

O-143-13

TRADE MARKS ACT 1994

IN THE MATTER OF REGISTRATION NO 2419214

IN THE NAME OF CLEVERCAT PRODUCTIONS LIMITED

OF THE TRADE MARKS (A SERIES OF THREE):

The Baba House

the baba house

THE BABA HOUSE

IN CLASSES 9, 16, 24, 25, 28, 41

AND THE APPLICATION FOR REVOCATION

THERE TO UNDER NO 84309

BY

HOHO ENTERTAINMENT LIMITED

1) Section 46 of the Trade Marks Act 1994 (the Act) states:

“(1) The registration of a trade mark may be revoked on any of the following grounds—

(a) that within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the United Kingdom, by the proprietor or with his consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use;

(b) that such use has been suspended for an uninterrupted period of five years, and there are no proper reasons for non-use;

(c) that, in consequence of acts or inactivity of the proprietor, it has become the common name in the trade for a product or service for which it is registered;

(d) that in consequence of the use made of it by the proprietor or with his consent in relation to the goods or services for which it is registered, it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

(2) For the purposes of subsection (1) use of a trade mark includes use in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered, and use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as is referred to in that paragraph is commenced or resumed after the expiry of the five year period and before the application for revocation is made.

Provided that, any such commencement or resumption of use after the expiry of the five year period but within the period of three months before the making of the application shall be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

(4) An application for revocation may be made by any person, and may be made either to the registrar or to the court, except that—

(a) if proceedings concerning the trade mark in question are pending in the court, the application must be made to the court; and

(b) if in any other case the application is made to the registrar, he may at any stage of the proceedings refer the application to the court.

(5) Where grounds for revocation exist in respect of only some of the goods or services for which the trade mark is registered, revocation shall relate to those goods or services only.

(6) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor shall be deemed to have ceased to that extent as from——

(a) the date of the application for revocation, or

(b) if the registrar or court is satisfied that the grounds for revocation existed at an earlier date, that date.”

Section 100 of the Act states:

“100. If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it.”

Consequent upon section 100, in revocation for non-use proceedings the onus is upon the registered proprietor to prove that it has made genuine use of a trade mark, or that there are proper reasons for non-use.

2) The registration procedure for the trade marks The Baba House, the baba house and THE BABA HOUSE (the trade marks) was completed on 3 November 2006. The registration is in the name of CleverCat Productions Limited (CleverCat). The trade marks are registered for:

photographic, cinematographic, optical, teaching apparatus and instruments; recording discs, automatic vending machines and mechanisms for coin operated apparatus; animated cartoons; pre-recorded cd's, dvd's, cd roms; sound and picture recording video cassettes; radios; video games; magnets; electronic publications; amusement apparatus; audio visual teaching apparatus; computer games apparatus; sunglasses; compact disc players; dvd players; egg timers; eye-glass cases; goggles for sports; helmets, protective for sports; holograms; mouse pads; swimming belts; swimming jackets; water wings;

paper, cardboard and goods made from these materials not included in other classes; printed matter including but not limited to books, comic books, albums, babies napkins; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paintbrushes; typewriters and office requisites (except furniture); instructional and teaching material

(except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks; printed publications;

textiles and textile goods, not included in other classes; bed and table covers;

clothing, footwear, headgear;

games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees;

education; providing of training; entertainment; sporting and cultural activities including but not limited to cine films (rental of); club services; entertainer services; film production; game services provided online (from a computer network); live performances; nursery schools; party planning; physical education; publication of books; publication of electronic books and journals on line; publication of texts (other than publicity texts); radio and television programmes (production of); providing online electronic publications (not downloadable); recreation facilities; sound recordings; theatre productions.

The above goods and services are in classes 9, 16, 24 25, 28 and 41 respectively of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended.

3) On 29 February 2012 Hoho Entertainment Limited (Hoho) filed an application for the revocation of the registration under sections 46(1)(a) and (b) of the Act. Under section 46(1)(b) of the Act, Hoho claims that the trade marks have not been used from 16 February 2007 to 15 February 2012. Revocation is sought from 4 November 2011 under section 46(1)(a) of the Act, and from 16 February 2012 under section 46(1)(b) of the Act.

4) CleverCat filed a counterstatement. It states that the registration relates to a children's television series concept which was first conceived by CleverCat in 2002. (The application for registration was filed on 11 April 2006.) CleverCat claims that it "has a commercial arrangement to develop The Baba House for broadcast as a children's television production, which has been underway since early 2010". CleverCat denies that the trade marks have not been put to genuine use in respect of all of the goods and services of the registration. On 27 February 2013 CleverCat limited its claim to genuine use to:

animated cartoons; pre-recorded cd's, dvd's, cd roms; electronic publications;; compact disc players;

printed matter including but not limited to books; stationery;

textiles and textile goods, not included in other classes; bed covers;

clothing, footwear;

games and playthings;

education; entertainment; film production; publication of books; radio and television programmes (production of).

5) Both parties filed evidence. A hearing was held on 22 March 2013. CleverCat was represented by Ms Jessie Bowhill of counsel, instructed by Davenport Lyons. Hoho was represented by Mr Tom St Quintin of counsel, instructed by James Love Legal.

Witness statement of Caroline Roberts of 23 July 2012

6) Ms Roberts is the managing director and “founding owner” of CleverCat.

7) Ms Roberts states that in November 2005 she was made redundant from her job as publisher of Hutchinson Children’s Books at Random House. She decided to invest her redundancy money in an animation project that she had been developing in her spare time since 2002, The Baba House whose characters are five Babas (children dressed in animal playsuits): Baba Tig, Baba Bun, Baba Monkey, Baba Bear and Baba Mousie. Ms Roberts commissioned the illustrator Sam Childs over the period 2003 to 2007 to produce “visuals” for The Baba House project, the Baba characters and subsidiary elements in the form of hand drawn sketches and finished artwork. Ms Roberts states that the name of the show and the names of the characters have not changed since she came up with the concept in 2002.

8) Ms Roberts states that it can take several years to secure agreement with and backing from broadcasters and the necessary funding.

9) Ms Roberts states that THE BABA HOUSE (the trade mark) was first used in the United Kingdom in August 2006 on her The Baba House website, which announced the development of The Baba House animation project. She refers to page 6 of exhibit CR1 which consists of a screenshot of a webpage that shows that the website was under construction. The page indicates that a pilot is in production for presentation at MIPCOM spring 2007. Ms Roberts states that in October 2007 CleverCat was primarily using the trade mark in relation to “photographic, animated cartoons, paper, cardboard and goods made from those materials not included in other classes; printed matter, photographs”. She states that between 2007 and 23 July 2012 the use has extended in respect of the goods and services for which the trade mark is registered. Ms Roberts states that evidence of this can be found in exhibits CR1 and CR2. Pages 7 to 23 of CR1 consist of undated screenshots from the website thebabahouse.com. On page 13 are quotations from unidentifiable persons in relation to watching a DVD of Baba House. Page 14 refers to it being proposed to have 52 episodes.

Various pages refer to watching the show and listening to the songs. Page 21 shows icons that indicate that songs will be played if they are activated. Page 24 has 2012 written in hand upon it and states that the programme is “[i]n development with TVO”. Pages 25 to 39 appear to form a document for pitching the concept. Page 28 refers to test viewings. Page 40 has 2008 written upon it by hand. Pages 40 to 52 appear to be part of another document for pitching the project. Pages 53 to 58 are ideas for “merchandising potential”. These pages show costumes, tableware, books, CDs, DVDs and toys. Pages 59 to 72 are further documents pitching the concept. Page 67 shows a picture of what is described as “The Baba House Team”; the pictures of eight individuals are shown. Page 72 shows unattributed quotations from persons attending MIPCOM 07. Pages 73 to 76 emanate from an article dated 25 October 2007 from digitalartsonline.co.uk in relation to The Baba House concept. Pages 77 to 80 are pages from planit3d.com. They relate to Animazoo providing “multi-capture technology to animate the pilot for children’s television programme, The Baba House”. Pages 84 and 85, from cgw.com from November 2007, refer to Blue Zoo creating the CG characters in The Baba House. Pages 97 to 100 are pages from digitalartsonline.co.uk. An article dated 31 December 2007 is reproduced, the article relates to the work that Blue Zoo did in relation to the animation for The Baba House. The Baba House is described as being “at pilot stage”. Pages 101 to 105 emanate from cartoon-media.eu. The tops of the pages have the following: “CARTOON FORUM: History 2007- Projects”. Included in the list of projects is The Baba House. In pages 106 to 109 an article dated 21 September 2008 appears from mymedicatedlife.blogspot.co.uk, The Baba House was given an award by the blogger for the “most disgraceful pitch line”. Page 110 relates to the Cartoon Forum in September 2008. Parts of the page are illegible. A picture of the characters from The Baba House can be seen. Pages 111-112 relate to the work that Blue Zoo did using Animazoo technology for a pilot for The Baba House. Pages 113 to 115 appear to be pages from a search conducted on an Internet search engine, without reference to date, in which The Baba House is found. Page 116 is largely illegible. Page 117 is a page from the website of Amberwood Entertainment, a Canadian company, dated 28 September 2010. It advises that CleverCat and Amberwood have secured a deal with “Canada’s TVO Kids for their new pre-school series The Baba House”. The page advised that “Amberwood and CleverCat will commence development with TVO Kids this Fall and intend to co-produce the series”. Pages 122 to 124 and 130 refer to the Amberwood CleverCat tie up. Page 131.1 identifies the narrator of The Baba House pilot. Page 132 is a screenshot dated 4 May 2012 from YouTube upon which The Baba House appears. The programme is described as a “kids video”. The video lasts 4 minutes and 15 seconds. Eleven persons have made comments about the video. The video had been viewed 552 times. Pages 136 to 141 consist of copies of letters sent by Ms Roberts in May, June and October 2008 pitching The Baba House. The letters are to CITV, Disney Channel UK, Nickleodeon, Five, Entertainment Rights and Coolabi. In the penultimate letter the following appears:

“The Baba pack comprises DVD of promo, bible, sample scripts, springboard ideas, merchandising ideas and team notes.”

Pages 142 to 146 are copies of e-mails pitching The Baba House and some responses to the pitch. The e-mails are from 2008 and 2009. None of the e-mails indicate that the pitch found a backer. Pages 147 to 151 duplicate pages 101 to 105. Page 152 is a page from “Cartoon Forum Catalogue 08” pitching The Baba House. Page 153 is a duplicate of page 110; however, this copy is legible. The words “Clever Cat Productions’ The Baba House” can be read on a picture of the characters. Pages 154 to 156 consist of a copy of an e-mail from Mike Robinson to Ms Roberts dated 22 October 2007. It relates to the persons that “we” met at Mipcom and proposed follow up actions. Page 157 is a copy of an e-mail dated 22 October 2007 from Ms Roberts to Mr Oliver Ellis of Target UK. It is headed “The Baba House”. Ms Roberts comments on Mr Ellis being at MIPCOM and advises that she will send him “the bible, script and synopses”. Page 158 is a copy of an e-mail of 15 February 2008 from Mike Robinson to Mr Ellis. He states in the e-mail that a script was not sent to him at the end of February as it was decided to do more development work on the project. He writes that a full presentation will be sent by the end of March. Pages 159 to 160 are copies of part of a memorandum of agreement between Amberwood and CleverCat dated 26 October 2009 in relation to The Baba House. The middle two pages of the agreement have not been adduced. The agreement states that Amberwood will contribute 70% of the production budget and CleverCat 30%. Page 161 is a copy of a consideration of The Baba House project from Kay Benbow at CBeebies. Pages 162 to 166 include copies of e-mail correspondence between CleverCat and staff at CBeebies from September 2008 to March 2009. In the final e-mail, of 24 March 2009, Ms Benbow rejects the project for CBeebies. Page 167 consists of two photographs taken at Cartoon Forum 08. One shows a hall poster for the project and another presentation of the project. Pages 169 to 175 consist of letters sent in September and October 2008 pitching The Baba House project and advising that Ms Roberts and Mr Robinson will be at MIPCOM where the project can be discussed. The letters have been sent to persons in Germany, France and Spain. They advise that:

“I thought you might like the opportunity to see the full 3-minute promo – albeit on a smaller scale – and enclose a DVD together with a mini version of our bible, merchandising ideas etc. We also have sample scripts if you would like to see them.”

Pages 176 to 181 are copies of e-mails between CleverCat and Amberwood re The Baba House between 22 October 2007 and 5 December 2007. Pages 180 and 185 consist of e-mail correspondence between an Israeli television channel and CleverCat from August 2008. Pages 183 and 184 contain rejection letters from 27 August 2009 and 21 October 2008 from two German broadcasters. Pages 186 to 189 contain letters from 2007 and 2008 pitching the project and further rejection letters. Ms Roberts states that the website at

thebabahouse.com was “published” in October 2007, she states that thebabahouse.co.uk was linked to the website thebabas.co.uk and “published” on 18 March 2012.

10) Ms Roberts states that from 2006 to 23 July 2012 she and CleverCat have spent in excess of £35,000 in development and marketing costs in respect of The Baba House project including:

The setting up of CleverCat Productions Limited.

Commissioning of a four minute animated promotional video of The Baba House.

Attendance at two trade fairs, MIPCOM 07 and 08, to show The Baba House.

Attendance and presentation at Cartoon Forum 08 to show The Baba House.

The setting up of two The Baba House related websites.

The commissioning of sample scripts for The Baba House.

The commissioning of a title song for The Baba House and four other Baba songs.

The production and printing of full colour “bibles” for The Baba House.

The production and printing of several hundred The Baba House postcards (three designs).

The appointment of a freelance production consultant for The Baba House.

The appointment of a freelance director of The Baba House.

11) Ms Roberts states that Paul Castle was commissioned in May 2003 to create the Baba House song. Ms Roberts had her first “full hearing of the soundtracks” over the telephone in or around 19 March 2005. Matt Bell was commissioned in December 2004 as an animator and the first sample animation of the Baba Bun character dancing was received in August 2005. Kevin Griffiths was commissioned as director in late 2005. Peter Gillbe was engaged as a “consultant” in late 2007 and continues to be consulted from time to time. Blue Zoo Productions, an animation company, was commissioned in March 2007 to initially create a 2½ minute and eventually a 4 minute pilot animation from a storyboard at a cost of £17,825. Sam Childs was commissioned as an illustrator in 2003. A voice artist, John Guilor, was hired and a studio, Loft Studios, hired. Barbara Slade/Hilton Language Service was commissioned between 2008 and 2010 to supply scriptwriting services. Mike Robinson was engaged in 2007 as a “consultant” and continues to be consulted from time to time.

12) The first The Baba House bible¹ was produced for MIPCOM 07 and updated in spring 2008; the current edition was updated for 2012. Ms Roberts states that the bible formed part of a promotional pack of “a complete range of mocked up merchandise demonstrating the potential of the “Baba” brand, the animated DVD, sample scripts and three promotional postcards”.

¹ Ms Roberts advises that a bible is a sales document to pitch a new series and includes “text and visuals of concept, characters, settings, storylines etc”.

13) Ms Roberts states that CleverCat attended trade fairs. In 2007 it attended the MIPCOM trade fair. Ms Roberts pitched the project to various parties. She states that one of these was Mr Oliver Ellis, who, she states, is now the managing director of Hoho; he was then with Target Entertainment. In 2008 Ms Roberts attended MIPCOM 2008 to promote the project. It was whilst there that she received an offer of co-production with Amberwood. In September 2008 Ms Roberts pitched The Baba House project at Cartoon Forum 2008, which is described as a co-production forum for animated series. She states that Mr Ellis was present at this event. Ms Roberts states that Mr Ellis asked for more The Baba House materials.

14) Ms Roberts states that in September 2008 Amberwood signed a development agreement with TVO (both located in Canada). She states that working with TVO over the past two years has meant that the age range of The Baba House Baba characters has broadened. She states that two scripts have been written and approved as well as an educational statement, bible and new website proposal. Ms Roberts states that the project is now in advanced development with TVO and a potential Irish investor has expressed a "very strong interest" if a broadcaster is secured.

15) Ms Roberts comments upon a dispute with Hoho in relation to claims by CleverCat of breach of copyright and confidential information. This relates to a series called Cloudbabies. There is nothing to suggest, nor any claim to the effect, that this dispute is pertinent to the issue of the claimed non-use of the trade marks.

Witness statement of Helen Howells of 20 September 2012

16) Ms Howells is a co-director of Hoho. Her co-director is Oliver Ellis. Ms Howells states that "collectively" they have over 30 years' experience in television development, production and rights management business.

17) Parts of the statement of Ms Howells are submission rather than evidence of fact. Parts of the statement refer to the activities of HoHo which are not pertinent to the current proceedings.

18) Ms Howells states that Ms Roberts suggests that there has been activity under the website thebabahouse.com since October 2007. She states that the work was first published by Ms Roberts on her website on 17 March 2012. Ms Howells states that prior to this there was only a holding page saying "The Babas are coming".

19) Ms Howells states that the investment and set-up costs referred to by Ms Roberts are considered to be normal in developing a television series of any kind. She states that the creation of a promotional video, attendance at trade

fairs, production of bibles, commissioning of scripts and the appointment of “creatives” are all commonplace within the industry.

20) Ms Howells states that Animation Magazine is a trade magazine. In relation to the Cartoon Forum Catalogue, all projects presented in the previous year appear again at the following forum. Ms Howells states that MIPCOM is a key event for anyone in television production, distribution or the broadcast business. She states that it is a trade event.

21) Ms Howells states that it is customary in the business to make a significant investment of time and money to get a project off the ground; some projects will succeed and others fail.

22) Ms Howells comments on the licensing activity that has taken place in relation to Hoho’s Cloudbabies programme. She refers to licences that have been granted by Hoho in relation to toys, DVD, books, magazines, nightwear, underwear, outdoor and wheeled toys, greetings cards and gift wrap, music publishing.

Witness statement of Caroline Roberts of 27 November 2012

23) Most of this witness statement is submission rather than evidence of fact. In the statement Ms Roberts states that “[t]he Cloudbabies mark is irrelevant to the revocation action”. (Although she does go on to spend some time commenting upon this matter.) Ms Roberts states the website babahouse.com “was indeed published in October 2007, at which time it was password protected but available to interested parties”. Exhibited at pages 217 and 218 are copies of two e-mails, dated 17 January 2008 and 19 May 2008, from CleverCat giving the user name and password for access to the website. Ms Roberts states that the website published on 17 March 2012 was a revamped version of the original password protected website, incorporating revised elements requested by TVO. At the hearing, Ms Bowhill conceded that, taking into account that the website was only accessible by password prior to March 2012 and that only two passwords had been given, that the use could not support a claim for use of the trade marks in relation to electronic publications.

24) Ms Roberts states that on 23 October 2012 Amberwood confirmed that it had had “productive meetings with various French and Irish producers/distributors at MIPCOM; and that Amberwood considered itself to be close to finalizing European arrangements which would enable the project to reach its full budget and move forward with both the commissioning and a UK broadcaster”.

Witness statement of Caroline Roberts of 27 February 2013

25) Ms Roberts exhibits at pages 226 and 227 photographs of Mike Robinson and herself promoting The Baba House at MIPCOM 2007. At page 228 a

photograph is exhibited which shows an animated clip of The Baba House being shown to delegates at a breakfast meeting at the Cartoon Forum in Ludwigsburg in September 2008. Also exhibited is a list of United Kingdom based attendees at the forum.

Decision

26) In *Stichting BDO and others v BDO Unibank, Inc and others* [2013] EWHC 418 (Ch) Arnold J commented on the case law of the Court of Justice of the European Union (CJEU) in relation to genuine use of a trade mark:

"In *SANT AMBROEUS Trade Mark* [2010] RPC 28 at [42] Anna Carboni sitting as the Appointed Person set out the following helpful summary of the jurisprudence of the CJEU in Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159 and Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759 (to which I have added references to Case C-416/04 P *Sunrider v OHIM* [2006] ECR I-4237):

"(1) Genuine use means actual use of the mark by the proprietor or a third party with authority to use the mark: *Ansul*, [35] and [37].

(2) The use must be more than merely 'token', which means in this context that it must not serve solely to preserve the rights conferred by the registration: *Ansul*, [36].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end-user by enabling him, without any possibility of confusion, to distinguish the goods or services from others which have another origin: *Ansul*, [36]; *Sunrider*, [70]; *Silberquelle*, [17].

(4) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, i.e. exploitation that is aimed at maintaining or creating an outlet for the goods or services or a share in that market: *Ansul*, [37]-[38]; *Silberquelle*, [18].

(a) Example that meets this criterion: preparations to put goods or services on the market, such as advertising campaigns: *Ansul*, [37].

(b) Examples that do not meet this criterion: (i) internal use by the proprietor: *Ansul*, [37]; (ii) the distribution of

promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle*, [20]-[21].

(3) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including in particular, the nature of the goods or services at issue, the characteristics of the market concerned, the scale and frequency of use of the mark, whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them, and the evidence that the proprietor is able to provide: *Ansul*, [38] and [39]; *La Mer*, [22]-[23]; *Sunrider*, [70]-[71].

(4) Use of the mark need not always be quantitatively significant for it to be deemed genuine. There is no *de minimis* rule. Even minimal use may qualify as genuine use if it is the sort of use that is appropriate in the economic sector concerned for preserving or creating market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor: *Ansul*, [39]; *La Mer*, [21], [24] and [25]; *Sunrider*, [72]”

27) The registration is for a series of three trade marks. The evidence of CleverCat treats the registration as being for one trade mark. The requirements for a series of trade marks, and the nature of use that does not alter the distinctive character of a trade mark in the form in which it was registered, are not the same and cannot be conflated. Hoho has not raised the registration of a series as an issue. Taking into account the nature of the three trade marks, use of any of the trade marks would be use of the others in a form that does not alter the distinctive character of the trade marks in the form in which they were registered. Hoho’s position in relation to non-use does not relate to the form in which the trade mark(s) has been used but whether there has been actual use within the parameters of the case law.

28) CleverCat has been trying to get The Baba House project off the ground. It has produced a pilot, a bible and other material in relation to the project. It has attended trade fairs in relation to the project and written to various broadcasters. These efforts have been made in order to get finance for the project. At the date of the application for revocation no “finished” product had been produced or sold. (By the time of the hearing no product had been produced or sold in the United Kingdom. The evidence in relation to Canada does not establish that the project has actually got off the ground there.) No broadcaster in the United Kingdom, or European Union, has accepted the project.

29) CleverCat's claim to use turned upon paragraph 39 in *Ansul* in relation to goods or services that are about to be marketed:

37. It follows that genuine use of the mark entails use of the mark on the market for the goods or services protected by that mark and not just internal use by the undertaking concerned. The protection the mark confers and the consequences of registering it in terms of enforceability vis-à-vis third parties cannot continue to operate if the mark loses its commercial *raison d'être*, which is to create or preserve an outlet for the goods or services that bear the sign of which it is composed, as distinct from the goods or services of other undertakings. Use of the mark must therefore relate to goods or services already marketed or about to be marketed and for which preparations by the undertaking to secure customers are under way, particularly in the form of advertising campaigns. Such use may be either by the trade mark proprietor or, as envisaged in Article 10(3) of the Directive, by a third party with authority to use the mark.

30) Ms Bowhill submitted that the position of CleverCat was not akin to that of the registered proprietor in BL O/488/12 owing to the attempts to create a market that CleverCat had made with its attendance at trade fairs, production of marketing materials and pitching to broadcasters. She considered that the use was akin to that referred to in the decision in relation to the development of a new aeroplane. However, that example, which is obiter dicta, refers to provisional orders that are taken for aeroplanes. There have been no orders for any product or service under the trade marks. The use shown has been pitching in order to get the financial backing to launch the project. Mr St Quintin prayed in aid the decision of Ms Anna Carboni, sitting as the appointed person, in *Jackson International Trading Company Kurt D Bruhl Gesellschaft m.b.H & Co. KG v The Royal Shakespeare Company* BL O/009/13 at paragraph 17:

"17 I agree with the hearing officer that the letters are not examples of real commercial exploitation of the Mark on the market for beer, but were what I would call "prepreparatory" steps exploring the possibility of creating a beer to which the Mark could be applied. As Mr Malynicz argued, this does not amount to "preparations ... to secure customers" and could not be seen as advertisements for an existing product. Jackson was touting an idea for using the Mark; it was not advertising an existing product available on, or ready to be put on, the market. While Jackson might have hoped to create an outlet for such a product, it had not yet got to that stage; and there was no evidence as to any responses to the letters which would have taken the proprietor any further in that direction."

Ms Bowhill considered that CleverCat's position could be distinguished from that of the registered proprietor in the above decision, owing to the efforts that had been made to get the project onto the market.

31) CleverCat has produced a list of examples from the evidence to support its claims of genuine use. This list is annexed to the decision. Ms Bowhill submitted that the core of the use was an animated cartoon. This core use is put to one side for the moment. The claims in relation to merchandising in relation to this animated cartoon are based on mock-ups of potential spin-off products. As Ms Roberts states “a complete range of mocked up merchandise demonstrating the potential of the “Baba” brand”. None of these products have been produced. There have been no negotiations with manufacturers to make such products. There have been no negotiations with potential licensees. (This is in stark contrast to the licensing activities referred to by Ms Howells in relation to Cloudbabies.) Any use on such products is contingent on the animated cartoon being made and then contingent on the cartoon being a success so that merchandising would be produced to profit from the success. Ms Bowhill conceded that there had not been genuine use in relation to *electronic publications*. In no way can it be considered that any of the following goods are, were, or are, about to be marketed:

electronic publications; compact disc players;

printed matter including but not limited to books; stationery;

textiles and textile goods, not included in other classes; bed covers;

clothing, footwear;

games and playthings;

There was a mere hope contingent on a variety of factors. No concrete steps had been taken in relation to marketing the above goods. There has been no genuine use in relation to the above goods.

32) Ms Bowhill conceded that the production of the pilot programme had been made by a third party. CleverCat is not involved in the actual production of films, television programmes or radio programmes; nor has it made any attempts to set up a business in relation to such production services. *Educational services* is a very wide term, covering everything from post-doctoral research supervision to training a car mechanic. CleverCat has not traded in any educational services nor are any educational services about to be marketed. Its claim to *educational services* is based upon its animated cartoon possibly having an educational function. The same could be said for virtually any form of the media, this is not the same as furnishing an *educational service* or being about to do so.

33) The core of the claimed use, animated cartoons, could give rise to use in relation to *animated cartoons; pre-recorded cd's, dvd's, cd roms* and to *entertainment services* directly related to the *animated cartoons*.

34) At the time of the filing of the application no products or services were about to be marketed in the United Kingdom. No “marketable” products or services had been produced. Ms Bowhill emphasised the steps that had been made to try to launch the project. She submitted that the efforts made went well beyond the possibility of creating a product or touting an idea. However, that is not the requirement of *Ansul*. The requirement of *Ansul*, where no product has been placed on the market, is that the goods or services are about to be marketed. To be about to be marketed a product or service has to exist. It is not possible to be “about to market” something that does not exist; and in this case, for which there is no finance to make it exist. At the time of the application for revocation, and still in the United Kingdom, no product or service existed. So CleverCat does not satisfy the *Ansul* requirement in relation to the core product and related services. CleverCat had an idea for a product, which was well fleshed out, but had no product as it was pitching the project, in order to try and get finance to set it up. Ms Bowhill commented on the gestation period that a television programme could have. This might be the case but such an argument relates to proper reasons for non-use rather than actual use. Throughout these proceedings, CleverCat, which has had the benefit of legal representation, has claimed that it has made genuine use of the trade marks, not that it had proper reasons for non-use.

35) CleverCat has had plenty of time to bring forward a product or service so that it was in a position to be about to be marketed. It has not succeeded. CleverCat has made efforts to get funding but its project has been rejected in the United Kingdom and the European Union. In *Armin Häupl v Lidl Stiftung & Co KG* Case C-246/05 the CJEU considered the issue of proper reasons for non-use. It held:

“54 It follows that only obstacles having a sufficiently direct relationship with a trade mark making its use impossible or unreasonable, and which arise independently of the will of the proprietor of that mark, may be described as ‘proper reasons for non-use’ of that mark. It must be assessed on a case-by-case basis whether a change in the strategy of the undertaking to circumvent the obstacle under consideration would make the use of that mark unreasonable. It is the task of the national court or tribunal, before which the dispute in the main proceedings is brought and which alone is in a position to establish the relevant facts, to apply that assessment in the context of the present action.”

In *Jerome Kerner v Stewart Waters* BL O/276/09 Mr Iain Purvis QC, sitting as the appointed person, stated:

“31. However, I believe it is important to remember that there are two issues here. It is not enough for the trade mark proprietor to show that the event or situation on which he relies as the reason for non use is one of those reasons which would be regarded in law as a “proper” excuse for not using a trade mark. He must also prove as a question of fact that it

was the “reason” why the mark was not used. Put another way, as the Appointed Person, Geoffrey Hobbs QC expressed it in Cervinet Trade Mark [2002] RPC 30 at 51:

“...it seems to be necessary, when considering whether there were proper reasons for non-use, for the tribunal to be satisfied that in the absence of the suggested impediments to use there could and would have been genuine use of the relevant trade mark during the relevant five-year period. The impediments in question will otherwise have been inoperative and I do not see how inoperative impediments can rightly be taken into account when determining whether there really were “proper reasons” for non-use....”

32. I therefore consider that before considering whether the alleged reasons were “proper”, the tribunal must first be satisfied on the balance of probabilities that, in the absence of the situation or event which is relied on, there would in fact have been genuine use of the Trade Mark by the trade mark owner or with his consent within the relevant 5 year period.

37. In Armin Haupl the ECJ established the following test for identifying proper reasons:

“...only obstacles having a sufficiently direct relationship with a trade mark making its use impossible or unreasonable, and which arise independently of the will of the proprietor of that mark, may be described as ‘proper reasons for non-use’ of that mark.”

[paragraph 54].

38. The phrase “independently of the will of the proprietor” (which comes from Article 19(1) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)) is crucial here. Even if Mr Waters’ decision to negotiate with Mr Kerner did make it unreasonable for him to exploit the mark himself whilst the negotiations continued (as he claims), it was not an obstacle arising independently of his own will. On the contrary, the decision to negotiate was one which he himself freely made. There were alternatives, including suing for infringement (as the Hearing Officer himself notes at paragraph 25 of his Decision) or simply continuing to pursue every avenue for exploiting his game.

The inability to obtain financial backing did not make it **impossible or unreasonable** to use the trade marks. As the hearing officer stated in BL O/488/12:

“Having access to the means and resources required to bring the goods to market is a normal business requirement. The absence of such means

cannot therefore be classed as an obstacle outside the proprietor's control and a proper reason for non-use."

36) Consequently, if CleverCat had pleaded that it had proper reasons for non-use, this argument would have been rejected.

37) There had not been genuine use of the trade marks for any of the goods and services of the registration prior to the date of the application for revocation. The registration is revoked under section 46(1)(a) of the Act from 4 November 2011 in respect of all of the goods and services.

38) Hoho have been successful is entitled to a contribution towards its costs. Costs are awarded upon the following basis:

Revocation fee:	£200
Preparing a statement and considering the statement of CleverCat:	£300
Preparing evidence and considering evidence of CleverCat:	£750
Preparing for and attending hearing:	£750
Total:	£2,000

CleverCat Productions Limited is ordered to pay Hoho Entertainment Limited the sum of £2,000. 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 3rd day of April 2013

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

Annex

	<u>Trademark Class</u>	<u>Pages of exhibit</u>
1	<p><u>Class 09</u> Animated cartoons</p>	<ul style="list-style-type: none"> • p.14 (animated cartoons/audio visual teaching apparatus) – mentions about animation “3D motion capture CGI.” (exhibit CR-1) • P.16 and 17 – shows characters of the show (animated cartoons) (exhibit CR-1) • P.24 –38 (development of animated cartoon) – slides stating details of audience, characters, format, music, storylines. (exhibit CR1) • P.39 – (development of animated cartoon) – references to Clevercat Productions, 2 Sides Tv, Amberwood Entertainment (exhibit CR1) • P.40 – p.52 (development of animated cartoons) – references to characters, details of concept, format, general specs regarding age group. (exhibit CR1) • P.73 –76 (promotion of animated cartoon) article on website of ‘Digital Arts online’ called ‘Blue Zoo captures child like motion’ (exhibit CR-1) • P.77 –80 (promotion of animated cartoon) article on the website of ‘Plant3D’ called ‘Animazoo’s Multi – Capture MOCAP animates the Baba House.’ (exhibit CR1) • P.81 –96 (promotion of animated cartoon) – article on the website of ‘Computer Graphics World’ called ‘Moving on Up – Part II’ (exhibit CR1) • P.97 –100 (promotion of animated cartoon) article on website of ‘Digital Arts Online’ called ‘Building a House of Fun.’ (exhibit CR1) • P.101 – 105 (promotion of animated cartoon) article on the website of ‘cartoon – media.eu’ setting out their 2008 selected projects on their cartoon form. The Baba House is on p.104. (exhibit CR1) • P.106 – 109 (promotion of animated cartoon) article on the website of ‘my medicatedlife.blogspot.co.uk’ called ‘The Bitter Animator Cartoon Forum ‘08 Awards.’ Baba House mentioned at p.107. (exhibit CR1)

- P.110 and p.153 (promotion of animated cartoon) article in the 'Animation Magazine' called 'The Shape of Toons to come'(exhibit CR1)
- P.111 -112 (promotion of animated cartoon) article on the website of 'en.souvr.com.' Article is a case study called 'Animazoo Solution – Multicapture Mocap' and is all about 'The Baba House.' (exhibit CR1)
- P.113 -115 – (promotion of animated cartoon/electronic publications) list of 29 websites that mention either 'Baba House' or 'Clevercat Productions' or both. (exhibit CR1)
- P.117 – (promotion of animated cartoon) – article on the website of 'amberwoodent.com' from archive for September 2010 'New Amberwood Co-Production Finds Home at TVO Kids' – references to the Baba House and CleverCat productions. (exhibit CR1)
- P.122 – (promotion of animated cartoon) – article on the website of 'www.2.telefilm.gc.ca' referring to Amberwood Entertainment and that the 'Baba House' is in development. (exhibit CR1)
- P.124 - (promotion of animated cartoon) article on the 'kidscreen' website called 'Amberwood – Clevercat co-production hits TVO kids.' (exhibit CR1)
- P.130 – (promotion of animated cartoon) – article on the 'kidscreen' website called 'TV News.' Reference to Amberwood and Clever cat co – production of the Baba House. (exhibit CR1)
- P.131.1 – 131.2– information on 'castingcallpro.com' citing John Guilor as a narrator for the Baba House pilot (exhibit CR1)
- P.132 – 135 - (promotion of animated cartoon) youtube clip of the Baba House with comments below. FYI p.134 -135 are copies of p.132- 133. (exhibit CR1)
- P.136 -141 (promotion of animated cartoon) – letters from Clevercat Productions to CITV (p.136), Disney Channel UK (p.137), Nickelodeon (p.138), Children's Programming at Five (p.139), Entertainment Rights (p.140), Coolabi (p.141). (exhibit CR1)
- P.142 – (promotion of animated cartoon) Email chain dated 22 September 2008 between Caroline Roberts and David Weiland of the BBC. (exhibit CR1)
- P.143 (development/promotion of animated cartoon) – email from Oli Hyatt at Blue

		<p>Zoo to Caroline Roberts and Mike Robinson dated 26 September 2008. (exhibit CR1)</p> <ul style="list-style-type: none"> • P.144 – 145 (development/ promotion of animated cartoon) email chain dated 25 July 2008 and 28 November 2008 between Caroline and Tanya Cumberland at Disney Channels UK. (exhibit CR1) • P.146 – (development/promotion of animated cartoon) - email dated 17 March 2009 from Caroline Roberts to Kay Benbow and Jackie Edwards at the BBC. (exhibit CR1) • P.147 - 151 (promotion of animated cartoon) article on the website of 'cartoon – media.eu' setting out their 2008 selected projects on their cartoon form. The Baba House is on p.150. (exhibit CR1) • p152 (promotion of animated cartoon) page from Cartoon Forum catalogue. (exhibit CR1) • P.154 – 156 (development/promotion of animated cartoon) – email from Caroline Roberts to Mike Robinson • P.157 (development/promotion of animated cartoon – email dated 22 October 2007 from Caroline Roberts to Oliver Ellis at Target TV. (exhibit CR1) • P.158 (promotion of animated cartoon) – email dated 15 February 2008 from Mike Robinson to Oliver Ellis. (exhibit CR1) • P.161 (promotion of animated cartoon) – feedback sheet from Kay Benbow of Cbeebies. (exhibit CR1) • P.162 – 166 (promotion of animated cartoon) - correspondence with Cbeebies and BBC Worldwide. (exhibit CR1) • p.167 – (promotion of animated cartoon) big screen presentation (exhibit CR-1) • P.168 (promotion of animated cartoon) – email dated 26 September 2008 from Oliver Hyatt to Mike Robinson and Caroline Roberts (exhibit CR1) • P.169 - 175 (promotion of animated cartoon) – letters from Clevercat Productions Ltd to Cartoon Forum and MIPCOM in Germany, France and Spain. (exhibit CR1) • P.176 – 179, 181 - 182 (promotion/development of animated cartoon) email chain dated November/December 2007/October between Chantal Ling at Amberwood Animation and Mike Robinson and Clevercat Productions. (exhibit CR1) • P.180 – (promotion/development of animated cartoon) – email chain between Maytal
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	<p>Nissim and Mike Robinson and Clevercat Productions Ltd (exhibit CR1)</p> <ul style="list-style-type: none"> • P.183 – (promotion of animated cartoon) – letter from Kl.KA to Clevercat Productions Ltd dated 27 August 2009. • P.184 - (promotion of animated cartoon) – letter from NDR Fernsehen dated 21 October 2008. (exhibit CR1) • P.185 – (promotion/development of animated cartoon) – email chain between Maytal Nissim of HopTV and Mike Robinson and Caroline Roberts. (exhibit CR1) • P.186 (promotion of animated cartoon) letter dated 9 July 2008 to Cookie Jar Entertainment from Caroline Roberts. (exhibit CR1) • P.187 (promotion of animated cartoon) – letter to Zebra TV Channels Ltd from Caroline Roberts dated 24 October 2007 (promotion of animated cartoon) (exhibit CR1) • P.188 (promotion of animated cartoon) – letter from Coolabi Productions Limited dated 19 June 2008 to Caroline Roberts. (exhibit CR1) • P.189 – (promotion of animated cartoon) letter from Nickelodeon to Caroline Roberts dated 26 August 2008. (exhibit CR1) • P.217 – (promotion of animated cartoon) – email from Clever Cat Productions to Nick Wilson (exhibit CR-5) • P.218 – (feedback on animated cartoon) – email from Nick Wilson of Channel 5 to Clever Cat Productions (exhibit CR-5) • P.219 – (development of animated cartoon) email from Nickelodeon UK – (exhibit CR-5) • P.228 – (animated clip of The Baba House being shown to a large audience at the breakfast meeting at Cartoon Forum in Ludwigsburg) (exhibit CR-7)
Pre-recorded cd's, dvd's, cd roms	<ul style="list-style-type: none"> • P.55 – (pre – recorded cd's, dvd's,) bottom left hand corner (exhibit CR-1) • P.57 and p.69 - (pre-recorded DVD) (exhibit CR-1) • P. 58 (pre – recorded cd) of "the Baba House – Music." (exhibit CR-1)
Electronic publications	<ul style="list-style-type: none"> • p 2- 4 (Registering of website – (exhibit CR-1) • P. 6 -23 – (electronic publication) website for Baba House – (exhibit CR-1)

		<ul style="list-style-type: none"> • P.113 -115 – (promotion of animated cartoon/electronic publications) list of 29 websites that mention either ‘Baba House’ or ‘Clevercat Productions’ or both. (exhibit CR1) • P.132 – 135 - (providing electronic publications (not downloadable)) youtube clip of the Baba House with comments below. FYI p.134 -135 are copies of p.132- 133. (exhibit CR-1)
	Compact disc players	<ul style="list-style-type: none"> • p55 (bottom left) (CR-1)
2	<u>Class 16</u>	
	Printed matter including but not limited to books	<ul style="list-style-type: none"> • p.53 - ‘Playing outside, Activity Book,’ ‘the babas go brumming,’ ‘say hello’ – (books) – (exhibit CR-1) • p.55 – books (exhibit CR-1) • p.59 – 61 (postcards) (exhibit CR-1) • p226-227 (postcards) (exhibit CR-7) • p.167 (posters) (exhibit CR-1)
	Stationery	<ul style="list-style-type: none"> • p.56 – colouring book, paints, crayons (exhibit CR-1)
3	<u>Class 24</u> Textiles and textile goods, not included in other classes	<ul style="list-style-type: none"> • p.55 bibs (exhibit CR-1)
	Bed covers	<ul style="list-style-type: none"> • p.56 – bed cover and pillow cases (exhibit CR-1)
4	<u>Class 25</u> Clothing	<ul style="list-style-type: none"> • p.54 – clothing (jumpers with Baba prints and Baba costumes, Baba towels) (exhibit CR-1) • p.55 – bibs (exhibit CR-1)
	Footwear	<ul style="list-style-type: none"> • p.54 footwear (Baba slippers) (exhibit CR-1)

5	<u>Class 28</u> Games and playthings	<ul style="list-style-type: none"> • p.55 – (playthings) – plate, top left hand corner also sippy cup and lunch box (exhibit CR-1) • p.56 – baby mobile, toy clock (exhibit CR-1) • p.56 top left hand corner – (playthings) Baba doll, finger puppets and children’s building blocks. (exhibit CR-1)
6	<u>Class 41</u> Education	<ul style="list-style-type: none"> • p.11 (education/entertainment) “imagine a place where you can recognize your friends and siblings with all their different personalities...imagine a world of your very own where you can go every day and see children just like you doing things just like you.” (exhibit CR-1) • p.12 (education/entertainment) “imagine that there is a group of independent, fun role models who will share with and encourage your child through the milestones of early childhood.” (exhibit CR-1) • P.16 – (education/entertainment) “By using motion capture and authentic child voices it comes as close as possible to creating a cast of characters that walk, talk and interact just like real children.” (exhibit CR-1) • p.18 - 19 (education/entertainment) –shows reaction of children to test view of the shows. (exhibit CR-1) • P.25 (education/entertainment) “its a place to meet a group of loyal friends who mirror young viewers’ developing language, behaviour and experiences and with whom they can share al the thrills and spills of growing, learning and most importantly, having fun.” (exhibit CR-1)
	Entertainment	<ul style="list-style-type: none"> • P.55, p57, p.69 –cd of the Baba House and p. 58 cd of “the Baba House – Music.” (exhibit CR-1) • p.11 (education/entertainment) “imagine a place where you can recognize your friends and siblings with all their different personalities...imagine a world of your very own where you can go every day and see children just like you doing things just like you.” (exhibit CR-1)

	<ul style="list-style-type: none"> • p.12 (education/entertainment) “imagine that there is a group of independent, fun role models who will share with and encourage your child through the milestones of early childhood.” (exhibit CR-1) • P.16 – (education/entertainment) “By using motion capture and authentic child voices it comes as close as possible to creating a cast of characters that walk, talk and interact just like real children.” (exhibit CR-1) • p.18/19 (education/entertainment) –shows reaction of children to test view of the shows. (exhibit CR-1) • P.25 (education/entertainment) “its a place to meet a group of loyal friends who mirror young viewers’ developing language, behaviour and experiences and with whom they can share al the thrills and spills of growing, learning and most importantly, having fun.” (exhibit CR-1)
Film production	<ul style="list-style-type: none"> • Production of four minute animation. P.57 and p.69 - (pre-recorded DVD) (exhibit CR-1)
Publication of books	<ul style="list-style-type: none"> • p.53 - ‘Playing outside, Activity Book,’ ‘the babas go brumming,’ ‘say hello’ – (publication of books) – (exhibit CR-1) • p.55 – books (publication of books) (exhibit CR-1)
Radio and television programmes (production of)	<ul style="list-style-type: none"> • P.24 (radio and television programmes (production of) – “The Babas House in development with TVO,” p.40 shows Clevercat productions to produce the Babas House, (exhibit CR-1) • P.39 – (production of radio and television programmes) – references to Clevercat Productions, 2 Sides Tv, Amberwood Entertainment (exhibit CR1) • P.122 – (production of radio and television programmes) – article on the website of ‘www.2.telefilm.gc.ca’ referring to Amberwood Entertainment and that the ‘Baba House’ is in development (exhibit CR-1) • P.123 – (production of radio and television programmes) – article on ‘C21 media’ website, article called ‘ Amberwood, Clevercat ready Baba House’ - references to

- Clevercat Productions and Amberwood Entertainment producing the Baba House. (exhibit CR-1)
- P.124 - (production of radio and television programmes) article on the 'kidscreen' website called 'Amberwood – Clevercat co-production hits TVO kids.' (exhibit CR-1)
 - P.136 -141 (production of radio and television programmes) – letters from Clevercat Productions to CITV (p.136), Disney Channel UK (p.137), Nickelodeon (p.138), Children's Programming at Five (p.139), Entertainment Rights (p.140), Coolabi (p.141). (exhibit CR-1)
 - P.142 – (radio and television programmes (production of)) Email chain dated 22 September 2008 between Caroline Roberts and David Weiland of the BBC. (exhibit CR-1)
 - P.143 (production of radio and television programmes) – email dated 26 September 2008 from Oli Hyatt at Blue Zoo to Caroline Roberts and Mike. (exhibit CR-1)
 - P.144 – 145 (radio and television programmes (production of)) email chain dated 25 July 2008 and 28 November 2008 between Caroline and Tanya Cumberland at Disney Channels UK. (exhibit CR-1)
 - P.146 – (radio and television programmes (production of) - email dated 17 March 2009 from Caroline Roberts to Kay Benbow and Jackie Edwards at the BBC. (exhibit CR-1)
 - P.157 (radio and television programmes (production of)) – email dated 22 October 2007 from Caroline Roberts to Oliver Ellis at Target TV. (exhibit CR-1)
 - P.159 – 160 (radio and television programmes (production of)) – 'the Baba House Memorandum of Agreement Co – Production.' Agreement between Amberwood Production Services Inc and Clevercat Productions to jointly, develop and finance and co – produce the series. Executed 26 October 2009. (exhibit CR-1)
 - P.162 – 166 (radio and television programmes (production of)) - correspondence with Cheebies and BBC Worldwide (exhibit CR-1)
 - P.168 (radio and television programmes (production of)) – email dated 26 September 2008 from Oliver Hyatt to Mike Robinson and Caroline Roberts (exhibit CR-1)
 - P.176 – 179, p.181-182 (radio and television programmes (production of)) email chain

		<p>dated November/December 2007 between Chantal Ling at Amberwood Animation and Mike Robinson and Clevercat Productions. (exhibit CR-1)</p> <ul style="list-style-type: none"> • P.180 – (radio and television programmes (production of) – email chain between Maytal Nissim and Mike Robinson and Clevercat Productions Ltd (exhibit CR1) • P.183 – (radio and television programmes (production of) – letter from K.I.K.A to Clevercat Productions Ltd dated 27 August 2009. • P.219 – email from Nickelodeon UK – (production of radio and television programmes) (exhibit CR-5) • Production of four minute animation. P.57 and p.69 - (pre-recorded DVD) (exhibit CR-1)
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