

O-166-14

TRADE MARKS ACT 1994

**IN THE MATTER OF TRADE MARK APPLICATION 2650502
IN THE NAME OF MAMAS & PAPAS (HOLDINGS) LIMITED
IN RESPECT OF THE FOLLOWING TRADE MARK IN CLASS 12**

OCARRO

AND

OPPOSITION (NO 400114) THERETO BY RECARO HOLDING GMBH

THE BACKGROUND AND THE PLEADINGS

1) The trade mark **OCARRO** was filed by Mamas & Papas (Holdings) Limited (“the applicant”) on 30 January 2013. It was published in the Trade Marks Journal on 22 February 2013 in respect of prams and pushchairs in class 12.

2) Recaro Holding GmbH¹ (“the opponent”) opposes the registration of the above trade mark on grounds under sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”). Two earlier marks are relied upon, both of which consist of the trade mark **RECARO**:

- i) Community trade mark (“CTM”) registration 91256 which was filed on 1 April 1996 and which completed its registration process on 11 August 1998. The mark is relied upon in respect of the following class 12 goods:

Seats, arm rests, safety belts, head rests, rails, rods and bars for fastening these parts to one another and/or to the vehicle; shock absorbers for safety belts, seats and head rests; moulded plastic and/or elastic parts for seats and dashboards, mouldable plastic head rests; fittings for the aforesaid goods; all the aforesaid goods for equipping the interior of motor vehicles.

The opponent claims to have made genuine use of its mark in relation to these goods and, also, that it has a reputation for them.

- ii) International registration (“IR”) 987151 which designated the EU for protection on 27 August 2008 (claiming a priority date of 26 March 2008). Protection has yet to be conferred in respect of the IR, it is currently under opposition. The mark is relied upon in respect of the following class 12 goods:

Vehicle seats and their parts; seats for apparatus for locomotion by land, air or water and their parts; safety seats for children for vehicles; vehicle seats accessories, in particular head rests for vehicle seats, seat covers for vehicle seats, safety belts for vehicle seats, paddings for safety belts; vehicle parts for the passenger compartment; automobiles and the parts, aircraft and their parts, railway rolling stock and their parts, boats and their parts, wheelchairs and their parts; pushchairs and their parts, in particular seats, hoods and covers for pushchairs; all preceding goods included in this class.

The opponent claims that its mark has a reputation for these goods.

¹ The opposition was initially launched by Recaro Beteiligungs GmbH, but, as detailed later, its name was changed to Recaro Holding GmbH and the Tribunal advised accordingly.

3) Given their filing dates, both marks qualify as earlier marks in accordance with section 6 of the Act. Given that the CTM completed its registration process more than five years before the date on which the applicant's mark was published, it is subject to the proof of use provisions as set out in section 6A of the Act. The provisions do not apply to the IR because protection has yet to be conferred upon it; the IR's absence of conferred protection means that the applicant's mark cannot be the subject of a final refusal on the basis of the IR, so, if the opponent succeeds on the basis of the IR alone, that decision will be provisional, dependant on the conferring of protection.

4) The applicant filed a counterstatement denying the grounds of opposition. In its counterstatement the applicant highlighted a discrepancy between the name of the opponent (the initial name) and the name of the proprietor of the earlier marks: Recaro Beteiligungs GmbH on the one hand and Recaro Holding GmbH on the other. The applicant put the opponent to proof of use in relation to the CTM.

5) Only the opponent filed evidence. Both sides filed written submissions. The matter came to be heard before me on 21 March 2014 at which the applicant was represented by Ms Sylvie Tate of Groom Wilkes & Wright LLP and the opponent by Mr Dominic Murphy of Withers & Rogers LLP.

THE EVIDENCE

6) The opponent's evidence comes from Ms Susan Cosmovici, managing director of Recaro Child Safety Ltd ("RCS"), the daughter company of Recaro Child and Safety GmbH & Co Kg, which, in turn, is owned by the opponent. Ms Cosmovici explains that the name of the opponent changed from Recaro Beteiligungs GmbH to Recaro Holding GmbH. An extract (together with an English translation) is provided from the German trade register to support this.

7) Ms Cosmovici explains that RCS has been selling child safety seats for vehicles, pushchairs, carry cots, bases, car seat protectors, foot muffs and parts and fittings since 1998, products which bear the trade mark RECARO. She states that the mark is prominently used in advertising for the products. Exhibits SC2, SC3 and SC4 are catalogues for products sold in the UK:

- SC2 is headed RECARO and carries the description "RECARO Young Line child safety systems". It is for the collection "2012/2013". The products include car seats for children, both the upright variety for older children and the carry cot style for babies. There is a stroller/pushchair. There are accessories including foot muffs and, also, a carry cot to be used with a stroller, so making it more pram-like. Individual products often have a sub-brand (the stroller is called a "Babyzen"), but the RECARO name is used in conjunction therewith.

- SC3 is an undated RECARO brochure focusing on adult seats for cars.
- SC4 is an undated RECARO brochure headed “Young Seats – child restraint systems” which depicts various child seats for cars and some accessories such as strap cushions.

8) Ms Cosmovici states that the products have been sold directly to up to 300 retailers in the UK for around the last 14 years, including, from 2000, Mothercare (in 50 stores), and, from 2007, John Lewis (31 stores) and Kiddicare (11 stores). Sales are also made through independent retailers. Exhibit SC4 contains a large number of invoices to various companies including: John Lewis, Amazon, Kiddicare, Halfords, Snowflakes, The Pram Shop, K300, Mothercare and Jan Stewart Pram & Nursery. They are mainly (but not exclusively) dated from within the relevant period. By cross-referencing with the brochures, and by the invoice entries themselves, the majority of goods appear to relate to child seats; there are, though, a number of invoices relating to the sale of the stroller products. Exhibit SC5 contains sales data and turnover figures. Sales have risen from 16,000 products in 2006 to 39,000 in 2011. The data is headed “Child safety seat turnover in the UK” but below the data there is further text which reads “all product – no matter what the selling price is (mixture between seats, strollers, adaptors...)”

9) Advertising expenditure has risen from £83,000 in 2006 to £127,000 in 2011. Reference is made to advertising in newspapers (including the Sunday Times) and periodicals (including a number aimed at parents and parents-to-be). Exhibit SC8 contains various invoices relating to this advertising and some examples of the advertisements. Most relate to child seats, but at least five relate to strollers, the so called “Babyzen by Recaro”. The RECARO brand has also been promoted at various trade fairs including the Autosport International Show in Birmingham, the Harrogate Nursery Fair, the Birmingham Motor Show and, also, other car shows. Photographs of some of the exhibition stands are provided, some of which show adult car seats, child car seats and strollers. Ms Cosmovici states that the mark was used in a television programme called “HOW TO ...Prepare for your baby’s arrival” but there is little I can take from this as the documentary itself (or even clips of it) have not been provided.

THE OPPONENT’S NAME

10) As highlighted by the applicant, there was initially a discrepancy between the name of the opponent and the name of the entity listed as the owner of the earlier marks. The potential relevance of this is that only the proprietor of an earlier mark may lodge an opposition based on that earlier mark. However, Ms Cosmovici has explained that the name of the opponent simply changed. I am satisfied that Recaro Beteiligungs GmbH and Recaro Holding GmbH are one and the same legal entity, so no issues arise. Ms Tate (the applicant’s representative) made no submissions about this at the hearing.

SECTION 5(2)(b) OF THE ACT

11) I will firstly consider the matter on the basis of the IR because this mark is not subject to the proof of use provisions. Section 5(2)(b) of the Act reads:

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

(a)

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade 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.”

12) The Court of Justice of the European Union (“CJEU”) has issued a number of judgments which provide guiding principles relevant to this ground. In *La Chemise Lacoste SA v Baker Street Clothing Ltd* (O/330/10), Mr Geoffrey Hobbs QC, sitting as the Appointed Person, quoted with approval the following summary of the principles which are established by these cases¹:

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

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, who is deemed to be reasonably well informed and reasonably circumspect and observant, but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind, and whose attention varies according to the category of goods or services in question;

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

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

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

(f) and beyond the usual case, where the overall impression created by a mark depends heavily on the dominant features of the mark, it is quite

possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

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

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

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense;

(k) if the association between the marks causes the public to wrongly believe that the respective goods [or services] come from the same or economically-linked undertakings, there is a likelihood of confusion."

The goods

13) The applicant seeks registration of its mark for:

Prams and pushchairs

14) The earlier IR includes the following goods:

Safety seats for children for vehicles

Pushchairs and their parts

15) The applied for "pushchairs" are self-evidently identical to pushchairs covered by the IR. The applied for prams and the IR's pushchairs are not identical, however, the purpose, methods of use, and the trade channels are the same and it is self-evident that the goods are similar to the highest possible degree. I also accept Mr Murphy's submission that both prams and pushchairs are similar to safety seats for children for vehicles – the purpose of the goods is to safely transport children and the goods will be sold through the same channels to the same consumers. Although the method of use is different, there is still a reasonable (but not high) degree of similarity. Mr Murphy referred to child seats fitting into prams or pushchairs, a form of composite product - however, there is nothing in the evidence about this so this submission has little weight.

The average consumer

16) The average consumer is deemed to be reasonably observant and circumspect. However, the degree of care and attention used can, of course, vary depending on what is involved. Despite Mr Murphy's skeleton argument referring to the goods being "directed at the public at large, who will display an average level of attention", he referred at the hearing to the goods representing a big investment and that a high level of attention will be adopted during the purchasing process. Ms Tate agreed with the submissions Mr Murphy made at the hearing. I also agree. Items such as prams, pushchairs and child safety seats are purchased infrequently. They are not low cost items. Safety aspects play an important role in the purchasing process as does function and comfort. The degree of care and consideration is higher than the norm, a reasonably high level of care and attention will be adopted, albeit not of the very highest degree. The average consumer will be a parent or guardian of a young child.

17) There was a disagreement between the representatives as to whether the visual or aural aspects of the marks were most important. Mr Murphy felt that the aural impact of the marks took on more significance because parents would talk to each other, giving recommendations of certain brand names which could be misheard and, thus, confused when the goods were subsequently purchased. Ms Tate considered that the visual impact of the marks was more important because the goods will be selected normally in person, so encountering the marks visually.

18) In my view, a potential purchaser of the goods will spend a reasonably significant amount of time considering the purchase. The average consumer will likely consider a mixture of sources: website reviews, magazine reviews, product brochures (both physical and online), physical inspection of goods etc. Whilst I do not rule out the possibility of average consumers seeking opinions from other parents, this will also often include a visual aspect as well as an aural one because the already purchased goods (which will likely display a trade mark) may be inspected. What I have described suggests that the visual impact of the marks will be more significant than the aural impact in whether there exists a likelihood of confusion.

Comparison of the marks

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

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20) From a visual perspective, Mr Murphy highlighted that the marks are of a similar length, with the last four letters of each being the same –CARO. Ms Tate focused on the fact that the beginnings of the marks (which she said took on more importance) were totally different. She also highlighted the visual impact that the letters CC will have in the OCCARO mark and that it begins and ends with a letter O (which she said was unusual in the English language) which gave the OCCARO mark a different visual impact which was absent from RECARO. Ms Tate felt that, in totality, the marks were not similar. I agree more with Ms Tate than Mr Murphy. Whilst there is some similarity on account of the sharing of the letters –CARO, the quite different beginnings do, in my view, produce a notable and obvious point of visual difference when the marks are considered in totality. Having two letters C rather than one would not ordinarily create much of a difference between two marks, but it at least contributes to the different beginnings. The O-O point is not in my view that strong, but, nevertheless, I consider that the net effect of the similarities and differences means that, when the marks are considered in totality, there is only a low level of similarity on a visual level.

21) From an aural perspective, RECARO will be articulated as RE (as in “ree”) – CAR - O or possibly REC (as in “wreck”) – AR (as in “r”) - O. OCCARO will be pronounced as OC (as in “ock”) – CAR - O or possibly OCC (as in “ock”) –AR (as in “R”) - O. Variations on a theme are also possible but none which make any material difference. The number of syllables is the same and the endings are very similar. There is a difference in the beginning sounds but the difference is less acute than that measured from the visual perspective. I consider there to be a moderate to reasonable degree of aural similarity.

22) Mr Murphy argued that there was some conceptual similarity given, effectively, that both marks share the same CARO element. This is, in my view, far too analytical a point to accept. Both marks will be seen as invented words or, alternatively, unknown words of foreign origin. Both marks may be assumed to be of Italian origin, but there is no specific meaning that will be attached to either. There is no conceptual hook for the average consumer to pack the marks away for future recall. The conceptual assessment is neutral – there is neither conceptual similarity nor conceptual difference.

The distinctiveness of the earlier mark

23) The degree of distinctiveness of the earlier mark must be assessed. This is because the more distinctive the earlier mark (based either on inherent qualities or because of use made), the greater the likelihood of confusion (see *Sabel BV v. Puma AG*, paragraph 24).

24) From an inherent perspective, and as already observed, the RECARO mark is an invented word with no suggestive or allusive qualities towards the goods for which it is registered. As such, I consider that it is high in inherent distinctive

character. The mark has also been used. However, on the face of it, the turnover and unit sales are not that high. No evidence has been presented to demonstrate the share of the relevant market(s). Mr Murphy submitted that this was a field in which there were many players and, therefore, such sales should be regarded as significant. I believe it is wrong to infer this on the basis of the evidence presented. Furthermore, whilst there has been advertising in certain publications, the frequency is not given. On the basis of the evidence before the tribunal, I do not consider it appropriate to infer that the distinctiveness of the mark has been enhanced to any material extent. Nevertheless, the mark is to be regarded as highly distinctive on account of its inherent qualities.

Likelihood of confusion

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

26) The goods are identical/highly similar; this is important because this may offset a lower degree of similarity between the marks. The earlier mark has a high degree of inherent distinctiveness for the identical/highly similar goods involved; this is another factor in favour of the opponent. I must bear in mind that average consumers rarely have the chance to make direct comparisons between trade marks and must, instead, rely on the imperfect picture of them kept in their mind. In this case there is no conceptual hook for either mark so making imperfect recollection of more potential significance. However, the degree of care and attention likely to be used by the average consumer militates against this (to some degree) because the higher than normal degree of attention used may result in a greater capacity to remember the marks more perfectly; this does not mean that the principle of imperfect recollection is inoperable in relation to the conflicting goods, but merely that its impact is lessened. A careful balancing act of all these factors needs to be undertaken, including that the visual impact of the marks is of more importance. I have undertaken such a balancing act and I come to the view that there is no likelihood of confusion. The respective marks will be recalled with a sufficient degree of precision that the differences between them will be noticed. The marks will not be mistaken for one another. I have also borne in mind that confusion can be indirect, but I see no reason why the average consumer will consider that the goods sold under the respective marks come from the same or an economically undertaking merely because both end in CARO. **The opposition under section 5(2)(b), to the extent based upon the IR, is hereby dismissed.**

The CTM – likelihood of confusion

27) In case of appeal, I will also give my view on whether the opponent's other earlier mark places it in any different position. The earlier mark is subject to proof of use and is registered for the following goods:

Seats, arm rests, safety belts, head rests, rails, rods and bars for fastening these parts to one another and/or to the vehicle; shock absorbers for safety belts, seats and head rests; moulded plastic and/or elastic parts for seats and dashboards, mouldable plastic head rests; fittings for the aforesaid goods; all the aforesaid goods for equipping the interior of motor vehicles.

28) If anything, the opponent is in a worse position because, even setting aside whether the mark has been genuinely used, the CTM, unlike the IR, does not cover pushchairs. This means that the goods are not identical or highly similar to the goods of the application. The opponent's argument on the basis of the CTM is that it covers child car seats (which I would have accepted had been genuinely used), goods which I have already found to be reasonably (but not highly) similar to the goods of the application. However, in my view, the absence of identical/highly similar goods is a further obstacle to the opponent. Therefore, even if I am wrong on my finding in relation to the IR (based on identical/highly similar goods), I still say that there is no likelihood of confusion in relation to the CTM (based on reasonably similar goods). There is, though, a further potential problem. The specification of the CTM, as set out above, includes the qualification "all the aforesaid goods for equipping the interior of motor vehicles". So the operative part of the specification, in so far as the opponent relies, is: seats for equipping the interior of motor vehicles. After the hearing, I wrote to the parties to ask them for written submissions on the impact of the qualification. The crux of the opponent's submissions was that:

In reply to the Hearing Officer's query, the Oxford Dictionary gives the definition of "equip" as "supply with the necessary items for a particular purpose." If parents want to carry their babies or children in their car, a car seat is necessary for them to do so as (i) it keeps the child in place and safe and; (ii) it is a legal obligation to use child or baby seats when carrying children of a certain age or babies in a car. Thus, the equipment of car seats for babies and children is absolutely necessary for carrying babies or children in a car.

29) The applicant's submissions were based on the use of the word "necessary" in the definition of "equip", the argument being that child seats are not necessary for equipping a car. It also argued that the opponent had clearly crafted its specification with precision and that child car seats were not specifically mentioned. It argues that the specification covers goods which are fitted to vehicles as standard, not goods which are only purchased if required.

30) In relation to understanding what terms used in specifications mean/cover, the case-law informs me that “in construing a word used in a trade mark specification, one is concerned with how the product is, as a practical matter, regarded for the purposes of the trade”² and that I must also bear in mind that words should be given their natural meaning within the context in which they are used; they cannot be given an unnaturally narrow meaning³. I also note the judgment of Mr Justice Floyd in *YouView TV Limited v Total Limited* where he stated:

“..... Trade mark registrations should not be allowed such a liberal interpretation that their limits become fuzzy and imprecise: see the observations of the CJEU in Case C-307/10 *The Chartered Institute of Patent Attorneys (Trademarks) (IPTRANSLATOR)* [2012] ETMR 42 at [47]-[49]. Nevertheless the principle should not be taken too far. *Treat* was decided the way it was because the ordinary and natural, or core, meaning of "dessert sauce" did not include jam, or because the ordinary and natural description of jam was not "a dessert sauce". Each involved a straining of the relevant language, which is incorrect. Where words or phrases in their ordinary and natural meaning are apt to cover the category of goods in question, there is equally no justification for straining the language unnaturally so as to produce a narrow meaning which does not cover the goods in question.”

31) Whilst I understand the opponent’s submissions, it seems to me to be a straining of the language to come to the conclusion reached by the opponent. The relevant terminology of the specification will be understood as a seat in the body of a vehicle, it will not be understood as a child seat which parents can use to transport their children. Given this, there is virtually no (or only a very low) degree of similarity between a seat in a vehicle and a pram/pushchair – this, coupled with the other factors already assessed, means that the opponent’s position is worsened. **There is no likelihood of confusion with the CTM.**

² See *British Sugar Plc v James Robertson & Sons Limited* [1996] RPC 281

³ See *Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another* [2000] FSR 267

SECTION 5(3) OF THE ACT

32) Section 5(3)⁴ of the Act reads:

“5-(3) A trade mark which-

(a) is identical with or similar to an earlier trade mark, shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of Community trade mark, in the European Community) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.”

33) In order to succeed under this ground the earlier mark must have a reputation. In *General Motors Corp v Yplon SA (Chevy)* [1999] ETMR 122 and [2000] RPC 572 the CJEU stated:

“The degree of knowledge required must be considered to be reached when the earlier mark is known by a significant part of the public concerned by the products or services covered by that trade mark.”

34) I have already commented upon the opponent’s evidence. Whilst I accept that it has used its mark, the criticisms I have already made apply equally here. I am not satisfied that the evidence provided establishes a reputation as set out in the case-law. **The claim fails at the first hurdle.** However, even if I am wrong on that then any reputation that does exist in relation to the goods set out in the evidence will relate to child car seats and not pushchairs. As I have already stated, the evidence paints a picture of a much greater proportion of use being made in relation to the former as opposed to the latter. From that perspective, I will consider whether a link will be made between the respective marks. In *Adidas-Salomon*, the CJEU stated:

“The infringements referred to in Article 5(2) of the Directive, where they occur, are the consequence of a certain degree of similarity between the mark and the sign, by virtue of which the relevant section of the public makes a connection between the sign and the mark, that is to say, establishes a link between them even though it does not confuse them (see, to that effect, Case C-375/97 *General Motors* [1999] ECR I-5421, paragraph 23). The existence of such a link must, just like a likelihood of confusion in the context of Article 5(1)(b) of the Directive, be appreciated globally, taking into account all factors relevant to the circumstances of the case (see, in respect of the likelihood of confusion, *SABEL*, paragraph 22,

⁴ Section 5(3) was amended by The Trade Marks (Proof of Use, etc) Regulations 2004 (SI 2004 No. 946) giving effect to the judgments of the CJEU in *Davidoff & Cie SA and Zino Davidoff SA v Gofkid Ltd* (C- 292/00) and *Adidas-Salomon AG and Adidas Benelux BV v Fitnessworld Trading Ltd* (“*Addidas-Salomon*”) (C-408/01)).

and Marca Mode, paragraph 40).”

In *Intel Corporation Inc v CPM (UK) Ltd (C-252-07)* (“Intel”), the CJEU provided further guidance on the factors to consider when assessing whether a link has been established. It stated:

“41 The existence of such a link must be assessed globally, taking into account all factors relevant to the circumstances of the case...

42 Those factors include:

- the degree of similarity between the conflicting marks;
- the nature of the goods or services for which the conflicting marks were registered, including the degree of closeness or dissimilarity between those goods or services, and the relevant section of the public;
- the strength of the earlier mark’s reputation;
- the degree of the earlier mark’s distinctive character, whether inherent or acquired through use;
- the existence of the likelihood of confusion on the part of the public”.

35) In relation to the above factors, I have already assessed the degree of similarity between the marks (low visually, moderate to reasonable aurally and neutral conceptually), that the goods (child car seats against pushchairs/prams) are reasonably similar with the same relevant part of the public being targeted. There was no likelihood of confusion (of course this is not a pre-requisite). The earlier mark is inherently highly distinctive. In terms of the strength of the reputation, this is somewhat difficult to assess because my primary finding was that there was no reputation – it follows that if I am wrong on that then any reputation is at the lower end of the spectrum. Weighing all these factors, the relevant public will view the marks as distinct from each other. I see no reason why the earlier mark would even be brought to mind. **In my view no link is established and the claim also fails for this reason.**

36) The above findings are made upon the basis of the IR. For similar reasons to that already expressed, the opponent is no better position considering the matter from the perspective of the CTM.

COSTS

37) The opposition having failed, I consider it appropriate to make an award in favour of the applicant on the basis of the standard scale:

Preparing a statement and considering the other side's statement
£300

Considering evidence
£400

Attending the hearing
£400

38) I hereby order Recaro Holding GmbH to pay Mamas & Papas (Holdings) Limited the sum of £1100. This should be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 15th day of April 2014

Oliver Morris
For the Registrar,
The Comptroller-General

ⁱ The leading judgments are: *Sabel BV v. Puma AG* [1998] R.P.C. 199, *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer* [1999] R.P.C. 117, *Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V* [2000] F.S.R. 77, *Marca Mode CV v. Adidas AG + Adidas Benelux BV* [2000] E.T.M.R. 723, Case C-3/03 *Matrazen Concord GmbH v GmbGv Office for Harmonisation in the Internal Market* [2004] ECR I-3657 *Medion AG V Thomson multimedia Sales Germany & Austria GmbH* (Case C-120/04) and *Shaker di L. Laudato & Co. Sas* (C-334/05).