

O-230-08

TRADE MARKS ACT 1994

**IN THE MATTER OF REGISTRATION NO 2163342
IN THE NAME OF CHILDREN'S RADIO UK LTD
IN RESPECT OF THE FOLLOWING TRADE MARK:**



IN CLASSES 25, 35, 38 & 41

AND

**AN APPLICATION FOR REVOCATION ON THE GROUNDS OF NON-USE
UNDER NO 82512
BY SOCIETE D'EXPLOITATION RADIO CHIC**

TRADE MARKS ACT 1994

**IN THE MATTER OF Registration 2163342
in the name of Children's Radio UK Ltd
in respect of the following trade mark in Classes 25, 35, 38 & 41**



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under no 82512
by Societe D'Exploitation Radio Chic**

BACKGROUND

1. On 6 April 1998 Capital Radio Plc applied for the registration of the above trade mark. Its registration procedure was completed on 11 June 1999. The trade mark was subsequently assigned¹ to Children's Radio UK Ltd ("CRUK"). The trade mark is registered in respect of the following goods and services:

Class 25: T-shirts, shirts, tops, blouses, shorts, skirts, swimwear, exercise-wear, sportswear, pants, jeans, sweatshirts, jumpers, jumpsuits, sweaters, vests, jackets, coats, raincoats, nightgowns, pyjamas, undergarments, hats, caps, scarves, mufflers, bandannas; shawls, bibs, neckties, aprons; gloves; neckbands, armbands, headbands, sandals, slippers, shoes, tennis shoes, sports shoes, lounge shoes, socks, stockings; belts.

Class 35: Advertising; business management; business administration; office administration; marketing and public relations services; business management and organisational services; advisory and consultancy services relating to advertising and marketing on the radio; compilation of mathematical and statistical data; preparation of business reports.

Class 38: Electronic communication services, radio and television broadcasting, telecommunication services; transmission of messages by telephone and facsimile; communications by telegram, telex, telephones, mobile telephones and

¹ The notice of assignment was filed on 9 May 2006.

network services and computer terminals, by wire, satellite, microwave, cable or satellite; inter-active telecommunications services; leasing and rental services in connection with telecommunications apparatus and equipment.

Class 41: Publishing services; information services; organisation of entertainment and cultural events, all based on radio stations or relating to radio station activities, production of radio and television programmes; television and radio entertainment; arranging and conducting of business and commercial conferences and seminars.

2. On 25 May 2006, Societe D'Exploitation Radio Chic ("CHIC") applied to revoke the above registration on grounds of non-use. CHIC rely on the provisions of sections 46(1) (a) and 46(1)(b) of the Trade Marks Act 1994 ("the Act"). Revocation is sought in relation to all of the goods and services covered by the registration or, alternatively, to those goods and services for which no use can be demonstrated.

3. CRUK filed a counterstatement denying the grounds on which the application was made. The counterstatement was accompanied by evidence of use. I note that CRUK stated in its counterstatement:

"The mark subject of registration No. 2163342 has been used in a form in which the distinctive character is not altered from the mark in the form in which it is registered."

I take this to be a reference to section 46(2) of the Act.

4. No further evidence was filed by either side. Neither side requested a hearing, both opting instead to make written submissions. CRUK's submissions were made by its trade mark attorneys at Keltie; CHIC's submissions were made by its trade mark attorneys at Boulton Wade Tennant. The submissions will be taken into account when I reach my decision, but I do not intend to summarise them separately.

EVIDENCE

CRUK's evidence of use of its trade mark

5. The evidence is given by Mr Gregory Watson, Chief Executive of CRUK. He states that CRUK is a joint venture between *Hit Entertainment*, *GCap Media* (of which Mr Watson is its Corporate Development Manager) and the children's campaigner Susan Stranks.

6. Mr Watson states that CRUK first used the trade mark FUN RADIO in May 2005 as the name of a radio station aimed at children and that it has been broadcast everyday since. He lists the locations where it is currently available via DAB digital radio multiplexes, these are: London, Essex, Berkshire, North Hampshire, Wiltshire, Bristol, Avon, Dorset, Cardiff, Newport, Sussex and Kent. It is also available on Sky Digital and NTL Digital and on the internet at www.funradiolive.com. Exhibit GW1 consists of a

print taken from its web-site. Although it is not dated, it does make use of the words FUN RADIO both in plain script and also in a stylised form.

7. Mr Waston states that FUN RADIO was created to fill a gap in the children's radio market and that since its launch it has built up a significant audience. He refers to Exhibit GW2 which consists of audience statistics for the period January-June 2006. He highlights some of these figures, namely, that the "weekly reach" of FUN RADIO is 146,000 people (47,000 adults and 99,000 children) with a total number of listening hours of 405,000. He compares that to another children's radio station, *Capital Disney*, which has a slightly larger audience for the same period.

8. Information on how the mark is used is then given. It is stated that in addition to oral use via the radio broadcasts, the mark has been used on its web-site since May 2005 and also on "give away" car stickers which are given to listeners who contact it. An example of such a sticker is provided in GW3.

9. In terms of revenue, Mr Watson states that this is generated through advertising and sponsorship (it is a commercial radio station) and by banner advertising on its web-site. It has also assisted the publishing house *Macmillan* in relation to a book launch for a book called "Fairy Dream". Mr Watson concedes that revenue has not been substantial so far as concentration has been placed on content rather than commercial opportunity. He states that FUN RADIO has attracted support from the proprietors of well known children's characters including *Bob the Builder*, *Thomas the Tank Engine*, *Barney*, *Angelina Ballerina*, *Mister Men* and *Paddington Bear*. These characters' web-sites are also used to advertise FUN RADIO. Prints from the web-sites of *Bob the Builder*, *Thomas the Tank Engine* and *Angelina Ballerina* are shown in GW4 each of which has a stylised representation of FUN RADIO. A similar representation of FUN RADIO is shown on a print from a web-page called *Relax Kids*, a web-site specifically aimed at children. Unfortunately, none of these prints are dated so I cannot ascertain if they existed in the alleged periods of non-use.

10. Mr Watson refers to CRUK's work in conjunction with other enterprises and events aimed at young children. These include the KIDS WEEK project run by the Society of London Theatre and another project with the Department for Transport. Prints from the web-sites of these enterprises are shown in Exhibit GW5. The print relating to KIDS WEEK relates to the KIDS WEEK event run between 19 August 2005 and 2 September 2005; it carries a stylised version of the words FUN RADIO. The Department of Transport print carries a date of 11 July 2006 and includes both a stylised version of FUN RADIO together with the words in plain font.

11. Reference is then made to regular listings within national and local press. GW6 contains two: the first is an extract from *Eastern Daily Press* dated 10 March 2006 and the second a page from *BBC Wildlife Magazine* dated June 2006. Both feature the words FUN RADIO. Mr Watson then refers to what he describes as a significant amount of media and press attention since its launch. GW7 contains a selection of articles from *The Guardian*, *The Bookseller*, *Precision Marketing*, *Richmond Guardian*, and *Richmond and*

Twickenham Times. The dates of these articles range from February 2005 to March 2006. They all use the words FUN RADIO. In two of them, there are photographs of children holding up what appears to be something showing a stylised version of the words FUN RADIO.

12. Two further web-pages showing the words FUN RADIO are provided in GW8. The first is an OFCOM report from June 2005 regarding CRUK's bid for a licence to broadcast on Manchester FM; the second relates to the extension of the DAB service to cover Cardiff, Newport, Sussex and Kent – this is dated 10 January 2006.

13. Mr Watson completes his evidence by referring to publicity from Capital Radio's (the previous and original owner of the trade mark) use of the mark. This is shown in GW9 and consists of a copy of a press release from OFCOM's web-site relating to licence applications – Capital Radio is listed as an applicant for "Children's radio: Fun (provider: Capital Radio Plc)"; this is dated 16 January 2001. Another press release (dated 13 March 2001) from *Psion* (who appear to provide digital radio adapters for computers) makes reference to "Capital Radio, the suppliers of the Fun radio service".

DECISION

The relevant legislation

14. Section 46 of the Act reads:

"46.-(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 purpose 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.”

15. Section 100 of the Act is also relevant as this reads:

“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.”

The relevant five year periods

16. The application for revocation is based on sections 46(1)(a) and 46(1)(b) of the Act. CHIC seeks revocation with effect from either 12 June 2004 (section 46(1)(a)) or from 25 May 2006 (section 46(1)(b)). The periods in which I will consider whether genuine use has been demonstrated are:

Sections 46(1)(a) – The registration procedure for CRUK’s trade mark was completed on 11 June 1999. Therefore, the five year period begins on 12 June 1999 and ends on 11 June 2004. Revocation is sought with effect from 12 June 2004.

Section 46(1)(b) – Revocation is sought with effect from 25 May 2006. Therefore, the five year period begins on 25 May 2001 (not 22 May 2001 as CHIC originally claimed) and ends on 24 May 2006.

The primary issue

17. It is fair to say that both sides submissions focus not on whether the use that has been put forward by CRUK constitutes genuine use, but more on whether the use put forward by it is use of the mark in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered; I will refer to this latter issue as whether the use is of an “acceptable variant”. However, I do not take this as a concession on the part of CHIC that the use itself is genuine. Nevertheless, I will begin my decision by examining the forms of use demonstrated by CRUK and to then assess whether they are acceptable variants; if I find that they are, I will return to the question of whether such use amounts to genuine use.

The forms of use demonstrated by CRUK

18. None of CRUK’s evidence shows use of the trade mark in the actual form in which it has been registered. CRUK’s submissions focus heavily on its oral use of the words FUN RADIO on its radio station, but they rely on such use as an acceptable variant of the registered mark rather than as oral use of the registered mark itself. I agree that CRUK can only rely on its oral use to argue that it is an acceptable variant. Whilst use may include oral use², oral use of the words FUN RADIO is not use of the trade mark in the exact form in which it is registered; it is only use of part of it. This is particularly clear given that the exact form as registered has never been used so, even if it was possible to accurately and precisely orally describe the graphical elements of the registered mark (although I doubt that this is possible), this could not have taken place because the mark in the form as registered has never been encountered. I will, therefore, simply consider whether oral use of the words FUN RADIO constitutes an acceptable variant.

² Section 103(2) appears to support this proposition

19. The evidence includes other forms of use. A number of the exhibits make reference to the words FUN RADIO in plain text. There are also three stylised forms shown in the evidence, namely:

Version 1



The above is depicted in the colours red (the word “FUN”) and blue (the word “radio”). It appears in a number of CRUK’s exhibits (GW1, GW4 & GW5).

Version 2



The above is depicted in the colours yellow (the word “FUN”) and blue (the word “RADIO”). This appears in one exhibit, namely GW5.

Version 3



The above is depicted in the colours red (the word “FUN”) and blue (the word “radio”). It appears in GW3 in the form of a car sticker. It also appears to be used in GW7 (the image is not particularly clear) as part of a photograph in a newspaper article.

20. I should add that none of the above should be taken as an indication that I am content that any of the uses represent genuine use. I am merely commenting on whether I can have regard to these forms of use as acceptable variants.

The relevant test

21. Both sides have referred to the decision of the Court of Appeal in *Bud/Budweiser Budbrau* [2003] RPC 25. Of relevance are the statements of Lord Walker of Gestingthorpe where he stated:

“43. ...The first part of the necessary inquiry is, what are the points of difference between the mark as used and the mark as registered? Once those differences have been identified, the second part of the inquiry is, do they alter the distinctive character of the mark as registered?”

44. The distinctive character of a trade mark (what makes it in some degree striking and memorable) is not likely to be analysed by the average consumer, but is nevertheless capable of analysis. The same is true of any striking and memorable line of poetry:

‘Bare ruin’d choirs, where late the sweet birds sang’

is effective whether or not the reader is familiar with Empson’s commentary pointing out its rich associations (including early music, vault-like trees in winter, and the dissolution of the monasteries).

45. Because distinctive character is seldom analysed by the average consumer but is capable of analysis, I do not think that the issue of ‘whose eyes? - registrar or ordinary consumer?’ is a direct conflict. It is for the registrar, through the hearing officer’s specialised experience and judgement, to analyse the ‘visual, aural and conceptual’ qualities of a mark and make a ‘global appreciation’ of its likely impact on the average consumer, who:

‘Normally perceives a mark as a whole and does not proceed to analyse its various details.’

The quotations are from para [26] of the judgement of the Court of Justice in Case C-342/97 *Lloyd Schuhfabrik Meyer GmbH v Klijsen Handel BV* [1999] E.C.R. I-3819; the passage is dealing with the likelihood of confusion (rather than use of a variant mark) but both sides accepted its relevance.”

22. Also of relevance are the comments, in the same decision, of Sir Martin Nourse; he stated at paragraph 12:

“Mr Bloch accepted that, in relation to a particular mark, it is possible, as Mr Salthouse put it, for the words to speak louder than the device. However, he said

that it does not necessarily follow that the entire distinctive character of the mark lies in the words alone. That too is correct. But there is yet another possibility. A mark may have recognisable elements other than the words themselves which are nevertheless not significant enough to be part of its distinctive character; or to put it the other way round, the words have dominance which reduces to insignificance the other recognisable elements....”

23. CRUK also refers to the decisions in *ELLE* [1997] F.S.R. 529, *SECOND SKIN* [2001] R.P.C. 30 and *Big Blue* (O-117-04 and O-118-04), although they do not say that any of these decisions bring different considerations to those outlined in *Bud/Budweiser Budbrau*.

24. I also take note of the comments of Mr Arnold QC (sitting as the Appointed Person) in *NIRVANA Trade Mark* (O/262/06) and in *REMUS trade mark* (O/061/08). In these cases Mr Arnold undertook a thorough analysis of the relevant case law, including judgments of the ECJ and the CFI, and he then put forward the following questions, the answers to which will assist in determining whether a variant form of use represents an acceptable variant (the text is from *NIRVANA* but it is also adopted in *REMUS*):

“33. The first question [in a case of this kind] is what sign was presented as the trade mark on the goods and in the marketing materials during the relevant period...

34. The second question is whether that sign differs from the registered trade mark in elements which do not alter the latter’s distinctive character. As can be seen from the discussion above, this second question breaks down in the sub-questions, (a) what is the distinctive character of the registered trade mark, (b) what are the differences between the mark used and the registered trade mark and (c) do the differences identified in (b) alter the distinctive character identified in (a)? An affirmative answer to the second question does not depend upon the average consumer not registering the differences at all....”

The application of the test

25. For ease of reference, the registered trade mark is:



What is the distinctive character of the registered trade mark?

26. In terms of what constitutes the distinctive character of the registered mark, CRUK's submissions focus on the words FUN RADIO. It states that the words represent the core of the registered trade mark. It states that the words have a dominance which reduces to insignificance the other elements in the mark and that the stylisation is merely an embellishment. It states that the insignificance of the graphical element is enhanced because the primary service connected with the registered mark (radio broadcasting) lends itself to oral use and, thus, even more focus will be placed on the elements in the mark that are capable of pronunciation.

27. CHIC, on the other hand, states that the distinctiveness of the registered mark lies in the striking visual graphic element which forms a significant part of it. It refers to the words FUN RADIO as either lacking or being low in distinctiveness because the word FUN describes a radio program that is fun or enjoyable (it refers to descriptive uses in CRUK's evidence to support this proposition). CHIC also refers to the fact that the registration claims the colours in which it is depicted as an element of the mark.

28. Whilst I agree that the words FUN RADIO are not highly distinctive per se (they are certainly allusive or suggestive), the fact that the word FUN can be used descriptively in a sentence to describe a characteristic of a radio service does not necessarily equate to a finding that FUN RADIO in combination lacks distinctiveness. Given that I am assessing whether the words themselves contribute to the distinctive character of the registered mark, I bear in mind the judgment of the ECJ in *Wrigley Jr. Company v. Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)*, Case C-191/01 P, where it was stated:

“29. Article 7(1)(c) of Regulation No 40/94 provides that trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographic origin, time of production of the goods or rendering of the service, or other characteristics of the goods or service are not to be registered.

30. Accordingly, signs and indications which may serve in trade to designate the characteristics of the goods or service in respect of which registration is sought are, by virtue of Regulation No 40/94, deemed incapable, by their very nature, of fulfilling the indication-of-origin function of the trade mark, without prejudice to the possibility of their acquiring distinctive character through use under article 7(3) of Regulation No 40/94.

31. By prohibiting the registration as Community trade marks of such signs and indications, Article 7(1)(c) of Regulation No 40/94 pursues an aim which is in the public interest, namely that descriptive signs or indications relating to the characteristics of goods or services in respect of which registration is sought may be freely used by all. That provision accordingly prevents such signs and indications from being reserved to one undertaking alone because they have been

registered as trade marks (see, inter alia, in relation to the identical provisions of Article 3(1)(c) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of Member States relating to trade marks (OJ 1989 L 40, p. 1), *Windsurfing Chiemsee*, paragraph 25, and Joined Cases C-53/01 to C-55/01 *Linde and Others* [2003] ECR I-3161, paragraph 73).

32. In order for OHIM to refuse to register a trade mark under Article 7(1)(c) of Regulation No 40/94, it is not necessary that the signs and indications composing the mark that are referred to in that article actually be in use at the time of the application for registration in a way that is descriptive of goods or services such as those in relation to which the application is filed, or of characteristics of those goods or services. It is sufficient, as the wording of that provision itself indicates, that such signs and indications could be used for such purposes. A sign must therefore be refused registration under that provision if at least one of its possible meanings designates a characteristic of the goods or services concerned.”

29. In my view, the words FUN RADIO lack a precision of meaning that gives them an immunity from any allegation that they could be utilised by other traders as legitimate descriptive terminology. FUN can not really be said to be the subject matter of radio broadcasting, the word being much looser and imprecise. The descriptive message is not clear enough, in its particular construction, and I also consider, in terms of the capacity of the mark to distinguish one traders services from another³, that the mark will be seen as the name of a particular radio station rather than as a description of the type of radio broadcasting. As I have said, the words may be allusive or suggestive, but I still consider them to be distinctive enough to contribute to the overall distinctiveness of the registered mark.

30. In terms of the other elements of the mark, CRUK and CHIC have grasped at opposite ends of the stick. CRUK say that the other elements are mere embellishment and that the word dominates the mark so that these other elements are insignificant. CHIC say that the other elements are striking and distinctive. To my mind, there is a clear graphical presence in the registered mark. It has three coloured bands, the top and bottom being green and the centre band being blue. A red (splatter effect) circle, and within it a yellow (splatter effect) circle, appear on the blue centre band. Whilst it could be argued that these elements are in the background and the words in the foreground, or that the graphical element is there merely to embellish the words, they are not traditional or basic background/embellishment elements such as simple borders or shading; there is much more to it than that. The visual impact is also enhanced by the colours present in the registered mark which, as CHIC highlight, are claimed as an element of the mark.

31. In terms of the overall assessment of the distinctive character of the registered mark, the words FUN RADIO, as I have already stated, will play a part in this even though they are not of the highest degree of distinctiveness. Generally speaking, words that have at least some degree of distinctiveness will normally speak louder than any accompanying

³ In the terms set out by the ECJ in Joined Cases C-53/01 to C- 55/01 *Linde AG, Winward Industries Inc and Rado Uhren AG*.

graphical elements. In the context of the registered mark, I believe this to be true. The words FUN RADIO will, in my view, be the most memorable part likely to attract the greatest focus and I regard them as the most dominant and memorable part of the registered mark. Nevertheless, the graphical elements are present in the mark, they are not simple background or embellishments, and they are not insignificant in the overall impression that the mark creates. Balancing respective factors, such as the degree of distinctiveness inherent in the words and the impact and distinctiveness of the graphical elements, it is my view that the words do not dominate to insignificance the graphical elements of the mark (see the comments of Sir Martin Norse in *Bud/Budweiser Budbrau*). This is not counteracted by CRUK's argument that a mark registered in relation to radio broadcasting services will have a greater focus placed upon its pronounceable elements. The fact remains that the registered mark contains a significant graphical element, this is present in the mark regardless of CRUK's submissions. In my view, the graphical element makes the mark more distinctive than it otherwise would have been. In summary, both the words and the graphical elements make a contribution to the distinctive character of the registered trade mark.

What are the differences between the registered trade mark and the variant uses?

32. This is more of a factual analysis. The primary difference between the registered trade mark and the three stylised versions shown in CRUK's evidence is that the figurative elements that I have described in the registered trade mark are absent from these other forms of use. There are further differences, namely, that the words FUN RADIO are presented on two separate lines in the registered trade mark, but in the variant forms they are on one (brought together almost as one word); the colours are different; all of the variant versions have some small stars at the beginning and end of the words; version 3 also has stars surrounding the words and stars "cut" into the words; version 3 also has its own figurative background, this differs from the figurative element in the registered mark.

33. In terms of the use of the words FUN RADIO in plain text, then, again, the figurative element from the registered mark is absent, albeit, it is not replaced with any form of stylisation. The same analysis would also apply in relation to the oral use of the words FUN RADIO.

Do the differences alter the distinctive character of the registered mark?

34. As Mr Arnold pointed out in the quotation I have detailed above, this is not a question as to whether the differences between the registered mark and the variant uses will be noticed by the average consumer. It is instead a question as to whether the distinctive character of the registered mark that I have identified in the above analysis is altered in the variant uses. Given my finding that the graphical element plays a recognisable part in the make-up and distinctiveness of the registered mark, then, by extension, its absence from all of the variant marks must consequently alter the distinctiveness between the versions. This is a logical conclusion based on my findings.

35. CHIC have referred to the judgment of the ECJ in *Il Ponte Finanziaria v OHIM* (C-234/06P), affirming an earlier judgment of the CFI, as further support for its line of argument. However, given that I have already found in favour of CHIC on the issue of variant marks then I do not need to say any more about this, particularly given the comments of Mr Arnold in *Remus* on the inconsistency of this judgment with the ECJ's judgment in Case C-353/03 *Société des Produits Nestlé SA v Mars UK Ltd* [2005] ECR I-6135.

36. To summarise, I find that neither the three variants depicted in paragraph 19 above, nor the words FUN RADIO in plain font, nor the oral use of the words FUN RADIO, are acceptable variants for the purposes of section 46(2) of the Act.

CONCLUSION

37. The mark in the form as registered has not been used. I have found that none of the variant forms of use, including oral use, constitute acceptable variants under section 46(2) of the Act. In the circumstances, I must find that there has been no use at all, let alone genuine use. The application for revocation is, therefore, successful. The registration is hereby revoked under the provisions of section 46(6)(b) of the Act with effect from 12 June 2004.

COSTS

38. CHIC has been successful and is entitled to a contribution towards its costs. I hereby order Children's Radio UK Ltd to pay Societe D'Exploitation Radio Chic the sum of £1000.

Official fee for filing the application for revocation	£200
Filing the application and statement of grounds	£300
Considering CRUK's evidence	£200
Preparing written submissions	£300
Total	£1000

39. The above sum should be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 11th day of August 2008

Oliver Morris
For the Registrar
The Comptroller-General