



W211

OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET  
(TRADE MARKS AND DESIGNS)

Trade Marks Department

Alicante, 20/10/2008

**Notification of provisional refusal of protection based on an opposition pursuant to Article 5 of the Madrid Protocol and Rule 17 (1), (2) of the Common Regulations under the Madrid Agreement and Protocol and to Rule 115\***

<b>International Registration No:</b>	<b>0929733</b>
Date of notification to OHIM:	16-08-2007
Trade mark:	o.k.
Applicant/Holder:	MIP METRO Group Intellectual Property GmbH & Co. KG Metro-Strasse 1 40235 Düsseldorf
<i>Opposition number:</i>	B 1246257

Protection of the above-mentioned mark is provisionally refused for the European Community.

The provisional refusal is based on the fact that an opposition has been filed against the international registration.

I. The grounds for the opposition are as follows:

Conflict with an earlier mark and likelihood of confusion (Article 8(1) and (2) CTMR\*).

Conflict with an earlier identical or similar trade mark registered for goods or services which are not similar to those for which the international registration is registered, where the earlier mark has a reputation and where the use without due cause of the international registration would take unfair advantage of or be detrimental to, the distinctive character or the repute of the earlier trademark (Article 8(5) CTMR\*).

II. Name and address of the opposing party: **Northern & Shell Titles Limited**  
The Northern & Shell Building  
Number 10, Lower Themes Street  
London EC3R 6EN  
United Kingdom

III. The opposition is based on a mark which was the subject of an application or registration.

- type of mark : **Community trade mark**

- filing date, registration date and, if applicable, priority date:  
**08/05/2003; 08/08/2006**

- filing number and, if different, registration number: **3158251**

\* Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark.  
Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark.

Regulations on the internet:

CTM (<http://oami.europa.eu/en/mark/aspects/reg.htm>)  
(<http://oami.europa.eu/en/mark/madrid/default.htm>)

Madrid Protocol

- reproduction of the mark: (see annex)
- list of goods and services on which the opposition is based: (see annex)

The opposition is based on more than one earlier right : (see annex)

IV. The provisional refusal relates to

All the goods and services covered by the designation of the EC.

V. The OHIM will notify the opposition separately to the holder of the international registration, including all evidence on which it is based, pursuant to Rule 18(1)\*. The OHIM will set time limits for the holder. The notification will open an (extendable) cooling-off period of two months and a further period of two months for the opponent to substantiate the opposition. The notification will set a time limit of, in principle, six months for the holder of the international registration to submit observations.

GROENEVELD, Macarena

Examiner

Annex: 35 pages

# C/M/S/ Albiñana & Suárez de Lezo

## fax

**para** OHIM  
**to** Opposition Division  
**nº fax** 965 134 344  
**fax**  
**de** Maica Trabanco  
**from**  
**fecha** 20.11.2007  
**date**  
**páginas** 1 + 34  
**pages**  
**asunto** Opposition against CTM IR 929.733 OK (Figurative)  
**subject**

CMS Albiñana & Suárez de Lezo

C/ Génova, 27  
28004 Madrid, España

Tfno. +34 91 451 93 00  
Fax +34 91 399 30 70  
[madrid@cms-asl.com](mailto:madrid@cms-asl.com)  
[www.cms-asl.com](http://www.cms-asl.com)

Dear Sirs,

It follows attached the opposition against CTM of the reference.

Yours sincerely,



Maica Trabanco  
CMS ALBIÑANA Y SUÁREZ DE LEZO  
Nº OAMI 18.356



# OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET (OHIM)

## NOTICE OF OPPOSITION

Number of pages (including this one) <input type="text"/>	Opponent's/representative's reference number (not more than 20 characters) <input type="text"/>		Mod 007																																				
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#T4007EN



# NOTICE OF OPPOSITION

## BASIS OF OPPOSITION: TRADE MARK REGISTRATION / APPLICATION

### Identification of the earlier mark

☒ Trade mark registration☐ Trade mark application☒ Community trade mark☐ National trade mark☐ International registration with effect in one or more Member State(s)

#### Member State(s)

EM	BG	BX	CZ	DK	DE	EE	GR	ES	FR	IE	IT	CY	LV	LT	HU	MT	AT	PL	PT	RO	SI	SK	FI	SE	GB
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Filing date (DD/MM/YYYY)

29 / 10 / 1997

Filing number

589.879

Registration date (DD/MM/YYYY)

04 / 07 / 2002

Registration number

589.879

Representation of the mark (in colour if applicable)

#### Type of mark

☐ Word mark☒ Figurative mark☐ Other (specify)

#### Goods and services on which the opposition is based:

☒ all the goods and services covered by the registration / application☐ part of the goods and services, namely:☐ attached

### Entitlement of opponent

☒ Owner☐ Authorised licensee

Copy of registration / application

Translation

☒ attached☐ attached☐ to follow

### Grounds for opposition

☐ Article 8(1)(a) CTMR - the CTMA IR is identical to the earlier mark and covers identical goods and/or services☒ Article 8(1)(b) CTMR - there exists a likelihood of confusion on the part of the public☒ Article 8(5) CTMR - the use without due cause of the contested mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark

#### Explanation of grounds and other remarks:

Please, see further arguments that follow attached.

☐ continuation sheet(s)

#### Territory where the earlier mark has a reputation:

EM	BG	BX	CZ	DK	DE	EE	GR	ES	FR	IE	IT	CY	LV	LT	HU	MT	AT	PL	PT	RO	SI	SK	FI	SE	GB
----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----

#### Goods and services for which the trade mark has a reputation

☐ all the goods and services covered by the registration / application☒ part of the goods and services covered by the registration/application, namely:

Class 16: Printed publications including magazines.

☐ continuation sheet(s)

#### Evidence of reputation

☒ attached☐ to follow

Translation

☐ attached

page number

8 of 34



# NOTICE OF OPPOSITION

## BASIS OF OPPOSITION: TRADE MARK REGISTRATION / APPLICATION

### Identification of the earlier mark

☒ Trade mark registration

☐ Trade mark application

☒ Community trade mark

☐ National trade mark

☐ International registration with effect in one or more Member State(s)

Member State(s)

EM BG BX CZ DK DE EE GR ES FR IE IT CY LV LT HU MT AT PL PT RO SI SK FI SE GB

Filing date (DD/MM/YYYY)

05 / 05 / 2003

Filing number

3.158.251

Registration date (DD/MM/YYYY)

08 / 08 / 2006

Registration number

3.158.251

Representation of the mark (in colour if applicable)

### Type of mark

☐ Word mark

☒ Figurative mark

☐ Other (specify)

### Goods and services on which the opposition is based:

☒ all the goods and services covered by the registration / application

☐ part of the goods and services, namely:

☐ attached

☐ continuation sheet(s)

### Entitlement of opponent

☒ Owner

☐ Authorised licensee

Copy of registration / application

Translation

☒ attached

☐ attached

☐ to follow

### Grounds for opposition

☐ Article 8(1)(a) CTMR - the CTMA IR is identical to the earlier mark and covers identical goods and/or services

☒ Article 8(1)(b) CTMR - there exists a likelihood of confusion on the part of the public

☒ Article 8(5) CTMR - the use without due cause of the contested mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark

### Explanation of grounds and other remarks:

Please, see further arguments that follow attached.

☐ continuation sheet(s)

### Territory where the earlier mark has a reputation:

EM BG BX CZ DK DE EE GR ES FR IE IT CY LV LT HU MT AT PL PT RO SI SK FI SE GB

### Goods and services for which the trade mark has a reputation

☐ all the goods and services covered by the registration / application

☒ part of the goods and services covered by the registration/application, namely:

Class 16: Printed publications including magazines.

☐ continuation sheet(s)

### Evidence of reputation

☒ attached

☐ to follow

Translation

☐ attached

11/2007 10:42

913993870

CMS-ASL

Solicitud de:

☐ Cheque

Banco  
**Santander**

Beneficiario: Nombre o razón social

**GENOVA Y MADRID DE LEZO**

Entidad: Oficina: D.C.

Número de cuenta

78004 MADRID

A favor de:

☐ Residentes

☐ No Residentes

Por vía:

☐ Postal

☐ Swift/Telex

Entidad Pagadora y Somersal

Entidad

Oficina: D.C.

Número de cuenta

78004 MADRID

Importe

559690009

15 NOV. 2007

GENOVA, 25

MADRID

EMISION DE TRASPASOS/TRANSFERENCIAS

ADUANAS EN GENOVA

16/11/07

JOSE RODRIGUEZ

GENOVA, 25

MADRID

GENOVA, 25

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GENOVA, 25

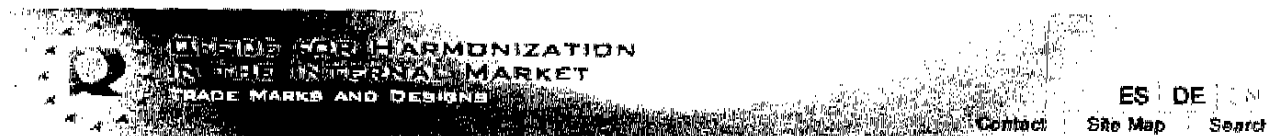
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GENOVA, 25

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GENOVA, 25

MADRID



## Overview

**Trade mark**

### Graphic representation

### List of goods and services

**Description of the mark**

## Owner

### Representative

### Seniority

### Exhibition priority

**Priority**

## Publication

### Opposition

### Cancellation

## Appeals

## Records

## Renewals

**Download trade mark details**




**Link to CTM Bulletin On-line**

**CTM-ONLINE** - Detailed trade mark information



Trade mark name : OK!  
Trade mark No : 003158251  
Trade mark basis: CTM  
Number of results: 1 of 1

Trade mark

<b>Filing date:</b>	08/05/2003
<b>Date of registration:</b>	08/08/2006
<b>Expiry Date:</b>	08/05/2013
<b>Nice Classification:</b>	16 (  Nice classification)
<b>Trade mark:</b>	Individual
<b>Type of mark:</b>	Word
<b>Acquired distinctiveness:</b>	No
<b>Your reference:</b>	113364 SPA
<b>Status of trade mark:</b>	CTM registered (  Glossary) (  History of statuses)
<b>Filing language:</b>	Danish
<b>Second language:</b>	English

### Graphic representation

No entry for application number: QD3158251.

**[\*] List of goods and services**

<b>Nice Classification:</b>	16
<b>List of goods and services</b>	Printed matter, including magazines, periodicals weeklies.

### Description

<b>Description of the mark:</b>	No Description
---------------------------------	----------------

## Owner

<b>Name:</b>	Northern & Shell Titles Limited
<b>ID No:</b>	149253
<b>Natural or legal person:</b>	Legal entity
<b>Address:</b>	The Northern & Shell Building Number 10, Lower Thames Street
<b>Post code:</b>	EC3R 6EN
<b>Town:</b>	London
<b>Country:</b>	UNITED KINGDOM
<b>Correspondence address:</b>	Northern & Shell Titles Limited The Northern & Building Number 10, Lower Thames Street Lond EC3R 6EN REINO UNIDO
<b>Telephone:</b>	00 44-8702117696
<b>Fax:</b>	00 44-8702117282



**Representative**

**Name:** SANDEL, LØJE & WALLBERG  
**ID No:** 10849  
**Address:** Frederiksgade 7  
**Post code:** 1265  
**Town:** København K  
**Country:** DENMARK  
**Correspondence address:** SANDEL, LØJE & WALLBERG P.O. Box 9006 DK-  
København K DINAMARCA  
**Telephone:** 00 45-33114622  
**Fax:** 00 45-33114623  
**E-mail:** mail@slw.dk

**Seniority**

No entry for application number: 003158251.

**Exhibition priority**

No entry for application number: 003158251

**Priority**

No entry for application number: 003158251.

**Publication**

**Bulletin no.:** 2003/085  
**Date of publication:** 08/12/2003  
**Part:** A.1  
**Bulletin no.:** 2006/033  
**Date of publication:** 14/08/2006  
**Part:** B.2

**Opposition**

**Opposition No:** 000685240  
**Reception date:** 08/03/2004  
**Opponent name:** RIU HOTELS S.A.  
**Opponent ID No:** 86983

**Cancellation**

No entry for application number: 003158251

**Appeals**

No entry for application number: 003158251.

**Records**

**Title:** Owners  
**Sub-title:** Change of name and adress of owner  
**ID No:** 001238388

**Renewals**

No entry for application number: 003158251.

Navigation icons: back, forward, search, etc.

Disclaimer, and C

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## CTM-ONLINE - Detailed trade mark information



Trade mark name : OK!  
Trade mark No : 000589879  
Trade mark basis: CTM  
Number of results: 1 of 1

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 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2622 26

**Renewals**

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**Description of the mark:**

**Description**

No Description

**Owner**

**Name:** Northern & Shell Titles Limited  
**ID No:** 149253  
**Natural or legal person:** Legal entity  
**Address:** The Northern & Shell Building Number 10, Lower Thames Street  
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**Seniority**

**Country:** UNITED KINGDOM  
**Registration number:** 1525210  
**Status:** Accepted

**Exhibition priority**

No entry for application number: 000589879

**Priority**

No entry for application number: 000589879.

**Publication**

**Bulletin no.:** 1998/069  
**Date of publication:** 14/09/1998  
**Part:** A.1  
**Bulletin no.:** 2002/036  
**Date of publication:** 06/05/2002  
**Part:** A.2.3  
**Bulletin no.:** 2002/065  
**Date of publication:** 19/08/2002  
**Part:** B.2

**Opposition**

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<b>Opposition No:</b>	000108854
<b>Reception date:</b>	30/11/1998
<b>Opponent name:</b>	COMPANHIA DE SEGUROS MUNDIAL CONFIANÇ
<b>Opponent ID No:</b>	54024
<b>Opposition No:</b>	000112393
<b>Reception date:</b>	10/12/1998
<b>Opponent name:</b>	HACHETTE FILIPACCHI PRESSE (Société Anony
<b>Opponent ID No:</b>	37554

### Cancellation

No entry for application number: 000589879

### Appeals


No entry for application number: 000589879.

### Records

<b>Title:</b>	Owners
<b>Sub-title:</b>	Change of name and adress of owner
<b>ID No:</b>	000754880
<b>Title:</b>	Owners
<b>Sub-title:</b>	Change of name and adress of owner
<b>ID No:</b>	001238388
<b>Title:</b>	Representative
<b>Sub-title:</b>	Change of name and professional address
<b>ID No:</b>	002060187
<b>Title:</b>	Representative
<b>Sub-title:</b>	Replacement of representative
<b>ID No:</b>	002517996

### Renewals

<b>Expiry Date:</b>	29/10/2017
<b>Status of renewal:</b>	Renewed
<b>Type of renewal:</b>	Total

<b>History of status</b> (  Glossary)	<b>Status date</b>
Renewed	04/11/2007
Renewal fee paid	09/10/2007
Renewal request received	02/10/2007
Need to renew communicated	01/04/2007



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# C/M/S/ Albiñana & Suárez de Lezo

## EXPLANATION OF GROUNDS

This Community trademark application was filed in English with German as the second language that may be used for opposition, revocation or invalidity proceedings. In accordance with Article 115 of Council Regulation (EC) No 40/94 on the Community trade mark (CTMR), the opponent designates English as the language of this opposition proceeding.

This Community trademark application fully incurs in the relative ground for refusal of the Article 8.1.b) and 8.5 of CTMR:

*8.1. Upon opposition by the proprietor of an earlier trademark, the trademark applied for shall not be registered:*

*(b) if because of its identity with or similarity to the earlier trademark and the identity or similarity of the goods or services covered by the trademarks there exists a likelihood of confusion on the part of the public in the territory in which the earlier trademark is protected; the likelihood of confusion includes the likelihood of association with the earlier trademark.*

*8.5. Furthermore, upon opposition by the proprietor of an earlier trade mark within the meaning of paragraph 2, the trade mark applied for shall not be registered where it is identical with or similar to the earlier trade mark and is to be registered for goods or services which are not similar to those for which the earlier trade mark is registered, where in the case of an earlier Community trade mark the trade mark has a reputation in the Community and, in the case of an earlier national trade mark, the trade mark has reputation in the Member State concerned and where the use without due cause of the trade mark applied for would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.*

Hereunder we will consider each of the requirements which are necessary for the application of Article 8.1(b) and 8.5 of CTMR.

### 1. Priority of rights

Opposing CTM no. 589.879 **OK!** (Figurative) was accorded 29 October 1997 as its filing date, and opposing CTM 3.158.251 **OK!** was accorded 8 May 2003 as its filing date, being therefore earlier trademarks within the meaning of art. 8.1 CTMR.



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## 2. Comparison of signs

The Court of Justice of the European Communities has held that

*“In determining the existence of a likelihood of confusion, trade marks have to be compared by making an overall assessment of the visual, phonetic and conceptual similarities between the marks. The comparison must be based on the overall impression given by the marks, bearing in mind, in particular, their distinctive and dominant components” (Judgement of the Court of Justice of 11 November 1997 in the Sab l-Puma Case C- 251/95).*

The names of the marks in conflict are:

Opposing trademarks	New CTM application
<p>OK!</p> 	

are very similar for the following reasons:

From a visual point of view:

- A comparison between the signs shows that all of them are marks formed by the same two letters, the word **OK** written in a very similar typeface.
- All of them share a common dominant element, the term **OK**. The graphic element of the new CTM application has a secondary character.

From a phonetic point of view:

- The trademarks, phonetically, are identical, due to the common element **OK**.
- Additionally, these words will be pronounced identically in all European languages, therefore this fact should be considered as sufficient evidence to find the words identical.

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From a conceptual point of view:

- There is a high similarity between the trademarks, conceptually as opponents and the new CTM application are formed by the same term OK.

Therefore, as the marks have been built with the same term (**OK**), they are very similar visually, phonetically and also conceptually, so there is a clear likelihood of confusion, including the likelihood of association, between the marks because of sharing the same dominant element.

The common dominant element makes all trademarks which share it, convey a common and familiar general impression in the same way as family surnames, which naturally lead people to believe that these marks form a family of trademarks belonging to the same undertaking.

In this case it happens that the contested application **OK** also shares the same dominant element **OK** as those of the opponents, since it is the unique verbal element of the trademarks in conflict.

Moreover, we have to point out that opponent CTMs are vested with an **enhanced distinctiveness** in the frame of Article 8(1)(b) CTMR.

Opponent trademarks enjoy an enhanced distinctiveness and reputation gained as a result of intensive use and promotion of this mark, not only in the United Kingdom, but also in other regions such as North America, in relation to a weekly magazine specializing in celebrity news.

In this sense, it follows attached as **Annex 1** the description contained in the free encyclopaedia Wikipedia of the "OK!" magazine. Observe that it is said that "OK! is one of the most popular celebrity magazines in the UK".

Additionally, in support of this argument we wish to call out the evidence that follows attached supporting the claim of enhanced distinctiveness and reputation of prior CTMs, and the further evidence that shall be filed according to Rule 19 of the Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing CTMR (CTMIR).

As we will also establish bellow, this kind of goods is targeted to the general public. With regards to such goods, the relevant average consumer will not typically be very attentive when buying them, but rather ask verbally for "OK" magazine.

In fact, the average consumer may be likely to feel that the contested goods marketed with any trademark incorporating **OK** must come from the same source, namely from the opponent.

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## 3. Comparison of goods

The Court of Justice in the Canon Kabushiki Kaisha v. Metro-Goldwin-Mayer case, the "Canon" case, stated that

*"A global assessment of the likelihood of confusion implies some interdependence between the relevant factors, and in particular a similarity between the trade marks and between these goods or services. Accordingly, a lesser degree of similarity between these goods or services may be offset by a greater degree of similarity between the marks".*

CTM application 929.733 **OK** (Figurative) distinguishes the following goods and services in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 16, 17, 20, 21, 22, 24, 25, 27, 28, 29, 30, 31, 32, 33 and 34.

Opposing CTMs distinguish the following goods:

CTM 589.879 **OK!** (Figurative)

Class 9: Video tapes; video cassettes; CD ROMS; computer games; recorded programmes for television and radio.

Class 16: Printed publications including magazines.

CTM 3.158.251 **OK!** (Word mark)

Class 16: Printed matter, including magazines, periodicals and weeklies.

As regards the claim of risk of confusion, goods in classes 9 and 16 of the contested CTM application shall be rejected because their identity and/or similarity with respect to goods in class 9 and 16 of the opposing CTMs.

Goods included in those classes are addressed to the average consumer who will not typically be very attentive when buying them, but rather ask verbally, i.e. for "**OK**" magazine.

Consequently, as regards goods in classes 9 and 16, the requirement of similarity of goods/services as established by Art. 8.1(b) CTMR is fulfilled.

With regards to the rest of the classes of the new CTM application **OK** -as it will be explained when the reputation of the opposing CTMs is grounded- its coexistence on the market with prior opposing CTMs would undoubtedly be detrimental to the distinctive character and the repute of the earlier trademarks.

## 4. Opposing trademarks with reputation

According to Article 8(5) CTMR upon opposition by the proprietor of an earlier trade mark, within the meaning of paragraph 2, the trade mark applied for shall not be registered: where it is identical with or similar to the earlier trade mark and is to be



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registered for goods or services which are not similar to those for which the earlier trade mark is registered, where in the case of an earlier Community trade mark the trade mark has a reputation in the Community and, in the case of an earlier national mark, the trade mark has a reputation in the Member State concerned and where the use without due cause of the trade mark applied for would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.

Having defined reputation as a knowledge threshold requirement, the question that necessarily follows is how much awareness the earlier mark must attain among the public in order to pass this threshold.

The European Court of Justice -in the case CHEVY, judgement 14 September 1999, C-375/97 *General Motors Corporation v. Yplon S.A.*- held in this respect that "the degree of knowledge required must be considered to be reached when the earlier trade mark is known by a significant part of the public" and added that "it cannot be inferred either from the letter or the spirit of Article 5(2) of the TM Directive that the trade mark must be known by a given percentage of the public".

In defining the kind of public that should be taken into account for the assessment of reputation, the Court held that "the public amongst which the earlier trade mark must have acquired a reputation is the public that is 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". The Court went on to state that in order to determine whether a trade mark has a reputation it is necessary to "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."

There are two strong policy arguments in favour of the proposition that at least the territory of a Member State should suffice, namely the need to ensure at least the same level of protection for CTMs as for national marks (otherwise the CTM system would be less attractive to trade mark owners), and the necessity of giving Article 8(5) the same territorial scope as Article 8(1)(b) (if confusion in one Member State suffices for the rejection of a CTM application, reputation should not be treated any differently).

Thus, a very substantial market share, or a leader position in the market, will usually be a strong indication of reputation, especially if combined with a reasonably high degree of trade mark awareness. We support this reputation with the following documentation:

- Documents attached as **Annex 1** consisting in definition obtained from the "Wikipedia, the free encyclopedia" of the OK! magazine. Observe that it is said that "OK! is one of the most popular celebrity magazines in the UK".
- Documents attached as **Annex 2**, consist in a report about the OK! delivery to the UK and the Republic of Ireland from 2002 to 2007.

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- Documents attached as **Annex 3** consists in a standard Certificate of Circulation issued by the company ABC -as it can be observed, this last document sets out the average net circulation of the OK! Magazine between 1st January 2006 and 30th June 2006.

- Document attached as **Annex 4** includes a report about the EU export markets from 2001 to 2007.

- Document attached as **Annex 5** consists in an affidavit from Mr. Jonathon Dearden-Jones, Publishing Financial Controller from the Northern & Shell Plc and its subsidiaries, included Northern & Shell Titles Limited, owner of opposing CTMs, were the marketing expenditure in the United Kingdom during the years 2002 to 2007.

The size of the marketing activities undertaken by the opponent are, as well, useful indications in assessing the reputation of the mark, to the extent that these activities were undertaken to build-up a brand image and enhance trade mark awareness among the public. In this sense, we are supporting this with Annex 2, an affidavit official report regarding Marketing costs for **OK!** Magazine.

- Document attached as **Annex 6** contains a rate of "Top 50 consumer magazines by overall total average net circulation" in which OK magazine is rated in number 21<sup>st</sup>, with an average net circulation, from June to December 2005 of 532.843 issues.

As we have stated at the time of analysing the risk of confusion, the marks are similar and as a very high percentage of the general public is familiar with the earlier sign makes, it is highly probable that the CTM application will be associated with the earlier signs.

The use of the CTM application as a trade mark for goods that are not under the opponent's control may have a negative impact on the reputation acquired and will in any case dilute the distinctiveness of the opponent's trade mark. In this context, we think that the use of the opponent's trade mark by the applicant will be detrimental to its distinctiveness.

The goodwill was obtained through investing in the earlier signs and in the goods and services of the opponent. The possible registration of the CTM applied for would see the applicant benefit from the investments the opponent made in his signs, for example in the quality of the goods and services or in publicity. This benefit would not be based on the applicant's merits, but solely on the reputation of the earlier signs in the relevant territory.

Thus, by permitting its registration and subsequent use the Office would be allowing the applicant to benefit from the goodwill enjoyed by the opponent as a result of his use and promotion of the mark.

In this sense, several decisions of the OHIM Board of Appeal confirming that the mark applied for would take unfair advantage of the repute and the consistent selling

# C/M/S/ Albiñana & Suárez de Lezo

power of the earlier sign on which the opposition is based, can be mentioned: R 0530/2004-2 MARIE CLAIRE / MARIE CLAIRE; R 0301/2005-2 (D'Nickers) / (NIKE); R 0825/2004-2 MINERAL SPA / (SPA); R 0412/2004-4 (SER) / (SER), CADENA S.E.R.; R 0408/2005-1 ART OF SPA / SPA.; R 0334/2005-2 DERBY QUEEN / (DERBI).

According to Rule 19 of Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (CTMR), this party reserves the right to present the facts, evidence and arguments in support of his opposition or to complete any facts, evidence or arguments that have already been submitted pursuant to Rule 15 (3), within a time limit specified by it and which shall be at least 2 months starting on the date on which the opposition proceedings shall be deemed to commence in accordance with Rule 18 (1).

## 5. Conclusions

It constitutes likelihood of confusion within the meaning of Article 8(1)(b) CTMR if there is a risk that the public might believe that the goods or services in question, under the assumption that they bear the marks in question, come from the same undertaking or, as the case may be, from economically linked undertakings (see *Canon Kabushiki Kaisha v. Metro-Goldwin-Mayer case Canon case*).

Likelihood of confusion within the meaning of Article 8(1)(b) CTMR must be assessed globally, taking into account all the circumstances of the case. Likelihood of confusion implies some interdependence between the relevant factors, and in particular a similarity between the trademarks and between the goods and services.

Accordingly, a lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa.

Marks with a highly distinctive character, either *per se* or because of the reputation they possess on the market, enjoy broader protection than marks with a less distinctive character (see *Canon* cited above).

Thus, under the principle of interdependence set out above, the degree of similarity between the marks, in conjunction with an enhanced distinctiveness and reputation of the earlier mark **OK!**, is sufficient to establish that the UK consumer would think that the goods and services are manufactured or rendered by the same undertaking or, as a case may be, by economically-linked undertakings.

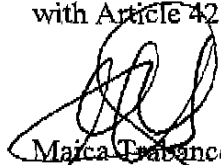
The differences between the contested mark and the earlier marks are not such as to dispel the likelihood of confusion.

It also has to be noted that the average consumer has only occasionally the opportunity to carry out a direct comparison of the various trademarks but must rely on its imperfect mental image of them (*Lloyd case*).

# C/M/S/ Albiñana & Suárez de Lezo

Consequently, CTM application 929.733 OK incurs in the relative ground for refusal of Article 8.1(b) and 8.5, and should not be registered for the goods applied for.

This notice of opposition is filed within the stipulated term and it may be expanded in the future by presenting facts, evidence and arguments in support of it, in accordance with Article 42.3 CTMR and Rules 16 to 20 CTMIR.



Maica Trabanco  
CMS Albiñana y Suárez de Lezo  
OHIM Nº 18.356

OK! - Wikipedia, the free encyclopedia

Annex 1

Página 1 de 2

## OK!

From Wikipedia, the free encyclopedia

**OK!** is a British weekly magazine, specialising in celebrity news. In 2005, an American version was launched, followed by an Indian edition in May 2006 and a Spanish language version in Mexico in 2006 and Bulgarian language version in 2007.

Recently, *OK!* was awarded £1,033,156 in a lawsuit. *OK!* had exclusive rights to the wedding of Catherine Zeta-Jones and Michael Douglas, but its rival *Hello! magazine*, published pictures as well, so *OK!* sued.

*OK!* is one of the most popular celebrity gossip magazines in the UK. A new issue is released every Wednesday. The magazine itself also has another inner mag called *Hot Stars*, which it has been said is similar to rival magazine *Heat*.

### Front covers



Three covers of the US edition. L to r: #25, #26, and #27.

The front cover of *OK!*

<b>OK!</b>	
	
<b>Editor</b>	Unknown
<b>Categories</b>	Celebrity
<b>Frequency</b>	Weekly
<b>First issue</b>	Unknown
<b>Company</b>	Northern and Shell
<b>Country</b>	United Kingdom, USA/Canada, Mexico, Middle East, Australia, Russia, Malaysia
<b>Website</b>	UK Edition ( <a href="http://www.ok.co.uk/">http://www.ok.co.uk/</a> ), UK online edition ( <a href="http://ok.imagazine.co.uk/okgbr/">http://ok.imagazine.co.uk/okgbr/</a> ), AUS Edition ( <a href="http://www.okmagazine.com.au/">http://www.okmagazine.com.au/</a> ), AUS online edition ( <a href="http://ok.imagazine.co.uk/okaus/">http://ok.imagazine.co.uk/okaus/</a> ), US Edition ( <a href="http://www.ok-magazine.com/">http://www.ok-magazine.com/</a> ), US online edition ( <a href="http://ok.imagazine.co.uk/okusa/">http://ok.imagazine.co.uk/okusa/</a> )

magazine tends to focus on British celebrities and occasionally Hollywood personalities. In 2005 its biggest cover stars were Jordan, Peter André, Kerry Katona and Victoria Beckham.

### Interviews

The magazine tends to feature exclusive interviews and personal revelations from celebrities including engagements and pregnancies. In 2005 celebrity pregnancies were revealed by Jordan and Peter, Steven Gerrard and Alex Curran. Stars such as Liberty X singer Michelle Heaton and Andy Scott-Lee announced their engagement with exclusive deals with *OK!* magazine.

The magazine has a usual policy of publishing only positive celebrity profiles, but in a 2007 interview with Britney Spears, Spears' behavior was so erratic that *OK!* decided to break this policy. [1] (<http://www.voanews.com/english/Entertainment/2007-07-27-voa15.cfm>)

18.01.34

OK! - Wikipedia, the free encyclopedia

Página 2 de 2

## Weddings

*OK!* is most famous for its coverage of celebrity nuptials. Its biggest scoops were Catherine Zeta-Jones and Michael Douglas, David and Victoria Beckham, Jordan and Peter André, Ashley Cole and Cheryl Tweedy. In October 2005 three major celebrity weddings took place on the same day — Jordan and Peter, Kate Garraway and Derek Draper, Samia Ghadie and property developer Matthew Smith. *OK!* covered them all over separate issues. The biggest wedding of the three (Jordan and Peter) was covered over two bumper issues. The same happened for the wedding of Ashley & Cheryl Cole wedding as well as Christina Aguilera's wedding. *OK!* devoted an issue with photos of Tony Parker and Eva Longoria's wedding.

Retrieved from "<http://en.wikipedia.org/wiki/OK%21>"

Categories: British magazines | Celebrity magazines | Entertainment magazines | News magazines | American magazines | Weekly magazines | Cultural magazine stubs

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Annex 2**OK! Delivery to UK and Republic of Ireland 2002-***NB: Republic of Ireland is not considered an export market in the UK new.*

Year	Issue number	pies supplied
2002	343	657.185
	344	656.805
	345	675.745
	346	506.425
	347	626.685
2003	348	556.325
	349	616.785
	350	616.665
	351	616.345
	352	617.285
	353	537.365
	354	768.465
	355	591.045
	356	592.225
	357	592.745
	358	572.160
	359	530.885
	360	587.385
	361	552.425
	362	552.505
	363	512.745
	364	512.945
	365	645.535
	366	517.955
	367	589.915
	368	611.035
	369	550.030
	370	562.972
	371	681.718
	372	773.716
	373	908.217
	374	875.489
	375	877.359
	376	880.733
	377	892.450
	378	616.175
	379	619.555
	380	634.215
	381	604.855
	382	590.575
	383	643.691
	384	629.911
	385	734.175
	386	686.728
	387	683.910
	388	628.697
	389	626.632
	390	646.717
	391	675.870
	392	657.600
	393	645.409
	394	642.099
	395	666.926

**OK! Delivery to UK and Republic of Ireland 2002-2007***NB: Republic of Ireland is not considered an export market in the UK newtrade.*

Year	Issue number	pies supplied
	396	640.691
	397	646.414
	398	712.830
2004	399	571.008
	400	649.152
	401	679.120
	402	656.046
	403	597.581
	404	595.907
	405	738.909
	406	788.973
	407	919.640
	408	918.662
	409	763.126
	410	1.021.077
	411	596.527
	412	566.339
	413	568.028
	414	652.782
	415	857.441
	416	629.961
	417	626.407
	418	605.965
	419	869.052
	420	602.709
	421	607.673
	422	587.271
	423	588.683
	424	589.274
	425	596.480
	426	698.710
	427	1.128.998
	428	718.669
	429	721.893
	430	774.366
	431	806.670
	432	814.443
	433	862.351
	434	695.427
	435	700.613
	436	706.747
	437	677.845
	438	1.051.651
	439	596.017
	440	593.913
	441	607.651
	442	598.568
	443	595.420
	444	689.610
	445	582.900
	446	582.199
	447	561.811
	448	586.672



# **OK! Delivery to UK and Republic of Ireland 2002-2007**

*NB: Republic of Ireland is not considered an export market in the UK newstrade.*

Year	Issue number	pies supplied
2005	449	557.285
	450	642.748
	451	623.681
	452	595.746
	453	639.562
	454	636.451
	455	636.631
	456	788.033
	457	589.977
	458	595.036
	459	642.607
	460	621.665
	461	612.504
	462	526.779
	463	565.786
	464	603.587
	465	637.975
	466	613.847
	467	636.584
	468	632.013
	469	602.571
	470	903.858
	471	582.871
	472	592.062
	473	571.484
	474	709.823
	475	593.544
	476	622.842
	477	724.580
	478	1,024.624
	479	649.572
	480	699.798
	481	619.161
	482	683.583
	483	624.830
	484	723.435
	485	671.960
	486	669.362
	487	2,019.983
	488	1,598.147
	489	1,109.084
	490	1,135.309
	491	1,026.660
	492	1,021.873
	493	721.288
	494	641.354
	495	748.037
	496	647.675
	497	745.796
	498	681.209
	499	625.009
	500	619.641
	501	761.634

# **OK! Delivery to UK and Republic of Ireland 2002-2007**

NB: Republic of Ireland is not considered an export market in the UK newstrade.

Year	Issue number	pies supplied
2006	502	597.299
	503	712.649
	504	690.287
	505	773.301
	506	915.364
	507	764.275
	508	758.142
	509	676.915
	510	635.268
	511	705.572
	512	644.471
	513	717.687
	514	650.145
	515	692.695
	516	593.106
	517	692.067
	518	640.849
	519	688.748
	520	681.129
	521	686.149
	522	644.702
	523	671.740
	524	694.433
	525	711.472
	526	693.217
	527	726.250
	528	772.675
	529	781.294
	530	1.703.948
	531	1.307.358
	532	722.644
	533	779.490
	534	687.331
	535	765.831
	536	850.259
	537	761.817
	538	867.870
	539	826.827
	540	723.485
	541	832.320
	542	768.089
	543	788.793
	544	867.006
	545	766.086
	546	739.560
	547	754.321
	548	965.759
	549	869.446
	550	775.596
	551	736.253
	552	1.052.511
2007	553	736.596
	554	722.568

**OK! Delivery to UK and Republic of Ireland 2002-2007**

*NB: Republic of Ireland is not considered an export market in the UK newstrade.*

Year	Issue number	pies supplied
	555	742.605
	556	710.845
	557	730.845
	558	786.205
	559	836.065
	560	836.065

Annex 3



## Standard Certificate of Circulation

For the 26 issues distributed between 1st January 2006 and 30th June 2006

**Consumer  
Magazines**

**OK! Magazine**

### Contents

- 2 Analysis of Circulation
- 3 Supporting Data
- 4 Supporting Data
- 5 Supporting Data

This certificate expires on 31st March 2007 unless ABC has issued a new certificate before that date.

**Issued by**  
ABC Ltd  
Saxon House, 211 High Street  
Berkhamsted  
Hertfordshire HP4 1AD  
United Kingdom

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Fax: +44 (0) 1442 200700  
Net: [www.abc.org.uk](http://www.abc.org.uk)  
Email: [abcport@abc.org.uk](mailto:abcport@abc.org.uk)

All data carried in this certificate is derived  
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PricewaterhouseCoopers LLP  
and is authorised for issue by the  
ABC Council on:  
17th August 2006

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Email: [emma.shiels@express.co.uk](mailto:emma.shiels@express.co.uk)



# OK! Magazine

Certificate of Average Net Circulation for the 26 issues distributed between 1st January 2006 and 30th June 2006

TOTAL AVERAGE NET CIRCULATION PER ISSUE		Net Total	UK & RoI	Other Countries
		547,714	494,824	52,890
<b>Newstrade and other Single Copy Sales</b>	<b>Total</b>	490,911	490,911	-
At Basic Cover Price		481,389	481,389	-
Below BCP but not less than 50%		9,522	9,522	-
Less than 50% of BCP but not less than 20%		-	-	-
<b>Single Copy Subscription Sales</b>	<b>Total</b>	2,452	2,102	350
At Basic Annual Rate		2,452	2,102	350
Below BAR but not less than 50%		-	-	-
Less than 50% of BAR but not less than 20%		-	-	-
Less than 20% of BAR but not less than 10%		-	-	-
Less than 10% of BAR		-	-	-
<b>Multiple Copy Subscription Sales</b>	<b>Total</b>	-	-	-
At Basic Annual Rate		-	-	-
Below BAR but not less than 50%		-	-	-
Less than 50% of BAR but not less than 20%		-	-	-
Less than 20% of BAR but not less than 10%		-	-	-
Less than 10% of BAR		-	-	-
<b>Regular Bulk Sales</b>	<b>Total</b>	54,351	1,811	52,540
Not less than 50% of Basic Cover Price		-	-	-
Less than 50% of BCP but not less than 10%		54,351	1,811	52,540
Less than 10% of BCP		-	-	-
<b>Issue Specific Bulk Sales</b>	<b>Total</b>	-	-	-
Not less than 50% of Basic Cover Price		-	-	-
Less than 50% of BCP but not less than 20%		-	-	-
<b>Society / Association / Organisation Circulation</b>	<b>Total</b>	-	-	-
Paid Optional Single Copies		-	-	-
Unpaid Single Copies Requested in Writing		-	-	-
Unpaid Single Copies Requested by Telecommunications		-	-	-
Non-Optional Single Copies		-	-	-
<b>Controlled Free Circulation</b>	<b>Total</b>	-	-	-
Individually Requested in Writing		-	-	-
Individually Requested by Telecommunications		-	-	-
Company Requested in Writing		-	-	-
Company Requested by Telecommunications		-	-	-
Non-Requested - by Name		-	-	-
Non-Requested - by Job Title / Function		-	-	-
<b>Non-Controlled Free Circulation</b>	<b>Total</b>	-	-	-
By Name		-	-	-
Not by Name		-	-	-
<b>Monitored Free Distribution</b>	<b>Total</b>	-	-	-
Individually Distributed		-	-	-
Bulk Distributed		-	-	-
<b>Actively Purchased Circulation</b>		<b>90.0</b>	<b>99.6</b>	<b>0.6</b>

## OK! Magazine

Certificate of Average Net Circulation for the 26 issues distributed between 1st January 2006 and 30th June 2006

**Price:** The following prices are accurate for the end of the audit period.

Basic Cover Price: £2.00  
 Published annual UK Subscription rate: £90.00  
 Published annual RoI Subscription rate: £135.00  
 Published annual Other Countries Subscription rate: £135.00 to £199.00

**Duplication:**

Not Applicable

**Excluded issues:**

None

### Regular Bulk Sales Analysis

Category	TOTAL		Not Less Than 50% of BCP		Less than 50% of BCP but not less than 10 %		Less Than 10% BCP	
	Quantity	%	Quantity	%	Quantity	%	Quantity	%
Airlines	-	-	-	-	-	-	-	-
Hotels	1,811	0.3	-	-	1,811	0.3	-	-
Trains	-	-	-	-	-	-	-	-
Other Publication Insert	-	-	-	-	-	-	-	-
Voucher Redemption	-	-	-	-	-	-	-	-
Sports Events	-	-	-	-	-	-	-	-
Leisure Centres	-	-	-	-	-	-	-	-
Food/Beverage Outlets	-	-	-	-	-	-	-	-
Others	52,540	9.6	-	-	52,540	9.6	-	-
<b>TOTAL</b>	<b>54,351</b>	<b>9.9</b>	<b>-</b>	<b>-</b>	<b>54,351</b>	<b>9.9</b>	<b>-</b>	<b>-</b>

### Issue Specific Bulk Sales Analysis

None

## OK! Magazine

Certificate of Average Net Circulation for the 26 issues distributed between 1st January 2006 and 30th June 2006

---

**Society / Association / Organisation Circulation**

None

---

**Controlled Circulation - Terms of Control in Audit Period**

None

---

**Monitored Free Distribution**

None

---

**Editions Analysis**

None

## OK! Magazine

Certificate of Average Net Circulation for the 26 issues distributed between 1st January 2006 and 30th June 2006

### Issue by Issue Analysis:

Cover Date / Issue Identifier	Issue Variance from Total Average *	Issue Specific Bulk Sales	Monitored Free Distribution		
			Total	Individually Distributed	Bulk Distributed
502	-	-	-	-	-
503	-	-	-	-	-
504	-	-	-	-	-
505	-	-	-	-	-
506	Above	-	-	-	-
507	-	-	-	-	-
508	-	-	-	-	-
509	-	-	-	-	-
510	-	-	-	-	-
511	-	-	-	-	-
512	-	-	-	-	-
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519	-	-	-	-	-
520	-	-	-	-	-
521	-	-	-	-	-
522	-	-	-	-	-
523	-	-	-	-	-
524	-	-	-	-	-
525	-	-	-	-	-
526	-	-	-	-	-
527	-	-	-	-	-

Variances are only shown where an issue exceeds the Avg Net Circ by (a) 10% for 12 month audit periods or (b) 20% for all other audit periods.  
Variances will be displayed as (a) percentages for 12 month audit periods or (b) either the word 'above' or 'below' for all other audit periods.



OK! in EU export markets 2001-2007

OK Delivery 2007	Total	Austria	Belgium	Cyprus	Denmark	Estonia	Finland	France	Germany	Greece	Holland	Hungary	Italy	Luxembourg	Malta	Norway	Poland	Portugal	Spain	Sweden	Switzerland
553	41835	100	1000	1100	500	50	500	3500	1825	600	2500	140	2500	70	1100	550	90	1500	23680	250	500
554	32017	100	1017	1100	500	50	500	3500	1850	800	2500	140	2500	70	1100	550	90	1500	14800	250	500
555	30779	100	1019	1100	500	50	500	3500	1850	800	2500	140	2500	70	1100	550	90	1500	12560	250	500
556	30042	100	1022	1100	500	50	500	3500	1850	800	2500	140	2500	70	880	550	90	1500	12080	250	500
557	30358	0	1013	1100	450	50	500	3500	1825	600	2500	140	2500	70	880	550	90	1500	12560	250	500
558	32341	0	1011	1100	450	50	500	3500	1800	600	2500	140	2500	70	880	550	90	1500	14320	500	500
559	33530	0	1005	1100	450	50	500	3500	1575	600	2500	140	2500	70	880	550	90	1500	15540	500	500
560	33530	0	1005	1100	450	50	500	3500	1575	600	2500	140	2500	70	880	550	90	1500	15540	500	500
561	33530	0	1005	1100	450	50	500	3500	1575	800	2500	140	2500	70	880	550	90	1500	15540	500	500
562	33530	0	1005	1100	450	50	500	3500	1575	800	2500	140	2500	70	880	550	90	1500	15540	500	500
563	33530	0	1005	1100	450	50	500	3500	1575	600	2500	140	2500	70	880	550	90	1500	15540	500	500
564	33530	0	1005	1100	450	50	500	3500	1575	600	2500	140	2500	70	880	550	90	1500	15540	500	500
565	33530	0	1005	1100	450	50	500	3500	1575	600	2500	140	2500	70	880	550	90	1500	15540	500	500
566	33530	0	1005	1100	450	50	500	3500	1575	600	2500	140	2500	70	880	550	90	1500	15540	500	500
567	33530	0	1005	1100	450	50	500	3500	1575	600	2500	140	2500	70	880	550	90	1500	15540	500	500

30.134

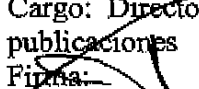
Annex 4

# Annex 5

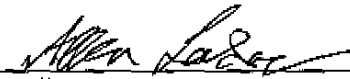
## DECLARACIÓN

Que los datos que aparecen en el documento adjunto son, además de ciertos, fiel reflejo de de los libros, papeles y registros de la compañía Northern & Shell Plc y sus filiales que obran a mi cargo.

En Londres, el 14 de febrero, de 2007.

Nombre: Jonathon Dearden-Jones  
Cargo: Director ~~Financiero~~ del área de publicaciones  
Firma: 

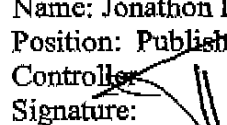
Declarado y firmado ante mi el 14 de febrero, de 2007.

  
Notario Público

## AFFIDAVIT

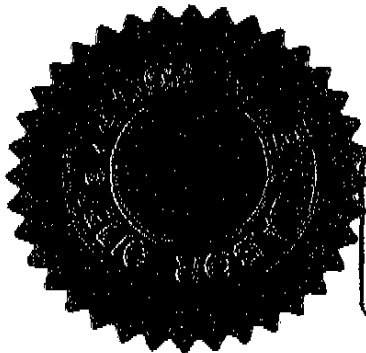
I hereby certify that the facts contained in the document attached are not only true but also an accurate and loyal reflection of the books and registries of the company Northern & Shell Plc. and its subsidiaries that are kept under my custody.

In London, the 14th day of February, 2007

Name: Jonathon Dearden-Jones  
Position: Publishing Financial Controller  
Signature: 

Declared and signed before me the 14th day of February, 2007.

  
Notary Public



**ALLEN LABOR**  
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E-MAIL: labor@notarylondon.com

## Northern & Shell Network Marketing costs for OK! Magazine

**Company:** Northern & Shell Plc  
**Title:** OK!  
**Principle market:** UK  
**Launched:** March 1993 as a monthly,  
 March 1996 as a weekly  
**Currency:** UK£

### Marketing spend:

Year	Expense type	£'000
2002	Actual	7,724
2003	Actual	5,908
2004	Actual	3,359
2005	Actual	4,411
2006	Actual	5,103
2007	Forecast	4,907

**Sub total £** 31,413

**Company:** Northern & Shell (North America) Limited  
**Title:** OK!  
**Principle market:** United States of America & Canada  
**Launched:** August 2005 as a weekly title  
**Currency:** US \$

### Marketing spend:

Year	Expense type	\$'000
2005	Actual	23,295
2006	Actual	11,230
2007	Forecast	22,657

**Sub total US\$** 57,182

**Company:** Northern & Shell Pacific Limited  
**Title:** OK!  
**Principle market:** Australia & New Zealand  
**Launched:** September 2004 as a monthly  
 November 2006 as a weekly  
**Currency:** A\$

### Marketing spend:

Year	Expense type	\$'000
2004	Actual	781
2005	Actual	1,005
2006	Actual	3,992
2007	Forecast	2,715

**Sub total A\$** 8,493





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## Top 50 by overall total average net circulation

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	Magazine	Publisher	% Actively Purchased	Circulation Jun - Dec '05	Yr-on-yr % Change
1	Sky The Magazine	John Brown Citrus	0	6,783,581	2.8
2	Asda Magazine	Publicis Blueprint	0	2,631,293	7.3
3	Boots Health & Beauty	Redwood	0	1,765,387	-3.8
4	What's on TV	IPC Media	100.0	1,673,790	2.4
5	U (for Unison members)	Unison	0.0	1,465,833	n/a
6	Saga Magazine	Saga Group	47.0	1,245,006	0.1
7	Take A Break	H Bauer	100.0	1,200,397	-0.1
8	TV Choice	H Bauer	100.0	1,157,622	6.9
9	The Somenfeld Magazine	Rare Publishing	0.0	1,134,364	0.3
10	Radio Times	BBC Worldwide	98.1	1,080,199	-2.2
11	Reader's Digest	Reader's Digest	93.1	776,902	-5.6
12	Debenhams's Desire	Publicis Blueprint	0.0	745,126	n/a
13	Glamour	Conde Nast	99.8	609,626	0.6
14	Chat	IPC Media	100.0	609,163	0.4
15	Now	IPC Media	99.9	591,795	2.0
16	That's Life	H Bauer	100.0	569,631	0.8
17	Heat	Emap	100.0	560,438	3.7
18	FHM	Emap	100.0	560,167	-2.4
19	Time Magazine	Time Warner	79.9	551,114	-0.7
20	Closer	Emapl	100.0	540,044	12.5
21	OK!	Northern & Shell	87.1	532,843	-3.8
22	Pick Me Up	IPC Media	100.0	503,950	n/a
23	The Economist - excl. The Americas	Economist	78.5	503,077	6.9
24	Exchange & Mart	United Advertising Publications	10.1	491,162	n/a

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## Top 70 Consumer Magazines

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25	Woman	IPC Media	100.0	485,463	-9.5
26	Good Housekeeping	NatMags	100.0	475,838	13.9
27	Cosmopolitan	NatMags	99.3	462,943	1.4
28	Yours	Emap	100.0	440,070	6.3
29	Woman's Weekly	IPC Media	100.0	425,568	-5.8
30	Woman's Own	IPC Media	100.0	424,292	-4.9
31	TV Times	IPC Media	99.9	418,192	-11.7
32	Emma's Diary Pregnancy Guide	Lifecycle Marketing	0.0	416,140	n/a
33	Homebase Ideas	Publicis Blueprint	0.0	399,348	-10.8
34	Best	ACP-Natmags	100.0	398,289	-0.8
35	VM The Vauxhall Magazine	Mediamark Publishing	0.0	394,846	-6.6
36	Auto Exchange	United Advertising Publications	0.0	392,598	-6.6
37	Hello!	Hello!	87.2	392,481	8.7
38	Bella	H Bauer	99.5	389,100	-6.2
39	Marie Claire	IPC Media	95.9	381,281	0.1
40	New!	Northern & Shell	91.2	373,039	-7.6
41	The People's Friend	DC Thomson	100.0	363,638	-1.6
42	National Geographic	National Geographic	98.3	350,253	2.8
43	The Garden	RHS Publications	0.1	248,567	5.0
44	Sainsbury's The Magazine	New Crane	98.9	348,898	23.5
45	TV Easy	IPC Media	100.0	340,018	n/a
46	Unlimited (for UCG cinemas)	BBC Origin	0.0	338,000	2.3
47	Woman & Home	IPC Media	99.9	327,554	7.9
48	Auto Trader	Trader Publishing	99.4	326,948	-7.0
48	BBC Gardeners World	IPC Media	97.3	326,622	-9.4
50	Prima	NatMags	100.0	326,231	-1.2

Source: ABC period to December 2006

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