TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION No 2211210
BY FLAIR LEISURE PRODUCTS PLC
TO REGISTER THE MARK DISCOVERY TIME
IN CLASS 28

AND

IN THE MATTER OF OPPOSITION THERETO
UNDER No 50973
BY DISCOVERY COMMUNICATIONS INC

TRADE MARKS ACT 1994

IN THE MATTER OF Application No 2211210
by Flair Leisure Products Plc to register
the mark Discovery time in Class 28

and

IN THE MATTER OF Opposition thereto under No 50973
by Discovery Communications Inc

DECISION

1. On 12 October 1999 Flair Leisure Products Plc applied to register the mark DISCOVERY TIME for the following goods in Class 28 - "Toys, games and playthings; but not including any such goods in the form of or relating to model or toy vehicles". The application is numbered 2211210.

2. On 15 May 2000 Discovery Communications Inc filed notice of opposition to this application. The opponents operate in the entertainment industry making television programmes, principally of a documentary and educational nature, and produce the DISCOVERY CHANNEL satellite broadcasting channel. Their activities are also said to include the sale of merchandise and products associated with their television programmes. The opponents are the proprietors of numerous UK and Community trade mark applications and registrations. These are set out in the Annex to this decision. The opponents contend that the applied for mark is similar to their marks because the word DISCOVERY is common to them all.

3. Arising from the above the opponents object as follows:

(i) **under Section 5(2)(b)** on the basis of Nos 2109562A and 2113926A which, it is said, cover identical goods

(ii) **under Section 5(3)** on the basis of their marks other than Nos 2109562A and 2113926A. Specifically the opponents base their claim on their reputation arising from satellite television services

(iii) **under Section 5(4)(a) (and the law of passing off)** on the basis of their goodwill in the UK through use of the word DISCOVERY in relation to satellite television programmes and the operation of the DISCOVERY CHANNEL satellite television station from April 1989.

4. There is also a reference to the opponents' marks enjoying well known mark status within the meaning of Article 6 bis of the Paris Convention. It is suggested that this constitutes an earlier right for Section 5(4) purposes. Section 6(1)(c) of the Act makes specific provision

for well known marks by bringing them within the definition of an 'earlier trade mark'. A claim that a mark is well known can therefore form the basis of an objection under Section 5(1), (2) and (3) but not Section 5(4). However, given the opponents' use is largely within the scope of their earlier trade mark registrations, I do not think a well known mark claim gives rise to significantly different issues in the circumstances of this case.

5. The applicants filed a counterstatement admitting that the opponents make television programmes but making no further admissions as regards their use. The applicants suggest that the word DISCOVERY is not especially distinctive. They deny the grounds of opposition.

6. Both sides ask for an award of costs in their favour. Only the opponents filed evidence. Neither side has asked to be heard and neither side has filed written submissions. Acting on behalf of the Registrar and after a careful study of the papers I give this decision.

Opponents' evidence

7. The opponents filed a declaration by Mark Hollinger, Executive Vice President Corporate Operations & General Counsel of Discovery Communications Inc.

8. He firstly provides details of the opponents' applications and registrations as set out in the Annex to this decision and sets out the opponents' main areas of business.

9. Mr Hollinger says that the trade mark DISCOVERY CHANNEL was first used in 1989. The composite mark (of 2109562A) incorporating the globe device has been in use since Autumn 1995. DISCOVERY CHANNEL is described as a television network transmitted by cable and satellite which broadcasts programmes dealing predominantly with nature, history, inventions, adventure and education. In Europe the service is provided by Discovery Communications Europe based in London. A copy of the opponents' annual report for 1999 is exhibited at MH2. The number of UK subscribers to the DISCOVERY CHANNEL has increased steadily from 103,653 in 1989 to 5,594,219 in 1999. In 1996 some £1.1 million was spent on advertising the opponents' products (whether this means programmes or other types of products is not clear) with advertising on national radio and television as well as the print media. Prior to 1996 there are said to have been widespread references to DISCOVERY CHANNEL in the UK media and through the company's house magazine (examples are exhibited at MH3). Also exhibited at MH4 are examples of the abbreviation of DISCOVERY CHANNEL to DISCOVERY in the UK media.

10. Mr Hollinger goes on to say that in September 1994 the use of the mark DISCOVERY CHANNEL was extended to home videos and in March 1995 to multimedia products. By March 1996 use extended also to T-shirts and books. He goes on to say that:

> "Since that date the use of DISCOVERY CHANNEL on merchandise has been extended to bags, blankets, chair totes, caps, hats, telescopes, binoculars, watches, travel alarms, electric weather equipment, sports flares, flash lights, compasses, magnifiers, knives, calendars, cards, stationery, charts, transfers, toys and games such as model building kits, paper aeroplanes, stacking rings, soft toys, 'Free Willy'

adoption kits, puppets, novelties, tree growing kits, books, videos, CD's, candle holders, candlesticks, lamps, prisms, letter openers, clothing such as ties and T-shirts, radios, blankets, watches, brooches, vases, pens, telescopes, thermometers, bowls, plates, mirrors, picture frames and framed pictures."

11. In support of these claims Mr Hollinger exhibits a letter from Carlton Home Entertainment, the opponents' licensee, in relation to home videos in the UK prior to 25 September 1996 (covering a payment of £20,586.15). He also exhibits a list of the home videos sold (MH6) and media references to these DISCOVERY CHANNEL products prior to October 1996 (MH7).

12. Mr Hollinger describes the merchandising process as follows:

> "The consumer merchandise sold by Discovery is available from the DISCOVERY CHANNEL STORE outlet in London's Heathrow Airport and also from the Nature Company outlet at Gatwick Airport. This Heathrow consumer outlet opened in September 1997. There is now produced and shown to me marked Exhibit MH8 a copy of the Spring 1997 catalogue of merchandise including items sold through the DISCOVERY CHANNEL STORE. It will be seen that the products include toys and games such as model building kits, paper aeroplanes, stacking rings, soft toys, Free Willy adoption kit, and puppets, novelties, tree growing kits, books, videos, CD's, candleholders, candlesticks, lamps, prisms, letter openers, clothing such as ties and T-shirts, radios, blankets, watches, brooches, vases, pens, telescopes, thermometers, bowls, plates, mirrors, picture frames and framed pictures.
>
> The products branded with THE DISCOVERY CHANNEL trade mark and sold at the Heathrow store now include T-shirts, sweatshirts, micro-fibre jackets, baseball caps, magnets, key chains, tools such as knives and multi-purpose tools and playing cards.
>
> There is also now produced and shown to me marked Exhibit MH9 photographs of the DISCOVERY CHANNEL STORE outlet at Heathrow airport. The photographs also show some of the goods available at that store including humpback whale adoption kit, clothing, books, soft toys, videos, puzzles and other toys."

13. The annual turnover of the outlets described above was:

1997/98	£504,379
1998/99	£455,853

Similar outlets have also been operating in the US since at least 1996 selling products of the type found in the Spring 1997 catalogue exhibited at MH8.

14. Since 1 July 1995 the opponents have operated an Internet website at www.discovery.com giving full details of their broadcasting, entertainment and education services as well as offering merchandise for sale on line. A print out from the site dated 9 September 1999 is exhibited at MH10 though I note it refers to www.discoverystore.com, a separate website referred to later in Mr Hollinger's evidence (the two sites are linked).

Mr Hollinger draws attention to references to the terms DISCOVERY CHANNEL ON LINE, DISCOVERY ONLINE and DISCOVERY ONLINE STORE on the website.

15. The following products are said to have been available for purchase in the UK through the www.discovery.com website in September 1996 - home videos, CD-ROMs and clothing. In 1998 the stock had increased to include music, telescopes, fountains, books, electronic goods, children's toys, games, kits and gadgets. Media references to the website prior to October 1996 are exhibited at MH11.

16. The final exhibit (MH12) contains printouts from another Internet website, www.target.com, showing details of various toys sold bearing the DISCOVERY CHANNEL trade mark. These are products produced under licence from the opponents. Also included in this Exhibit are toy products shown on the www.discoverystore.com website.

17. Mr Hollinger makes the following further claim:

> "Discovery uses not only the trade mark DISCOVERY CHANNEL, but also other trade marks that comprise the distinctive "DISCOVERY" part of the mark. In particular, my company uses the trade mark WILD DISCOVERY, DISCOVERY TODAY and DISCOVERY NEWS as programme titles in the UK."

18. That completes my review of the evidence.

19. The opponents' use and reputation under their mark(s) are relevant to each of the grounds of opposition and essential to two of them (those under Section 5(3) and 5(4)(a)). My findings based on the evidence outlined above are as follows:

- the opponents have a significant reputation in the UK in relation to broadcasting and the provision of TV programmes under the mark DISCOVERY CHANNEL. The substantial media coverage and the number of UK subscribers, particularly since 1992, bears witness to this.

- there is some evidence that these core services are sometimes abbreviated to or referred to simply as DISCOVERY.

- there have been sales of videos based, I think, on DISCOVERY CHANNEL programming. However, the only quantification offered is a relatively modest sum of £20,586 prior to September 1996. The mark used on the covers of the videos is DISCOVERY CHANNEL and globe device. Other multimedia products are said to be offered but no sales information is given.

- reference is made to an extensive list of merchandised products available through the Discovery Channel and Nature Company's stores at Heathrow and Gatwick airports. The evidence presents problems of interpretation. In particular there is no breakdown of sales to indicate which of the wide range of goods have actually been sold; the merchandising catalogue for Spring 1997 features the DISCOVERY CHANNEL and globe device on its cover and at

various points in the brochure. This mark is also visible on certain goods but others carry third party brands and the branding on others (if any) is unclear; prices are in dollars.

- the website material contained in the evidence gives rise to similar problems of interpretation.

- Exhibit MH12 deals specifically with toys and educational items. I note that some of the individual items are referred to under the mark DISCOVERY CHANNEL whilst other (mainly soft toys) refer to DISCOVERY solus. Many of the items shown are not proper to Class 28. The copyright references suggest that this material is after the relevant date. Again prices are in dollars and the availability and take-up of goods in the UK has not been commented upon.

20. I turn now to the grounds of opposition starting with Section 5(2)(b). This 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."

21. I take into account the guidance provided by the European Court of Justice (ECJ) in *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 and *Marca Mode CV v. Adidas AG* [2000] E.T.M.R. 723.

22. The opponents rely on Nos 2109562A and 2113926A, both of which have the capacity to be earlier trade marks within the meaning of Section 6(1) of the Act. However, at the time of writing neither has progressed to registration. In the event, therefore, that the opponents were in a position to succeed on the basis of these marks this opposition would need to be suspended to await the fate of the underlying applications. Details of these applications (relevant parts of their specifications only) are as follows:

No.	**Mark**	**Class**	**Specification**
2109562A	Discovery CHANNEL	28	Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees; dolls, doll clothes and doll accessories; board games, role-playing games,

		computer software games, none being for use with a TV receiver; none of the aforesaid goods being models and similar goods.
2113926A  	28	Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees; dolls, doll clothes and doll accessories; board games, role-playing games, computer software games, none being for use with a TV receiver; none of the aforesaid goods being models or similar goods to models.

Similarity of goods

23. There can be little doubt that the application in suit contains goods which are identical to those contained in the opponents' own applications. Both, for instance, contain games and playthings. The applicants have also applied for 'toys' which must be closely similar, if not, the same as games and playthings.

Similarity of marks

24. In the light of my review of the evidence I am unable to conclude that the opponents can lay claim to any enhanced degree of distinctive character for their mark as a result of the use made of it in relation to Class 28 goods. The matter therefore, turns on the inherent characteristics of the parties' marks.

25. The following comparison is based on the words DISCOVERY CHANNEL (No 2113926A) rather than those words with a globe device (No 2109562A) as the former appears to offer the opponents a slightly more advantageous starting point. The comparison is thus between DISCOVERY CHANNEL and DISCOVERY TIME though I should say that the word DISCOVERY in the opponent's mark is more prominent than the word CHANNEL.

26. Clearly both marks consist of two words with DISCOVERY as a common element. It is also the first element and therefore is prominent within the marks particularly so in the case of the opponents' mark where it is given rather greater prominence. Nevertheless the words CHANNEL and TIME would not be ignored within the totality of the marks. I bear in mind also that each of the words that go to make up the respective marks are ordinary dictionary words and will be seen as such by the average consumer. There is no reason to suppose that imperfect recollection of the marks is likely to be a particularly significant factor.

27. Similar points arise in relation to aural/oral consideration. The presence of the common word DISCOVERY will be noted but the existence of a common element does not in itself mean that the average consumer would regard the totalities as being similar. There is the

further point that the comparative prominence of the elements in the opponents' mark will not be apparent in oral usage.

28. Given the obvious point of similarity between the marks and the fact that the marks contain ordinary dictionary words it seems to me that consumer perception is likely to be shaped by whether the marks as wholes can be said to convey similar or different ideas. Two possibilities arise as to what the average consumer might take from the opponents' mark. Those familiar with the television programmes would be likely to understand CHANNEL to mean television/broadcasting channel. Those not familiar with the opponents' core activities would, I suspect, consider DISCOVERY CHANNEL to be a somewhat unusual juxtaposition of words.

29. The applicants suggest in their counterstatement that the word DISCOVERY is not especially distinctive in the context of the goods at issue and that it is the other element in the marks that make them distinguishable. They have not elaborated on those comments but I take them to mean that the word DISCOVERY hints at the possible educational benefits of toys, games and playthings. That is to say they can be goods that allow children to learn (discover) things whilst still serving as items of amusement/entertainment. The point is not entirely without force but at most DISCOVERY is allusive rather than descriptive of any such characteristic.

30. Nevertheless the applicants' mark DISCOVERY TIME does 'hang together' and suggest a meaning which, whatever view one takes of the 'concept' of the opponents' mark, is in my view quite different to DISCOVERY CHANNEL.

Likelihood of confusion

31. Taking all the above factors into account and making due allowance for identity of goods and the element common to both marks I am not persuaded that there is a likelihood of confusion. Nor is any association created by the existence of the word DISCOVERY sufficient to lead me to think that it might nevertheless be considered that goods sold under the respective marks came from the same or economically linked undertakings. The opposition fails under Section 5(2)(b).

32. Section 5(3) reads:

> "5.-(3) A trade mark which -
>
> (a) is identical with or similar to an earlier trade mark, and
>
> (b) is to be registered for goods or services which are not similar to those for which the earlier trade mark is protected,
>
> 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 a 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. The purpose and scope of the Section have been considered in a number of cases including General Motors Corp v Yplon SA (Chevy) [2000] RPC 572, Premier Brands UK Limited v Typhoon Europe Limited [2000] FSR 767 (Typhoon), Daimler Chrysler v Alavi (Merc), CA Sheimer (M) Sdn Bhd's TM Application (Visa) 2000 RPC 484 and Valucci Designs Ltd v IPC Magazines, O/455/00 (Loaded)

34. The Chevy case in particular gives guidance on the factors to be taken into account in determining whether a mark has a reputation as follows:

> "24. The public amongst which the earlier trade mark must have acquired a reputation is that concerned by that trade mark, that is to say, depending on the product or service marketed, either the public at large or a more specialised public, for example traders in a specific sector.
>
> 25. It cannot be inferred from either the letter or the spirit of Article 5(2) of the Directive that the trade mark must be known by a given percentage of the public so defined.
>
> 26. 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.
>
> 27. In examining whether this condition is fulfilled, the national court must take into consideration all the relevant facts of the case, in particular the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it."

35. I do not understand the ECJ to be suggesting that all the factors referred to must be present in any given case but there must be sufficient information before the tribunal to enable it to be satisfied that the mark in question is known by a significant part of the public concerned. In the light of the evidence outlined above and my findings based on that evidence I am prepared to accept that DISCOVERY CHANNEL is known to a significant part of the public in respect of broadcasting services and production of television programmes. On that basis I do not need to consider each and every mark listed in the Annex to this decision. CTM 153403 (covering, inter alia, a range of services in Classes 38 and 41) conveniently encapsulates the opponents' strongest case.

36. In reaching the above view on the opponents' reputation I place particular reliance on the number of UK subscribers which had been in excess of the 5 million mark for some time prior to the material date in these proceedings. The opponents also have a registration (No 2206117) for DISCOVERY solus which is also an earlier trade mark. As I indicated above, there is some evidence that DISCOVERY CHANNEL is sometimes abbreviated to simply DISCOVERY but insufficient to persuade me that this mark is known to a significant part of the public concerned in relation to the services concerned. Furthermore none of the other

marks relied on by the opponents demonstrably enjoy the sort of reputation that is necessary to underpin an action under Section 5(3).

37. Although I have found that the opponents have a reputation in DISCOVERY CHANNEL in relation to broadcasting and production of TV programmes (and clearly those services are not similar to the applicants' goods) my findings in relation to the marks themselves must necessarily mean the opponents cannot succeed under Section 5(3).

38. Furthermore the opponents' statement of grounds gives no clue as to the nature of the damage that they consider they would suffer if the applicants' mark is used.

39. It is clear from a number of reported cases (see for instance Premier brands and the other cases referred to in headnote 11 of that case) that Section 5(3) is not intended to have the sweeping effect of preventing the use of any sign that is the same as, or similar to, a registered trade mark with a reputation. In Oasis Stores Ltd's Trade Mark Application [1998] RPC 631 the Hearing Officer said:

> "It appears to me that where an earlier trade mark enjoys a reputation, and another trader proposes to use the same or similar mark on dissimilar goods or services with the result that the reputation of the earlier mark is likely to be damaged or tarnished in some significant way, the registration of the later mark is liable to be prohibited under Section 5(3) of the Act. By 'damaged or tarnished' I mean affected in such a way so that the value added to the goods sold under the earlier trade mark because of its repute is, or is likely to be, reduced on scale that is more than de minimis.
>
> In *British Sugar Plc v James Robertson & Sons Ltd* (TREAT) [1996] RPC 281 at 295 Jacob J gave the following dictum on the scope of Section 10(3) of the Act (which, as I have already noted contains the same wording as Section 5(3). He stated:
>
> > "I only noted that it might cater for the case where the goods were vastly different but the marks the same or similar and the proprietor could show that the repute of his mark was likely to be affected. The sort of circumstances of the Dutch *Claeryn/Klarein* (mark for gin infringed by identical sounding mark for detergent, damage to the gin mark image), may fall within this kind of infringement, even though they do not fall within Section 10(2) because there is no likelihood of confusion as to trade origin."
>
> It appears implicit from this statement that the sort of detriment that was being countenanced was damage that was likely to cause detriment to the reputation of the earlier trade mark in some material fashion. In the above instance one can imagine that the use of a similar mark for detergent carried with it a likelihood that the reputation of the earlier trade mark for gin was likely to suffer. No one likes to be reminded of a detergent when drinking their favourite tipple. In time the reputation of the earlier mark may have suffered to the extent that it no longer added the same degree of value to the goods as it did before."

40. I am unable to identify any particular aspect of the opponents' reputation in relation to

TV broadcasting and programming services under the mark DISCOVERY CHANNEL which would be damaged in any way by, or as a result of, the applicants' use of DISCOVERY TIME on Class 28 goods. Nor can I see any detriment to the distinctive character of the opponents' mark.

41. I have not lost sight of Mr Hollinger's supplementary claim that his company uses the trade marks WILD DISCOVERY, DISCOVERY TODAY and DISCOVERY NEWS as programme titles in the UK. That raises an interesting question as to the circumstances in which a programme title can function as a trade mark. It is not, however, a point that I feel called upon to deal with here as only one of those marks (WILD DISCOVERY) appears to be the subject of a trade mark registration and there is insufficient evidence to establish that that mark enjoys a reputation within the meaning of the Chevy test. The Section 5(3) ground also fails.

42. The final ground is under Section 5(4)(a). This reads:

> "5.-(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented -
>
> (a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, or
>
> (b) .....
>
> A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an "earlier right" in relation to the trade mark."

43. The conventional test for determining whether an opponent has succeeded under this Section has been restated many times and could be found in the decision of Mr Geoffrey Hobbs QC, sitting as the Appointed Person, in WILD CHILD Trade Mark [1998] RPC 455. Adapted to opposition proceedings, the three elements that must be present can be summarised as follows:

> (1) that the opponents' goods or services have acquired a goodwill or reputation in the market and are known by some distinguishing feature
>
> (2) that there is a misrepresentation by the applicants (whether or not intentional) leading or likely to lead the public to believe that goods or services offered by the applicants are goods or services of the opponents and
>
> (3) that the opponents have suffered or are likely to suffer damage as a result of the erroneous belief engendered by the applicants' misrepresentation.

44. The opponents base their case on "use of the word DISCOVERY in relation to satellite television programmes and the operation of the DISCOVERY CHANNEL satellite television station" from 1989 onwards. It is said that misrepresentation will occur because the applicants' mark contains the word DISCOVERY. In practice I do not think this ground adds

anything to the ground of objection under Section 5(2). I accept that the opponents can claim goodwill in relation to the sign DISCOVERY CHANNEL for the services referred to above. But my findings in relation to the marks themselves mean that there will be no misrepresentation or damage to the opponents. This ground also fails.

45. The applicants have been successful and are entitled to a contribution towards their costs. I order the opponents to pay them the sum of £235. 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 10 day of June 2002

M REYNOLDS
For the Registrar
the Comptroller-General

ANNEX

Brief details of the opponents' trade mark registrations and applications:

Number:	**Mark:**	**Class:**
UK2028846	THE DISCOVERY CHANNEL	9, 16
UK2052342	DISCOVERY CHANNEL MUSIC	9
UK2140518	WILD DISCOVERY	9, 38, 41
UK2168548	DISCOVERY CHANNEL ULTIMATE GUIDE	9, 38, 41
UK2052097	DISCOVERY CHANNEL PICTURES	9, 41
UK2109562A (Pending application)	DISCOVERY CHANNEL & Globe Device	9, 16, 20, 21, 24, 28, 42
UK2113926A (Pending application)	DISCOVERY CHANNEL stylised	9, 14, 16, 20, 21, 24, 28, 42
UK2177523B (Pending application)	DISCOVERY+1	9, 16, 41
UK2186563	DISCOVERY CHANNEL	9, 38, 41, 42
UK2109562B	THE DISCOVERY CHANNEL	18, 25
UK2113926B	DISCOVERY CHANNEL stylised	18, 25
UK1360001	THE DISCOVERY CHANNEL	38
UK2052095	DISCOVERY CHANNEL ONLINE	38, 41
UK2177523A	DISCOVERY+1	38
UK2206117	DISCOVERY	38, 41
UK2164660	DISCOVERY HOME & LEISURE	38, 41
UK1360002	THE DISCOVERY CHANNEL	41
CTM153403	DISCOVERY CHANNEL	9, 16, 38, 41
CTM955674	DISCOVERY TRAVEL & ADVENTURE CHANNEL	9, 38, 41
CTM1028489	DISCOVERY HEALTH CHANNEL stylised with Globe device	9, 38, 41
CTM910646	DISCOVERY CIVILISATION CHANNEL	9, 38, 41
CTM910695	DISCOVERY TRAVEL CHANNEL	9, 38, 41

CTM910729	DISCOVERY SCI-TREK CHANNEL	9, 38, 41
CTM932707	DISCOVERY+1	9, 16, 38, 41
CTM1369263	DISCOVERY	38, 41 (this registration has a later filing date)
CTM1387687	DISCOVERY PLANET BROADBAND	38, 41, 42 (this application has a later filing date)

Full details are contained in Exhibit MH1