vision and Tiscali TV can now access catch-up content directly through their television set rather than through a computer. In addition, the *iPlayer* is also available via the Nintendo *Wii* and *Sony Playstation 3*, while BSkyB recently announced a deal to make its content available through the Xbox *live* portal from the autumn [2009]. Some smartphones such as the *iPhone* can also access the *iPlayer*."⁶
- Page 306: Games consoles have developed from devices designed only for game-playing into multimedia centres at the forefront of device convergence which allow users to watch live TV, stream *iPlayer* and download films, play networked games and communicate with and chat to other players. Hybrid devices combine broadband content delivery with a

⁶ *iPlayer* is provided by the BBC for catching up on its TV and radio programmes. The report shows that it can be accessed via the internet and also by subscribers to Virgin Media cable TV.

complementary broadcast network (e.g. the BT Vision set-top box); TV and broadband is purchased from the same provider.

- 16% of adults (more than 8 million people) accessed the internet via their mobile phone in the first quarter of 2009. This changing market is driven by 'smartphones' and mobile phone applications ('apps'). Page 210 says:

"...the growing use of applications (or 'apps') on mobile phones in the UK and worldwide has changed the way in which consumers use data services on mobile handsets. This in turn is changing the relationships between operators, handset manufacturers and software providers..."

- On 'apps' (page 211):

"In the last five years many handsets have had the ability to run simple mobile applications, but until recently 'apps' have not had a great impact on the mobile phone industry.

'Apps' exist across many genres, including games, entertainment, utilities, education, travel and lifestyle."

- Apps are available through 'marketplaces' (online shops accessible from an internet browser or through mobile phone handsets) operated by handset manufacturers (e.g. Samsung and Nokia) and by Google (Android Marketplace), Apple (App Store) and Microsoft (Windows Marketplace for Mobile).

"Mobile operators face challenges as they look to monetise the increasing use of mobile applications, with revenues typically split between the developer and the application store provider, and the mobile operator playing no part in the transaction other than to carry the data."

23. Mr Abrahams submitted that there is a clear distinction between broadcasting and telecommunications which he says is shown by the separate sections in the Ofcom report on (i) TV, (ii) radio and (iii) telecommunications. He said:

"The core of telecommunications services, what it actually means, is allowing people to communicate and that means making available a telecommunications network infrastructure over which the customer is permitted to send or receive telecommunications."

Mr Abrahams submitted that one should take care not to confuse the medium through which a service is provided with the service itself; e.g. the online retailer Amazon does not provide a telecommunications service just because it sells goods over the internet and even provides an application for smart phones to

enable consumers to buy goods by using a phone. This point is supported by the Ofcom report which shows that mobile network telecommunications providers get no revenue from the applications, the only part they play being to carry the data. Looking at the Ofcom report, there is some support for Mr Abrahams' position and some for that of Mr Malynicz. I must make the assessment within the legal parameters of the cited authorities: the Ofcom report was not written with *Canon* and *Treat* in mind.

24. Returning to the comparison between the applicant's *Computer, electronic and video games programmes and equipment* and the opponent's *telecommunications services*, it is clear from the Ofcom report that consumers use all manner of devices for different functions (the 'converging' technologies). Gaming consoles are used to communicate with networked players over the internet. This introduces an element of complementarity between gaming equipment and telecommunication service in the form of broadband provision. However, it does not go as far as causing the average consumer to consider that the responsibility for the gaming equipment and telecommunications services lies with the same undertaking; similarly, the channels of trade will not be the same; one does not buy a gaming console from a telecommunications provider. The primary purpose of gaming consoles is to play games but it appears that the communicating with others who are playing games is now an integral feature of modern gaming. Although the nature is not the same (goods and services are not of the same nature), there is a level of sharing of purpose between the gaming equipment and the telecommunication service. On balance, there is a low level of similarity between the applicant's *Computer, electronic and video games equipment* and the opponent's *telecommunications services*. In relation to the *Computer, electronic and video games programmes* themselves, these are not similar to telecommunications services: there is no shared nature, purpose or channels of trade; they are not in competition and are not complementary.

25. *Mouse mats*

Even though the opponent maintains there is similarity between mouse mats and its goods, no serious argument has been made in support, only a vague claim to complementarity. I cannot see any meaningful coincidence within the parameters of the caselaw cited above which reveals any similarity between mouse mats and any of the opponent's goods or services. They are not similar.

26. *Electronic instructional and teaching apparatus and instruments;*

Again, no more than a vague complementarity is claimed here. There is no explanation as to why these goods are important or indispensable for the use of the opponent's goods (or vice versa) so that the average consumer may think that the responsibility for them lies with the same undertaking. They are not similar.

27. *Apparatus for telecommunications, data communications, satellite broadcasting and transmission, television and radio broadcasting, transmission and reception, electronic messaging, access to interactive services and access to the internet;*

I will compare these goods to the opponent's telecommunications services. Mr Abrahams said at one point that "telecommunications means communicating by phone." It think that is too narrow a view of the term and that average consumers, as is borne out in the Ofcom report, would view telecommunications as more than just telephone use; it also covers (at least) the provision of Internet access (fixed line or mobile).

28. I will leave aside for the moment *apparatus for broadcasting* because the applicant has made the specific claim that broadcasting is separate to telecommunications services. *Apparatus for telecommunications, data communications, satellite broadcasting and transmission, television and radio broadcasting, transmission and reception, electronic messaging, access to interactive services and access to the internet* are all telecommunications services. There is a high degree of complementarity between the apparatus and the service: without the apparatus, the service is unviable; without the service, the apparatus is redundant. Telecommunications service providers supply the apparatus with the service (e.g. modem, set-top box, mobile phone or dongle). There is therefore a two-way complementary relationship and a shared channel of trade. The purpose is the same: to enable transmission and reception/telecommunication to take place. The users are the same. There is a high degree of similarity between the opponent's telecommunications services and the applicant's *Apparatus for telecommunications, data communications, satellite transmission, television and radio transmission and reception, electronic messaging, access to interactive services and access to the internet.*

29. *Apparatus for satellite broadcasting, television and radio broadcasting;*

Before looking at these specific goods against telecommunications services, it will be helpful firstly to compare broadcasting as a service with telecommunications. Mr Abrahams submitted that examples of apparatus for broadcasting are radio and TV antennae and transmitters. He said that TV and radio broadcasting is the provision of television and/or radio channels to viewers and listeners, such services being provided by the BBC, ITV, Sky and Virgin Media. Mr Abrahams submitted that this is a different field of activity to the activities of telecommunications companies like Vodafone. This is too narrow bearing in mind the convergence of technologies and service providers. For instance, Sky and Virgin Media broadcast television programmes, they provide customers with broadband either through a fixed line with a modem or as mobile broadband, and customers can bundle together several of their services, so they may rent a telephone line, set-top box, have a mobile phone and broadband connection, all from one single provider. Having previously broadcast radio and

TV programmes, the BBC streams the same programmes via its *iPlayer* service; streaming is a form of telecommunication. As technologies converge (which they had at the date of application), different kinds of digital devices broadcast, transmit and receive data in different content formats (audio, video, text, pictures) via a range of digital networks (the internet, mobile infrastructure, satellite, cable, digital terrestrial).

30. I repeat here that Ofcom's definition of telecommunication is "[c]onveyance over distance of speech, music and other sounds, visual images or signals by electric, magnetic or electro-magnetic means". The Penguin English Dictionary [2003 edition] defines telecommunication as "communication over distance by telegraph, telephone, television etc" and the 2010 edition of the Oxford Dictionary of English defines it as "communication over a distance by cable, telegraph, telephone, or broadcasting". This is a good deal wider than Mr Abraham's interpretation, which he limited to telephone network providers. Mr Malynicz submitted that broadcasting is a subset of telecommunications and that there must therefore be identity. I think the average consumer's perception of where the differences between broadcasting and telecommunications lie is likely to be more blurred than the applicant's view. The convergence of technology has caused market providers to bundle together their internet, phone and television broadcasting services so that there are shared channels of trade. Broadcasting, as perceived by the average consumer, is the transmission of radio or television programs achieved via a more diverse range of media than simply antennae, such as cable and the internet and e.g. the streaming of catch-up programmes: this is telecommunication. The purpose of both is to convey over distance sounds and images. Transmitting TV and radio to a set top box on a cable system, for example, requires telecommunications apparatus and the service which goes with it: these are complementary. So broadcasting apparatus will be used by broadcasting undertakings which also supply telecommunication services, such as Sky and Virgin Media. I find that I agree with Mr Malynicz: broadcasting is a subset (he called it the "inclusion identity principle") of telecommunications.

31. That being the case, I need to assess whether the apparatus for broadcasting is similar to telecommunications services. The users may not be the same; everyone is a consumer of telecommunications services and of broadcasting services, but broadcasting apparatus users are those who broadcast, rather than those who receive broadcasts (which would be reception). The nature and method of use of a service cannot be the same as for goods. In respect of purpose, these are close: the purpose of telecommunications and broadcasting apparatus is to convey over distance sounds and images. Although broadcasting is included within telecommunications, and the apparatus is necessary for the fulfilment of the service, those who provide telecommunications/broadcasting are providing a service rather than the goods

themselves⁷. There is unlikely to be a common trade channel between broadcasting apparatus and the telecommunications/broadcasting service which uses it. I find there is no or only a very low similarity between the opponent's *telecommunications services* and the applicant's *apparatus for satellite broadcasting, television and radio broadcasting*.

32. *Mobile phone fascias and covers*

As for mouse mats, the opponent's case is a vague level of complementarity. There may be an element of this in that mobile phone manufacturers will make covers to protect phones, for separate purchase. However, every street market has stalls where one can buy novelty fascias and covers for phones. They are not indispensable or important for the use of any of the opponent's goods or services, and consumers are used to buying them from various outlets. There is no similarity on any meaningful level with any of the opponent's goods and services.

33. *Parts for all the aforesaid goods*: It is difficult to see how some of the applicant's goods could have parts, e.g. data recordings and mouse mats, but for those that do, the levels of similarity between *parts* and the opponent's goods and services stand or fall with the main goods⁸.

34. *Broadcasting; communications; transmission, broadcast and reception and other dissemination of audio, video, still and moving images, text and data whether in compressed or uncompressed form and whether in real or delayed time; electronic mail services; television screen based information broadcasting and retrieval services; interactive broadcasting services; simultaneous broadcasting, transmission and delivery via the internet, television and radio of audio, video, still and moving images and data whether in compressed or uncompressed form, whether downloadable or non downloadable and whether in real or delayed time;*

In view of my findings in paragraph 30, broadcasting is identical to the opponent's *telecommunication services*. The applicant's term *communications* covers the opponent's term *telecommunication services*, a point conceded at the hearing, and so there is identity here too. The remaining terms are all types of telecommunication, and I therefore find that they are identical to the opponent's *telecommunication services*.

⁷ Comparing wine glasses to wine, the CJEU found no similarity between the goods in *Waterford Wedgwood plc v OHIM* Case C-398/07, paragraph 45: "Despite the existence of a certain degree of complementarity between some glassware and wine, the Court of First Instance regarded that complementarity as not sufficient to find the perception by consumers of a similarity of the goods in question within the meaning of Article 8(1)(b) of Regulation No 40/94."

⁸ See the judgment of the GC in *Ford Motor Co. v OHIM*, Case T-67/07 at paragraph 43.

35. *News information and news agency services;*

Mr Malynicz submitted that there is similarity between these services and the opponent's *providing access to computer databases*. This was chiefly based on the accessing of news information by mobile phone users, the news stories being kept in databases and provided by telecommunication services. Confining news information and news agency services to the core of their meanings, these are services which gather and disseminate news, e.g. Reuters. They are likely to use a database, but then, as Mr Abrahams said, all kinds of services use databases, it does not make all kinds of services similar. On the other hand, both parties' services are in class 38 and both deal with information (either news in the applicant's case or access to computer databases in the opponent's case); there is both a sharing of nature and purpose between a news information service and a service for accessing databases of e.g. news information. Each service would be complementary to the other. There is a good degree of similarity between the applicant's *news information and news agency services* and the opponent's *providing access to computer databases*.

36. *Rental of radio and television broadcasting equipment;*

Mr Malynicz referred to a Sky set-top box as broadcasting equipment; I would call this a receiver. Although the purpose of telecommunications and broadcasting apparatus is to convey over distance sounds and images, the nature and purpose of the rental service is to provide broadcasting equipment for broadcasters on hire; this is not the same as providing actual telecommunications/broadcasting. The users of the opponent's service are the general public while the users of the applicant's service are the broadcasters. There is no complementarity or competition between telecommunications and the rental of broadcasting equipment, although the equipment itself is necessary for the fulfilment of the service of broadcasting (see paragraph 31). I find there is no or only a very low level of similarity between the opponent's *telecommunication services* and the applicant's *rental of radio and television broadcasting equipment* (as opposed to receivers, which are not specified).

37. *Provision of discussion forums;*

The nature of these services is the facility to post messages and read the messages of others. The purpose of discussion forums is debate and exchanges of views, such as a celebrity chef's website for users to swap recipes and tips. It is not a telecommunications service: although it is a form of communication, this is too high a level of generality. Discussion forums are not complementary or in competition with telecommunications, although telecommunications may be complementary for discussion forums which are accessed on the internet. I conclude there is no similarity with the opponent's goods and services.

38. *Provision of information and advisory services relating to any of the aforesaid services.*

These services, as Mr Malynicz said, are 'parasitic' on the main services and so stand or fall with the services to which they relate.

39. *Scientific and technological services and research and design relating thereto; industrial analysis and research services;*

The design of programs is highly complementary to the programs themselves; it is also competitive as the choice is bespoke design or off the shelf programs. This is a technological service. The users and channels of trade will be shared: those who are looking for database programs. Technological services also cover design and research in relation to telecommunications: telecommunications companies continually push the technological boundaries, bringing new technology to consumers and fiercely protecting their patents. The purpose of technological services, research and design in relation to telecommunications, which the term covers, is to enable the continuation or expansion of ways of telecommunicating; there is complementarity with telecommunications services. Although the method of use and users may differ between the applicant's services and telecommunications services, there is complementarity in that consumers may think that the responsibility for those services lies with the same undertaking. The applicant's *technological services and research and design relating thereto* share a good deal of similarity with the opponent's *database programs and telecommunications services*.

40. Although any business sector could be described as an 'industry' and, by extension, 'industrial', the term 'industrial' does not seem to me to cover analysis and research in the computing or telecommunications fields, but is more related to heavy-end industries e.g. petroleum, waste management or other industrial processes. Industrial analysis and research is likely to involve the use of databases, so some complementarity may be present, but beyond this it is difficult to see any other similarity between the opponent's goods and services and the applicant's *industrial analysis and research services*. This logic also applies to the applicant's *scientific services*: the core meaning should be confined to scientific research and design, as opposed to technological research and design: science is the study of the physical and natural world. There is no, or only a very low level, of similarity between the applicant's *scientific services and research and design relating thereto; industrial analysis and research services* and the opponent's goods and services.

41. *Design and development of systems to enable simultaneous broadcasting, transmission and delivery via the internet, television and radio of audio, video, still and moving images and data whether in compressed or uncompressed form,*

whether downloadable or non downloadable and whether in real or delayed time, and research relating thereto;

These services are a subset of *technological services and research and design relating thereto*; following the analysis set out in paragraph 39, there is a good deal of similarity between these services in the application and the opponent's *telecommunications services*.

42. *Design and development of computer hardware and software; design and development of systems for the processing, storage, security, delivery and transmission of data, and research relating thereto; computer programming; computer consultancy services; installation, maintenance, repair and upgrading of computer software;*

These services are highly similar to the opponent's database programs and databases. As said earlier, the design of programs is highly complementary to the programs themselves; it is also competitive as the choice is bespoke design, programming or off the shelf programs. The users and channels of trade will be shared: those who are looking for database programs and those who want the programs and databases maintained, having bought the product.

43. *Graphic design services; design, drawing and commissioned writing for the compilation of websites; creating and maintaining websites;*

The nature of these services appears to be business services; graphic design could be the design of marketing material and stationery or a company logo. Website design is an extension of that process. I cannot see any similarity with any of the goods and services of the opponent. Although the users may be the same (businesses), there is no shared purpose, channel of trade, method of use, no competition and no complementary relationship. They are not similar.

44. *Hosting the websites of others;*

This is the provision of server space and internet connectivity by e.g. Internet service providers so that individuals and companies can make their websites accessible on the Internet. On the face of it there would appear to a highly complementary relationship between hosting and telecommunications (Internet communications). It would have been useful to have had some more information about the perceived similarities between hosting websites and telecommunications. Making the best of it, in addition to the complementary aspect, there may be shared users and similarity in methods of use. There is a reasonable level of similarity with the opponent's *telecommunications services*.

45. *Provision of information and advisory services relating to any of the aforesaid services.*


These are 'parasitic' on the main services and so stand or fall with the services to which they relate.

Average consumer and the purchasing process

46. The average consumer is reasonably well informed and reasonably circumspect and observant, but his level of attention is likely to vary according to the category of goods or services. For both parties, the average consumer for some goods and services will be the general public (e.g. electronic and video games programmes and equipment, database programs and telecommunications). For other goods and services, it will be business professionals (e.g. provision of commercial business information by means of a computer database; computerised database management; compilation of information into a database) and, particularly in relation to the applicant, certain of its goods and services will be purchased by professionals, such as design and development of systems for the processing, storage, security, delivery and transmission of data, and research relating thereto; design and development of systems to enable simultaneous broadcasting, transmission and delivery via the internet, television and radio of audio/video data.

Comparison of trade marks

47. The marks to be compared are:

Opponent's mark	Applicant's mark
YOUR VIEW	

48. 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, without engaging in an artificial dissection of the marks, because the average consumer normally perceives a mark as a whole and does not analyse its details. Both marks consist of two-word phrases (conjoined words, in the applicant's case, about which I say more below) which it would be artificial to dissect: they 'hang together' as wholes. I consider the dominant and distinctive elements of the opponent's mark to be YOUR VIEW, as a whole; similarly, in the application, the dominant and distinctive element is YOUVIEW.

49. Counsel argued at some length about their perceived similarities and dissimilarities⁹. The perception of the average consumer will be of a your view trade mark and a you view trade mark. The meaning and the words is what is going to be remembered; a view by the person being addressed (you/your). The trade marks are clearly orally highly similar and conceptually similar. The stylisation of the application is noted but it does not change the sense and the perception of the trade mark. The absence of the letter r in the application can easily fall victim to the missing letter effect, which is pertinent to trade mark law in relation to imperfect recollection. The trade marks are highly similar.

Distinctiveness of the earlier mark

50. It is necessary to consider the distinctive character of the opponent's mark because the more distinctive it is, either by inherent nature or by use (nurture) the greater the likelihood of confusion¹⁰. 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 public¹¹. The opponent has not filed evidence of use of its mark, so there is no question of whether it is entitled to an enhanced degree of distinctive character gained through use. The assessment to be made is the degree of inherent distinctive character. YOUR VIEW is a view which belongs to the second person (singular or plural). I consider the mark to have an average level of distinctive character; it does not describe the opponent's goods and services, but neither is it invented.

Likelihood of confusion

51. In deciding whether there is a likelihood of confusion between the marks, I must weigh the various factors I have identified. This includes keeping in mind the whole mark comparison and the principle of interdependency, whereby a lesser degree of similarity between the services may be offset by a greater degree of similarity between the trade marks, and vice versa (*Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc.*).

⁹ Mr Abrahams submitted that YOUVIEW is a neologism amounting to more than the sum of its parts. I see nothing in the conjunction of YOU and VIEW which amounts to a neologism as contemplated by the CJEU in Case C-265/00 *Campina Melkunie BV v. Benelux-Merkenbureau* [2004] E.T.M.R. 58⁹: YOUVIEW does not create an impression which is sufficiently far removed from that produced by the mere combination of YOU and VIEW with the result that YOUVIEW is more than the sum of its parts.

¹⁰ *Sabel BV v Puma AG* [1998] RPC 199.

¹¹ *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91.

52. Similarity between marks cannot, however, compensate for absence of similarity between goods, goods and services or between services¹². Consequently, where there is no similarity between the parties' goods and services, there is no likelihood of confusion. Where the goods/services are similar only to a very low degree, these are goods and services to which the average consumer will pay a relatively close amount of attention. Even though there is, overall, a high degree of similarity between the marks and, even allowing for the fact that a visual perception plays the most important part in the purchasing process, the higher level of attention and the lower levels of similarity between the goods and services, coupled with the differences between the marks, will offset a likelihood of confusion. **Consequently, in relation to the following goods and services, there is no likelihood of confusion and the opposition fails:**

Computer, electronic and video games programmes; mouse mats; electronic instructional and teaching apparatus and instruments; apparatus for satellite broadcasting, television and radio broadcasting; mobile phone fascias and covers; parts for all the aforesaid goods;

Rental of radio and television broadcasting equipment; provision of discussion forums; provision of information and advisory services relating to any of the aforesaid services;

Scientific services and research and design relating thereto; industrial analysis and research services; graphic design services; design, drawing and commissioned writing for the compilation of websites; creating and maintaining websites; provision of information and advisory services relating to any of the aforesaid services.

53. In relation to the other goods and services, all of which I have assessed at ranging between identical to a reasonable level of similarity, there is a likelihood of confusion. The visual perception of the marks during the purchasing process carries more weight than the aural perception. Although the degree of conceptual similarity is no more than average, there is a high degree of visual similarity. Lack of conceptual similarity can offset a high degree of visual and/or

¹² The CJEU said in *Waterford Wedgwood plc v OHIM* Case C-398/07: "35 It must be noted that the Court of First Instance, in paragraphs 30 to 35 of the judgment under appeal, carried out a detailed assessment of the similarity of the goods in question on the basis of the factors mentioned in paragraph 23 of the judgment in *Canon*. However, it cannot be alleged that the Court of First Instance did not take into account the distinctiveness of the earlier trade mark when carrying out that assessment, since the strong reputation of that trade mark relied on by Waterford Wedgwood can only offset a low degree of similarity of goods for the purpose of assessing the likelihood of confusion, and cannot make up for the total absence of similarity. Since the Court of First Instance found, in paragraph 35 of the judgment under appeal, that the goods in question were not similar, one of the conditions necessary in order to establish a likelihood of confusion was lacking (see, to that effect, *Canon*, paragraph 22) and therefore, the Court of First Instance was right to hold that there was no such likelihood."

aural similarity¹³, but this is not a rule of thumb¹⁴ and here there is at least an average degree of conceptual similarity between the marks. Even allowing for a high level of purchasing attention, I consider that there will be a likelihood of confusion between YOUR VIEW and YOUVIEW for those goods and service which are identical, highly similar or similar to a good degree. **Consequently, the opposition succeeds in relation to:**

Data recordings including audio, video, still and moving images and text in compressed and uncompressed form; computer software, including software for use in downloading, storing, reproducing and organising audio, video, still and moving images and data in compressed and uncompressed form; downloadable electronic publications; computer, electronic and video games equipment; apparatus for telecommunications, data communications, satellite transmission, television and radio transmission and reception, electronic messaging, access to interactive services and access to the internet; and parts for all the aforesaid goods.

Broadcasting; communications; transmission, broadcast and reception and other dissemination of audio, video, still and moving images, text and data whether in compressed or uncompressed form and whether in real or delayed time; electronic mail services; television screen based information broadcasting and retrieval services; interactive broadcasting services; news information and news agency services; simultaneous broadcasting, transmission and delivery via the internet, television and radio of audio, video, still and moving images and data whether in compressed or uncompressed form, whether downloadable or non downloadable and whether in real or delayed time; provision of information and advisory services relating to any of the aforesaid services.

Technological services and research and design relating thereto; design and development of computer hardware and software; design and development of systems for the processing, storage, security, delivery and transmission of data, and research relating thereto; design and development of systems to enable simultaneous broadcasting, transmission and delivery via the internet, television and radio of audio, video, still and moving images and data whether in compressed or uncompressed form, whether downloadable or non downloadable and whether in real or delayed time, and research relating thereto; computer programming; computer consultancy services; installation, maintenance, repair and upgrading of computer software; hosting the websites of others; provision of information and advisory services relating to any of the aforesaid services.

¹³ Ruiz-Picasso v OHIM, case 361/04 P [2006] E.T.M.R. 29.

¹⁴ As per the GC in *Nokia Oyj v OHIM* Case T-460/07: "Furthermore, it must be recalled that, in this case, although there is a real conceptual difference between the signs, it cannot be regarded as making it possible to neutralise the visual and aural similarities previously established (see, to that effect, Case C-16/06 P *Éditions Albert René* [2008] ECR I-0000, paragraph 98)."

Partial refusal

54. At the conclusion of the hearing, both Counsel referred to the potential for a partial refusal of the application. Mr Malynicz referred to Tribunal Practice Notice (TPN) 1/2012 (previously TPN 1/2011) with the possibility of filing submissions on re-wording of the specifications if more than 'blue pencilling' was appropriate. Mr Abrahams asked me to give him an opportunity to formulate an appropriate form of words in the event that I held that 'broadcasting' should be construed more widely than he had submitted (which I have said it should) but that the applicant should be allowed the mark for TV and radio. In particular he said:

"As it is, my primary submission is that those words just do not overlap telecommunications, but my friend is right. The right course would be to invite submissions if you thought there was a core that could be saved otherwise than by blue pencilling. If you can do it by blue pencilling, then that is fine, but if you think there is something to be said for something narrower then I would ask you to invite submissions."

55. The following paragraphs in the TPN are relevant:

"3.2.2 Defended Proceedings

In a case where amendment to the specification(s) of goods and/or services is required as the result of the outcome of contested proceedings the Hearing Officer will, where appropriate, adopt one or a combination of the following approaches:

a) Where the proceedings should only succeed in part, or where the proceedings are directed against only some of the goods/services covered by the trade mark and the result can be easily reflected through the simple deletion of the offending descriptions of goods/services, the Hearing Officer will take a "blue pencil" approach to remove the offending descriptions of goods/services. This will not require the filing of a Form TM21 on the part of the owner. If, however, any rewording of the specification is proposed by the owner in order to overcome the objection, then the decision of the Hearing Officer will take that rewording into account subject to it being sanctioned by the Registrar as acceptable from a classification perspective;

b) Where the result cannot be easily reflected through simple deletion, but the Hearing Officer can clearly reflect the result by adding a "save for" type exclusion to the existing descriptions of goods/services, he or she will do so. This will not require the filing of a Form TM21 on the part of the owner. If, however, any rewording of the specification is proposed by the owner in order to overcome the objection, then the decision of the Hearing

Officer will take that rewording into account subject to it being sanctioned by the Registrar as acceptable from a classification perspective;

c) If the Hearing Officer considers that the proceedings are successful against only some of the goods/services, but the result of the proceedings cannot be clearly reflected in the application through the simple deletion of particular descriptions of goods/services, or by adding a "save for" type exclusion, then the Hearing Officer may indicate the extent to which the proceedings succeed in his/her own words. The parties will then be invited to provide submissions/proposals as to the appropriate wording for a list of goods/services that reflects his/her findings and after considering the parties' submissions, the Hearing Officer will determine a revised list of goods/services. Subject to appeal, the trade mark will be, or remain, registered for this list of goods/services.

d) This third approach will be taken when a Hearing Officer considers that there is real practical scope to give effect to Article 13, having due regard to the factors in each individual case. For example, the original specification of the international trade mark registration which was the subject of *Giorgio Armani SpA v Sunrich Clothing Ltd* (cited above) was clothing, shoes, headgear. The successful opposition only opposed the registration to the extent that it covered "men's and boys' clothing", thereby leaving other goods covered by the specification as unobjectionable. Such an outcome could not be reflected in changes to the specification via either the 'blue pencilling' approach or the 'save for' type of exclusion. The specification was reworded and the international registration was eventually protected for a specification reading Clothing for women and girls, shoes and headgear. Generally speaking, the narrower the scope of the objection is to the broad term(s), compared to the range of goods/services covered by it, the more necessary it will be for the Hearing Officer to propose a revised specification of goods/services. Conversely, where an opposition or invalidation action is successful against a range of goods/services covered by a broad term or terms, it may be considered disproportionate to embark on formulating proposals which are unlikely to result in a narrower specification of any substance or cover the goods or services provided by the owner's business, as indicated by the evidence. In these circumstances, the trade mark will simply be refused or invalidated for the broad term(s) caught by the ground(s) for refusal."

56. As can be seen, I have undertaken 'blue pencilling' and I have held that the application should be refused for broadcasting, which is the applicant's particular area of concern. In my view, paragraph 3.2.2(d) of the TPN bites in this particular case, especially the last two sentences of that paragraph. Consequently, there will be nothing to be gained from inviting submissions and I decline to do so.

Costs

57. Both sides have achieved a measure of success which I would describe as being roughly 2:1 in favour of the opponent. Consequently, I will reduce the opponent's award of costs by one third of what it would have been if success had been complete. The breakdown is:

Preparing a statement and considering the applicant's statement	£200
Opposition fee	£200
Filing evidence and considering the applicant's submissions	£700
Preparing for and attending a hearing	£700
Total:	£1800
Adjustment as a one third reduction:	- £600
Total	£1200

58. I order YouView TV Limited to pay Total Limited the sum of £1200. 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 30th day of May 2012

**Judi Pike
For the Registrar,
the Comptroller-General**