



O-406-10


**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION Nos. 83668, 83669 & 83670  
BY GENERAL ELECTRIC COMPANY  
FOR REVOCATION OF TRADE MARK Nos. 2219671, 2332488 &  
2332489  
STANDING IN THE NAME OF  
MARTIN JOHN BRYANT**

## BACKGROUND

1) The following trade marks are registered in the name of Martin John Bryant.

| Mark  | Number  | Registered Date | Class | Specification  |
|---|---------|-----------------|-------|--|
|    | 2332489 | 31.12.04        | 9     | Batteries, electric-motors and generators, electric drive systems, hybrid-electric drive systems, electrical energy storage devices, super-capacitors, power electronics, inverters and electronic control systems, power conversion and power distribution systems and components, printed circuit boards, integrated circuits, silicon-based electrical and electronic devices, switches, electrical wiring and electrical conductors, indicators, digital and analogue displays, sensors and data acquisition systems, electrical transducers, relays and electrical actuators. |
|   |         |                 | 12    | Motor land vehicles; racing cars; karts; water vehicles; ships; boats and water based leisure craft; electric and hybrid electric vehicles; parts and fittings for all the aforesaid goods; but not including any such goods being external delivery land vehicle parts and fittings and external commercial pick up vehicle parts and fittings or launch vehicles.  |
|   |         |                 | 41    | Entertainment; education and sporting services; sporting and cultural activities; but not including education services for the legal profession and not including education services for direct mail marketing and advertising.  |
|   |         |                 | 42    | Engineering design and consultancy, project management services.   |
|  | 2332488 | 05.12.03        | 9     | Batteries for vehicles; electric motors and generators; vehicle power electronics.   |
|   |         |                 | 12    | Motor land vehicles; racing cars; karts; water vehicles; ships; boats and water based leisure craft;   |

|   |         |          |    |   |
|---|---------|----------|----|---|
|   |         |          |    | aircraft; electric and hybrid electric vehicles; parts and fittings for all the aforesaid goods.                        |
|   |         |          | 41 | Entertainment; education and sporting services; sporting and cultural activities.                                       |
|   |         |          | 42 | Engineering design and consultancy, project management services.  |
|  | 2219671 | 13.12.02 | 9  | Batteries for vehicles; electric motors; vehicle power electronics.   |
|   |         |          | 12 | Motor land vehicles, racing cars, karts, electric and hybrid land vehicles; ships, boats and water based leisure-craft. |
|   |         |          | 42 | Engineering design and consultancy; project management services.  |

2) By applications dated 26 January 2010 General Electric Company applied for the revocation of the registrations under the provisions of Section 46(1)(a) & 46(1)(b) claiming there has been no use of the trade marks on the goods and services for which they are registered in the five year period post registration or in the period 27 January 2005 - 26 January 2010. Revocation dates of 1 January 2010 (2332489), 6 December 2008 (2332488), 14 December 2007 (2219671) under Section 46 (1) (a) & 26 January 2010 under Section 46 (1) (b) were sought.

3) On 19 April 2010 the registered proprietor filed counterstatements denying the applicant's claims stating that the marks had been used or that there were proper reasons for non-use. The counterstatement also dealt with the history between the two parties at OHIM and included accusations of improper action by both the applicant for revocation and OHIM. I have not documented these as they do not affect my decision.

4) Only the registered proprietor filed evidence. The matter came to be heard on 3 November 2010 when the registered proprietor represented himself and the applicant was represented by Mr Krause of Messrs Haseltine Lake LLP.

### **REGISTERED PROPRIETOR'S EVIDENCE**

5) The registered proprietor filed a witness statement, dated 26 June 2010 along with a number of exhibits. Mr Bryant states that he began the Pegasus project on 16 November 1998. He states that it was a showcase for new technology and a product of the future. He states that his company viewed the Pegasus Project vehicles as mobile testing laboratories for the rapid prototyping of next generation technologies and spin off products for various vehicle and non-vehicle marketplaces. Much of his statement deals with Mr Bryant's dealings with the opponent and his allegations of espionage and also corruption amongst the various official bodies and Government Departments. He states that the tactics of the opponent have delayed the project and are in themselves a reason for non-use of the marks. As a summary of the statement cannot provide the full scope of the allegations I have attached a copy of the statement at

annex 2 to the decision. A number of the exhibits are undated or unclear as to what purpose they serve. I summarise them as follows:

X1-X3: These comprise the cover and first two pages of the “Pegasus Story: part 1”. They feature all three marks. This was published on the internet on 28 February 2009, and part 1 deals with the years 1998-2005. It does not actually give any details of what the Pegasus project is about, or even actual events, other than the following cryptic comments:

“We believed that twenty years into the future the journey from London to Sydney would take “three hours fifteen minutes” and predicted that vehicles like Pegasus would be in existence at the beginning of the 21<sup>st</sup> Century.

Faster supersonic airliners and high altitude rocket-powered passenger aircraft have yet to materialise, but it is hoped that Pegasus will inspire further creativity and innovation, at the dawn of the 21<sup>st</sup> Century.....”.

X4-X19: These list a number of companies, share holdings and certificates of incorporation. None of the trade marks are present on these pages.

X20-X26: A one page letter, dated 7 December 1998, from Mr Bryant to the Department of the Environment and responses from them and the South East England Development Agency. Mr Bryant outlines his plans to build an electric car which will beat the land speed record for such vehicles and seeking assistance from the Government. The letter also mentions, in the broadest detail, potential spin offs from the venture. The replies are dated 1 February 1999, 23 June 1999, 1 July 1999, 6 August 1999 and 30 September 1999. It is clear that the Departments cannot offer financial assistance but can offer advice and introductions to others. It is clear that a number of meetings took place. The letter from Mr Bryant carries only a mark which is very similar to 2219671.

X27: This lists a series of steps in the Pegasus electric land speed project. This is undated and carries none of the trade marks.

X28: A letter, dated 1 January 2001, from the University of Sheffield to Pegasus Electric Limited. It states that they are willing to cost a collaborative research and development project once they have the details of the company’s requirements.

X30-32: Pages of notes, one on University of Sheffield notepaper, which whilst legible are incomprehensible. These are presumably notes from the meeting/s that Mr Bryant held with the university during 2001.

X33-X34: A letter, dated 23 March 2001 from Mr Bryant to the University of Sheffield mentioning a meeting and inviting the University the chance to become a supplier to the project mentioning that a further meeting could investigate “the funding of the research and development required to be conducted during the next three years”. The letter has trade mark 2219671 upon it. The reply from the University, dated 2 May 2001, states that the University is interested but needs more information and also commitment from “your financial partners/investors”.

X36 & X37: The first page bears an image of a car with the words “Low emission?”, “Zero emission?” and “Speed?”. It features 2219671 but is undated. It is not clear why this was produced. The second page is clearly a handout as it has the invitation “please take one” printed at the top. It too features 2219671 and lists media stories about the Pegasus land speed project from 7 January 1999-June 2001.

X38- X50: These show pictures of what can best be described as a road show. The first picture shows a lorry with marquees on either side. The photographs of the interior show a large “Scalextric” type track with a banner proclaiming “Pegasus Raceway”. There are also pages from the internet which show caps, shirts, jackets, posters, models of the Pegasus car and calendars being offered for sale to the public. These items were also available from the road show. The only date shown is that on the calendar which is for 2002. The public were also invited to become members of the project, presumably as a means of raising funds. All three marks feature at some point in these exhibits.

X51-X63: These appear to be pages from the website of the project devoted to those members of the public who become “team members”. In return for their £9.99 they get rudimentary information on the design of the vehicle. These would appear to date from 2002. They show use of trade marks 2332489 & 2332488.

X64-X69: These are pages from the British Racing Green website and also the Podium Designs website. Both are companies owned by Mr Bryant. They repeat much of the information summarised above such as “The Pegasus Story”. They appear to be dated 2008 and show use of trade marks 2332489 & 2332488.

X70-X71: Pages from an unknown website which shows images from the “Innovate” event at Earls Court in 2001. They show a Pegasus stand at the event.

X72-X77: Copies of pages from a programme for the “Airbourne” event in August 2001 at Eastbourne. This shows a stand at the show giving details of the land speed record bid.

X78-X81: Copies of pages from a programme for “The Very Fast Show” at Silverstone where the same stand can be seen. This is dated September, I assume that the year is 2001 from the comments in the programme.

X82-X85: Copies of pages from a programme for the Greenpower Electric Car Marathon in October 2001. It would appear that the Pegasus team again had a stand at the event. Mr Bryant was a judge of the Green award.

X86-X89: Copies of pages from a programme for the Bexhill 100 International Festival of Motoring, from May 2002. It would appear that the Pegasus team again had a stand at the event.

X90-X93: Copies of pages from a programme for the CSMA Classic Festival dated May 2002. It would appear that the Pegasus team again had a stand at the event.

X94-X95: Photographs from the Science Museum in London which are undated and show that the Pegasus land speed Record was featured on a computer screen as part of a display by the museum regarding climate change.

X96 & X97: These documents would appear to be the front pages from proposals seeking funding dated July 2002 and October 2003. No details are provided as to who was approached regarding funding or what the response was. The first page states that it is from "The British Racing Green Group Limited incorporating the Pegasus Project", the other states "The British Racing Green Group presents the Pegasus LSR Hybrid and Pegasus Le Mans Hybrid". Both documents feature the mark 2332488.

X98-X102: Copies of pages from the Autosport Engineering exhibition in January 2004 where the British Racing Green Group had a stand promoting the Pegasus project. They state that "The aim of the group is to launch, oversee and to promote racing technology projects that can turn the best ideas, initiatives and research into demonstration vehicles, competitive racing machinery, road vehicles and transport system power solutions and technologies". The pages show use of trade marks 2332488 & 2332489.

X103-X109: A copy of a document giving background on the projects that British Racing Green Group are proposing, from land speed records, to water speed records, hybrid road cars and racing cars. It shows the name UGS, The PLM Company on the front and presumably was used in an attempt to gain funding from this company. It has a copyright date of 2004. It shows use of trade marks 2332488 & 2332489.

X110-X111, and X112-X113: Each of these two page exhibits has as its front page the name of the British Racing Green Group and then the name of the company being approached, in these cases Gillette and Michelin. The second page of each exhibit shows an image of the land speed car with the livery of the potential sponsor. Both seem to be dated 2004. Trade mark 2219671 is used.

X114: Consists of a copy of the front page only of what seems to be another funding pitch, this time aimed at Mazda. It is dated 2004 and none of the trade marks appear upon it.

X115-X119: Consists of another sponsorship proposal aimed at BP. The pages supplied only give background details of the company together with details of the potential projects from land speed records, to water speed records, hybrid road cars and racing cars. Trade marks 2332488 & 2332489 are used. It is dated 2008.

X124 - X126: Three front pages which appear similar to the documents provided previously seeking funding from BP, Ford and The Department for Business Enterprise and Regulatory Reform. These are dated 2007 but feature only trade mark 2332489. The document was sent by Greenspeed Limited.

X127-X171: Various media reports during the period 1999- September 2002 on the proposed land speed record.

X172-X174: A copy of a letter dated 21 June 2010 to the Department for Business Innovation and Skills seeking £1.5 million as a settlement alleging, inter alia,

corruption, espionage, mal-administration and conspiracy which it is claimed damaged the registered proprietor and prevented his projects from succeeding. However, there is an absence of distinct detail as to how this was achieved.

X175-X178: A copy of a letter, dated 21 April 2009, to Nicolas Soames M.P. repeating the gist of exhibit X172-174.

X179-X190: Copies of pages from the General Electric Company website, Ceefax and others showing the use of the Pegasus name by the applicant in the instant case, also reference is made to Government Ministers being available for hire.

6) In addition there were some exhibits which the Registry agreed would be kept confidential. These exhibits were numbered X29, X35, X120, X121, X122 and X123. These are summarised at annex 1 which is only available for the registered proprietor and the legal representatives of the applicant to view.

### **CROSS EXAMINATION**

7) The registered proprietor requested to cross examine Mr Krause both as an individual and in his capacity as the Trade Mark Attorney for the applicant. The registered proprietor also sought to cross examine a senior manager from General Electric Company (the applicant). These requests were denied as the applicant had not filed any evidence in the instant case.

8) That concludes my review of the evidence. I now turn to the decision.

### **DECISION**

9) The revocation action is based upon Section 46(1)(a) & (b) of the Trade Marks Act 1994, the relevant parts of which read as follows:

“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) .....
- (d) ....

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

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

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

10) The applicant alleges that the marks have not been used in the five years subsequent to their registration or in the five years prior to the date of the applications for revocation. The periods in question are, therefore, 1 January 2005 - 31 December 2009 (2332489), 6 December 2003-5 December 2008 (2332488) and 14 December 2002-13 December 2007(2219671) for Section 46(1)(a) and 26 January 2005-25 January 2010 for the Section 46(1)(b) ground against all three marks.

11) Where the registered proprietor claims that there has been use of the trade mark, the provisions of Section 100 of the Act make it clear that the onus of showing use rests with him. It 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.”

12) In determining the issue of whether there has been genuine use of the mark in suit I take into account the guiding principles from *Ansul BV v Ajax Brandbeveiliging BV* [2003] R.P.C. 40 and *Laboratoire de la Mer Trade Mark* [2006] F.S.R. 5. From these cases I derive the following main points:

- genuine use entails use that is not merely token. It must also be consistent with the essential function of a trade mark, that is to say to guarantee the identity of the origin of goods or services to consumers or end users (*Ansul*, paragraph 36);
- the use must be ‘on the market’ and not just internal to the undertaking concerned (*Ansul*, paragraph 37);
- it must be with a view to creating or preserving an outlet for the goods or services (*Ansul*, paragraph 37);
- the use must relate to goods or services already marketed or about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns (*Ansul*, paragraph 37);
- all the facts and circumstances relevant to determining whether the commercial exploitation of the mark is real must be taken into account (*Ansul*, paragraph 38);



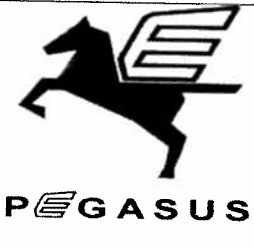
- the assessment must have regard to the nature of the goods or services, the characteristics of the market concerned and the scale and frequency of use (*Ansul*, paragraph 39);
- but the use need not be quantitatively significant for it to be deemed genuine (*Ansul*, paragraph 39);
- an act of importation could constitute putting goods on the market (*Laboratoire de la Mer*, paragraph 25 referring to the earlier reasoned order of the ECJ);
- there is no requirement that the mark must have come to the attention of the end user or consumer (*Laboratoire de la Mer*, paragraphs 32 and 48);
- what matters are the objective circumstances of each case and not just what the proprietor planned to do (*Laboratoire de la Mer*, paragraph 34);
- the need to show that the use is sufficient to create or preserve a market share should not be construed as imposing a requirement that a significant market share has to be achieved (*Laboratoire de la Mer*, paragraph 44).

13) I also take note of the CFI (now the General Court) case T-334/01, *MFE Marienfelde GmbH v OHIM* (HIPOVITON) where at paragraph 37 they stated:

“37. However, the smaller the commercial volume of the exploitation of the mark, the more necessary it is for the party opposing new registration to produce additional evidence to dispel possible doubts as to its genuineness.”

14) I turn first to the revocation under 46(1)(a). There are three trade marks registered and the periods covered under this ground of revocation is different for each trade mark. In date order the periods are 14 December 2002 - 13 December 2007 (2219671), 6 December 2003 - 5 December 2008 (2332488) and 1 January 2005 - 31 December 2009 (2332489). There are therefore a large number of exhibits which predate the earliest of these periods. I shall take each mark in turn.


15) I first consider trade mark 2219671. The trade mark and the specification are shown below for ease of reference.

|   |    |   |
|---|----|---|
|  | 9  | Batteries for vehicles; electric motors; vehicle power electronics.   |
|   | 12 | Motor land vehicles, racing cars, karts, electric and hybrid land vehicles; ships, boats and water based leisure-craft. |
|   | 42 | Engineering design and consultancy; project management services.  |

16) The only exhibits which feature this mark and which are within the relevant period are X110-X114 and X120-X123. Exhibits X110-114 consist of two front sheets which show the names of Gillette and Michelin respectively and two back

pages which show a mock up drawing of the land speed record car in the livery of Gillette and Michelin respectively. The confidential exhibits at X120-X123 also appear to be addressed to a major corporation, with drawings of racing cars. No details are provided as to why these documents were produced. The assumption is that they were part of a sponsorship “pitch” to the three companies. But no details are provided as to whether these were even sent to the companies or what was proposed. This cannot be regarded as use of the trade mark upon the goods and services for which it is registered. **The revocation action under Section 46(1)(a) therefore succeeds in respect of trade mark 2219671.**

17) I now turn to consider trade mark 2332488. The trade mark and the specification are shown below for ease of reference.

|   |    |   |
|---|----|---|
|  | 9  | Batteries for vehicles; electric motors and generators; vehicle power electronics.  |
|   | 12 | Motor land vehicles; racing cars; karts; water vehicles; ships; boats and water based leisure craft; aircraft; electric and hybrid electric vehicles; parts and fittings for all the aforesaid goods. |
|   | 41 | Entertainment; education and sporting services; sporting and cultural activities.   |
|   | 42 | Engineering design and consultancy, project management services.  |


18) The following exhibits fall within the relevant period and have trade mark 2332488 upon them. The full details are in the evidence summary above and my comments on each of the exhibits are as follows:

- X65-X69: These provide very broad information on the original land speed record bid.
- X 97: This appears to be a funding pitch but there are no details as to who the document was sent or what was actually proposed, other than it seems to relate to a Le Mans series car.
- X98-X102: Evidence that the registered proprietor had a stand at an exhibition. It would appear to be promoting the land speed record bid and does mention the technology this could generate.
- X103-X109: Documents which appear to be aimed at achieving funding from a company, although the document sets out a large list of potential projects from land and water speed records to racing and road cars. Again no details are provided of whether the document was sent, what was sought and whether the company replied.
- X115-X119: Another document which appears to be aimed at achieving funding from a company, although the document sets out a large list of potential projects from land and water speed records to racing and road cars. Again no details are provided of whether the document was sent, what was sought and whether the company replied.

19) The lack of detail as to who was sent the requests for sponsorship, whether they responded, copies of responses and details of meetings mean that there are too many assumptions having to be made. No single instance relied upon is detailed enough to

be determinative and even taking all of the evidence cumulatively it is simply not sufficient to be regarded as genuine use of the trade mark for any of the goods and services for which it is registered. **The revocation action under Section 46(1)(a) therefore succeeds in respect of trade mark 2332488.**

20) Lastly under Section 46(1)(a) I turn to consider trade mark 2332489. The trade mark and the specification are shown below for ease of reference.

|   |    |  |
|---|----|--|
|  | 9  | Batteries, electric-motors and generators, electric drive systems, hybrid-electric drive systems, electrical energy storage devices, super-capacitors, power electronics, inverters and electronic control systems, power conversion and power distribution systems and components, printed circuit boards, integrated circuits, silicon-based electrical and electronic devices, switches, electrical wiring and electrical conductors, indicators, digital and analogue displays, sensors and data acquisition systems, electrical transducers, relays and electrical actuators. |
|   | 12 | Motor land vehicles; racing cars; karts; water vehicles; ships; boats and water based leisure craft; electric and hybrid electric vehicles; parts and fittings for all the aforesaid goods; but not including any such goods being external delivery land vehicle parts and fittings and external commercial pick up vehicle parts and fittings or launch vehicles.  |
|   | 41 | Entertainment; education and sporting services; sporting and cultural activities; but not including education services for the legal profession and not including education services for direct mail marketing and advertising.  |
|   | 42 | Engineering design and consultancy, project management services.   |

21) The following exhibits fall within the relevant period and have trade mark 2332489 upon them. The full details are in the evidence summary above and my comments on each of the exhibits are as follows:

- X1-X3: These exhibits comprise the cover and first two pages of the “Pegasus Story: part 1”. It does not actually give any details of what the Pegasus project is about, or even actual events, other than the following cryptic comments. It does not refer to any of the goods or services for which the marks are registered.
- X65-X69: These provide very broad information on the original land speed record bid.
- X115-X119: Another document which appears to be aimed at achieving funding from a company, although the document sets out a large list of potential projects from land and water speed records to racing and road cars. Again no details are provided of whether the document was sent, what was sought and whether the company replied.
- X125-126: These would appear to be seeking funding from Ford and the Department of Business Enterprise and Regulatory Reform. Again no details

are provided of whether the document was sent, what was sought and whether the company replied.

22) The lack of detail as to who was sent the requests for sponsorship, whether they responded, copies of responses and details of meetings mean that there are too many assumptions having to be made. No single instance relied upon is detailed enough to be determinative, and even taking all of the evidence cumulatively it is simply not sufficient to be regarded as genuine use of the trade mark for any of the goods and services for which it is registered. **The revocation action under Section 46(1)(a) therefore succeeds in respect of trade mark 2332489.**

23) I now turn to consider the case under Section 46(1)(b) which has a common period of 26 January 2005-25 January 2010 for all three marks. The evidence of use for this period is scant, and below I list all the exhibits which are dated within this period.

- 2219671: X1-X3, X120-X123
- 2332488: X1-X3, X65-X69, X115-X119.
- 2332489: X1-X3, X65-X69, X115-X119, X125-X126.

24) I have considered these exhibits when dealing with the revocation under Section 46(1)(a). They were insufficient, even when allied with other exhibits, to show that the trade marks had been used. The position is no different here. **Therefore, the revocation action under Section 46 (1)(b) in relation to all three trade marks succeeds.**

25) However, I do need to consider the proviso under Section 46 (1) regarding proper reasons for non-use. Mr Purvis Q.C. acting as the Appointed Person in case O-276-09 said:

“31. It is not enough for the trade mark proprietor to show that the event or situation on which he relies as the reason for non-use is one of those reasons which would be regarded in law as a “proper” excuse for not using a trade mark. He must also prove as a question of fact that it was the “reason” why the mark was not used. Put another way, as the Appointed Person, Geoffrey Hobbs QC expressed it in *Cervinet Trade Mark* [2002] RPC 30 at 51:

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

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

26) I also note the comments of the ECJ in Case C-246/05 *Armin Haupl v Lidl Stiftung & Co. KG* where they established the following test for identifying proper reasons:

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

27) The registered proprietor relies upon various exhibits which purport to show that funding was being sought. However, no details are provided as to precisely to whom these documents were sent or what, if anything, was the outcome. Nor is it clear precisely what was being sought. I have placed my own interpretation upon these documents but they do not provide any detail as to precisely what was being sought. The registered proprietor has made many veiled comments about conspiracies by many individuals, companies and Government departments, but has offered no evidence of precisely what was done which prevented the use of the marks in suit upon the goods and services for which they are registered. At the hearing Mr Bryant mentioned several times that he was filing actions with the High Court which would prove that the registered proprietor had been the victim of a conspiracy which sought to prevent his project going ahead. Unfortunately, the registered proprietor chose not to file the evidence which might support such a contention with the Registry. To my mind the registered proprietor has not shown that there were proper reasons for non-use. **The revocation action against all three trade marks therefore succeeds under both Sections 46(1)(a) and (b). The trade marks are therefore revoked from the following dates:**

2219671: 14 December 2007

2332488: 6 December 2008

2332489: 1 January 2010

## COSTS

28) As the applicant for revocation has been successful it is entitled to a contribution towards costs. There are three sets of proceedings even though there was only one hearing, the costs reflect this fact. I order the registered proprietor to pay the opponent the sum of £3,200. This sum is calculated as shown below and 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.

|  |       |
|--|-------|
| Preparing statements and considering the other side's statements | £600  |
| Considering and commenting on the other side's evidence          | £1200 |
| Prepare for and attend a hearing                                 | £800  |
| Expenses   | £600  |

|       |        |
|-------|--------|
| TOTAL | £3,200 |
|-------|--------|

Dated this 25 day of November 2010

**George W Salthouse**  
**For the Registrar,**  
**the Comptroller-General**

**CONFIDENTIAL**

**ANNEX 1**

- **Redacted**

**ANNEX 2**

- **Attached**

**WITNESS STATEMENT OF MARTIN JOHN BRYANT  
MADE ON THIS DAY 26<sup>TH</sup> JUNE 2010 AGAINST REV 83668  
( & 83669 / 83670) "VEXATIOUS" REVOCATIONS [CONSOLIDATED]**

**W1**

**1. GEC / HASELTINE LAKE (VEXATIOUS / UNREASONABLE ACTS)**

**CONFIDENTIAL**

I, Martin John Bryant, wish to state from the outset that GEC / Haseltine Lake's actions in respect of the revocation proceedings before UKIPO, are vexatious, unjustified and totally unreasonable, partly because Haseltine Lake (representing GEC) had already seen the vast majority (approx 90%) of **EXHIBITS X1 to X190** (now reduced to 170 pages from 275 pages previously sent to OHIM, plus 20 for **EXHIBITS X120 to X126, X172 to X178, X185 to 190**).

The vast majority (approx 90%) of the Exhibits attached to this Witness Statement were already submitted by me to OHIM on 18<sup>th</sup> March 2009, in support of my Opposition Case No. B1337114 before OHIM, against the CTM application No. 6377295 in the name of the General Electric Company (GEC). OHIM sent a copy of all such Exhibits to Haseltine Lake (representing GEC) during the "evidence rounds", over a year ago. Therefore, GEC and / or Haseltine Lake had already seen the vast majority (approx 90%) of the Exhibits attached to this Witness Statement, before they decided to instigate these (vexatious, unjustified and unreasonable) revocation proceedings before UKIPO, knowing full well they had already seen evidence for "Proof of Use" and "proper reasons for Non-Use", for the same periods they cited under Section 46(1)(a) and Section 46(1)(b) of the Act, when they subsequently submitted their Form TM26(N)'s to UKIPO.

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Therefore for the above reason (and other reasons mentioned later in this Witness Statement), the revocation proceedings GEC / Haseltine Lake have brought before UKIPO against my UK registered trademarks, represent a blatant attempt to mislead UKIPO with so-called "sworn" statements of what they said "they believed" upon the respective Form TM26(N)'s submitted to UKIPO on 26th January 2010 [they have attempted to mislead UKIPO because they had already seen the evidence in the opposition proceedings before OHIM that contradicted the very statements they made upon the Form TM26(N)'s they subsequently submitted to UKIPO]. Please note that GEC / Haseltine Lake purposely decided not to mention the existence of the opposition proceedings already before OHIM, when they submitted Form TM26(N)'s to UKIPO.

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Therefore, their actions in respect of the above have been a "breathtaking" waste of time and money for all parties concerned. Clearly they have no regard for the damages, losses, costs and general distress that their "selfish" and "bullying" behaviour causes to other parties, such as myself and my "Pegasus" related business interests. Clearly they have a relatively "unlimited" supply of money & resources to "waste" upon such behaviour, whereas I / we do not (their unreasonable / improper behaviour before OHIM / UKIPO continues to be damaging to me / us).

There is further evidence given later on in this Witness Statement (relating to **EXHIBITS X185 to X190**) that show that GEC / Haseltine Lake's revocation proceedings brought before UKIPO against my UK registered trademarks, are not only vexatious, unjustified and unreasonable because they have not been able to "impose their will" upon OHIM or upon myself, but also their recent actions are likely to be the result of collusion between GEC and / or Haseltine Lake and my / our opponents / former opponents (as are listed within **EXHIBITS X1**



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**2. THE PEGASUS PROJECT(S) (1998 - 2006)**

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I, Martin John Bryant, began the Pegasus Project(s) and associated next-generation "Pegasus" electrical machines and drives research on 16<sup>th</sup> November 1998, building upon my many years of experience in the Aerospace, Automotive, Marine, Defence, Transport, Motorsport, Manufacturing, Energy & Power industries. I'm a Chartered Professional Engineer & businessman. As a "showcase for new technology" and as a "product of the future" the Pegasus Project(s) quickly developed UK / European / World-wide prominence and popularity. After only a few months, the Pegasus Project(s) and the Pegasus Story took off with a momentum all of their own. Thereon, I / we received at least five to ten requests every week from journalists, editors, event organisers, trade groups, businesses, charities, etc, for the latest news, updates, to offer us events & speaking opportunities, radio and TV interviews, etc. In 2001, I asked the Editor of the lifestyle / technology publication "T3 Magazine" (please see **EXHIBITS X145 to X150**) why he was so interested to feature our Pegasus Project (given all the other competing items of news) - his reply was "reading between the lines of what you are doing with the Pegasus Project we are featuring you as a future product". This was the general theme understood by everyone touched by the Pegasus Project(s) and everyone we met understood that my / our Pegasus Project(s) were about developing next-generation energy-efficient and environmentally-friendly energy / power systems technologies, the products we would need for the long-term sustainability of peoples' lifestyles and businesses World-wide. To me and to our team of people, investors, partners, sponsors and supporters, the Pegasus Project(s) vehicle(s) were always seen as a means to an end - as mobile testing laboratories for the rapid prototyping of next-generation technologies and "spin-off" products for various different marketplaces (vehicle and non-vehicle related marketplaces). It has always been my / our position to develop a range / family of "Pegasus" (brand name) scalable energy & power technologies & products for use in any application (both "static" and "mobile" installations), as has stated by me many times within press reports / media articles (as per **EXHIBITS X127 to X171**, a selection of press reports / media articles from the many such examples available).

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Our Pegasus Project(s) vehicles are a key part of an overall product development process (rapid-prototyping in arduous / extreme service conditions). Please refer to **EXHIBITS X25 to X35** for an example of how we began some of our electrical machines, drives & controls, energy storage & power distribution research from 1999 onwards, leading to the development of a prototype "Pegasus" electric motor in 2006 (as well as other "Pegasus" products and services). **EXHIBITS X20 to X171** show that my "family" of registered / non-registered "Pegasus" trademarks (and signs used in course of trade) were used from December 1998 to October 2007.

Please note that as GEC appears to have recently become a "commercial competitor" and / or a "hostile and vexatious opponent" towards me / my business interests [as a result of their wholly unnecessary use of the name "Pegasus" for their same / similar products and because of their (vexatious, unjustified and unreasonable) revocation proceedings before UKIPO

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against my UK registered "Pegasus" trademarks], I / we have rightly decided that in order to protect our CONFIDENTIAL and "commercially sensitive" information and results of our research from such a "commercial competitor" and / or a "hostile and vexatious opponent", I / we have only provided early examples of our research / collaborations with regard to the disputed products in Class 7, to show when and how we began our electric motors, drives and controls research & development (as per **EXHIBITS X25 to X35**). Obviously, I / we have to protect our later developments, commercial secrets and products not yet released to the marketplace. This situation is why this document is CONFIDENTIAL and supplied to UKIPO and Haseltine Lake ONLY for the purposes of countering these revocation proceedings ONLY.

**3. The Gathering Storm (1996 - 1998) & The (1999 - 2000) WAR**

From 1999 to early 2000, I fought and eventually won a particularly acrimonious court case, in which it was necessary for me to "clear my name" as well as to recover monies owed to me. My opponents (the defendants) were very well connected and they literally threw everything they could at me, mobilising many members of "the establishment" against me. They based their entire defence to my claim upon the assassination of my character and secretly persuaded some thirty different organisations and some well-known individuals (some of whom I used to call my friends) to write a tissue of lies about me. It was a really unpleasant experience and I only discovered the full extent of the damage they had caused to my "Pegasus" projects within the UK marketplace and the damage they had caused to me personally, when I read page after page of hatred and lies that had been written about me, submitted as "evidence" for their "defence" and copied to me at the last minute, 14 days before the Hearing took place in January 2000.

My opponents also spent the majority of 1999 briefing against me and against my "Pegasus" projects, to such an extent that the subject of the dispute between us was brought up by just about every potential sponsor and potential technical partner I met with during 1999 ... hardly a positive environment conducive to building productive business relationships. Luckily the judge saw through my opponent's so called "defence" and I won the case and was awarded interest and all costs in January 2000. Nobody who became involved expected me to win the case and a lot of people and well-known organisations were left licking their wounds as a result afterwards.

Of course it was great to have "cleared my name" in 2000 and to have received the monies I was owed (plus if I hadn't won the case my career and my "Pegasus" projects would have effectively been over). I believed that winning the case would bring closure to the matter, but with the benefit of hindsight, I have begun to consider that misguided loyalties and sympathies for my original opponents may have continued to be a factor and may be the cause of the continued prejudice and discrimination against my "Pegasus" projects and / or against myself. My opponents / former opponents, who were involved in the above mentioned court case in 2000 and who conducted various "anti-competitive" and / or "illicit" activities against me / my "Pegasus" projects throughout 1999 & 2000, are listed within **EXHIBITS X172 to X178**.

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**4. THE PEGASUS PROJECT(S) (2006 - 2010)**

I, Martin John Bryant, have since July 2006, conducted in-depth investigations into the "anti-competitive" behaviour, "espionage", discrimination, prejudice, breach of privacy and other illicit activities conducted against me / against the Pegasus Project(s) and my / our "Pegasus" technologies by other so-called "competitors" and / or by "hostile and vexatious opponents" and their associates (well-known companies, organisations and individuals) - who have abused their respective positions of dominance in various "overlapping" and / or interdependent and / or interlinked marketplaces from 1999 until 2006. The substantial disadvantages, damages, losses and delays I / we have suffered as a result of the destructive behaviour and the illicit activities of other so-called "competitors" and / or "hostile and vexatious opponents" and their associates, in various "overlapping" and / or interdependent and / or interlinked industries / marketplaces, have been COMPLETELY BEYOND OUR CONTROL. Please refer to **EXHIBITS X172 to X178** which provide a "Synopsis" of the complaints and a brief explanation of the problems caused by many of the parties listed therein, especially the Department for Business Innovation and Skills [BIS] formerly known as BERR and the DTI (also the parent department of UKIPO), deemed to be mostly responsible / liable, for being negligent and / or complicit (aiding & abetting) my / our opponents and / or former opponents, allegedly including the MIA, Ricardo, JCB and ALSTOM (ALSTOM being a subsidiary / associate of GEC, the party now making the vexatious, unjustified and unreasonable revocations before UKIPO) and other parties, listed in the "Synopsis". **EXHIBITS X172 to X178** also show legal action is imminent.

I / we only became aware of some of these problems in July 2006, when I discovered that one of my "Pegasus" businesses and my own private life had been "infiltrated" by people who had been "spying" upon us and / or "disrupting" our progress, to the sole benefit of other so-called "competitors" and their associates. As a result of our lengthy investigations, many of these so-called "competitors" and their associates have now been confronted about their actions in top-level face-to-face meetings and I / we have sent OFFICIAL LETTERS OF COMPLAINT to them.

I / we are now bringing legal action (where applicable) against the people, organisations and a Government department [BIS] who discriminated against and / or were prejudiced against me / the Pegasus Project(s) and who disadvantaged / delayed / attempted to destroy me and / or my / our "Pegasus" technologies from 1999 until 2006 (and who have continued such behaviour until 2010, despite meetings with them / even while discussing my / our complaints with them).

Since July 2006, I / we had no choice but to fully investigate, resolve and / or remedy the above situations before we could sensibly continue with many of my / our "Pegasus" business interests and product developments - otherwise the problems identified (and those not yet identified at the time) would have continued to disadvantage / delay us (...this took longer than anticipated).

In October 2008, I / we re-started some of my / our Pegasus Project(s) and my / our advanced electrical machines and drives research, to continue from where we were in July 2006. In April /

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May 2009, I / we began to re-launch some key "Pegasus" branded products & services delayed (beyond my / our control) since July 2006. Our new website WWW.PEGASUS.EU has also been delayed because of the above situations, but is still being developed and is set to be officially re-launched from September 2010 onwards, to include our new British Racing Green™ Archives and our new and exclusive Pegasus™ Story - Parts 1, 2 & 3. Please see **EXHIBITS X2 & X3** for a "preview" of the Pegasus™ Story - Part 1, already published as an (abridged) "First Edition" of the document, submitted to the Parliamentary Ombudsman complaints process (as an attempt by me at achieving an "amicable" resolution of my / our complaints against BIS & their associates, before otherwise resorting to the Courts), submitted to the Ombudsman along with other evidence. An unabridged "Second Edition" of the document is set to be published on our new website WWW.PEGASUS.EU from September 2010 onwards, followed by Parts 2 & 3, concerning the "untold story" including the complaints against BIS & their associates (and if allowed to continue, to include the vexatious, unjustified & unreasonable behaviour of GEC / Haseltine Lake before OHIM & UKIPO) and "the future" (of the Pegasus Projects) respectively.

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Therefore the Pegasus Project(s) are ongoing (albeit delayed beyond my / our control by the above situations). What is clearly causing me / us even more delays, damages and losses (beyond my / our control) at the moment is the (vexatious, unjustified and unreasonable) revocation proceedings being made by GEC, who also appear to be part of the discrimination / prejudice being directed against me / the Pegasus Project(s) and my / our Pegasus technologies.

Despite all the above (being for much of the time "a full time job", in order to pursue justice and suitable compensation from those parties deemed to be mostly at fault), I / we have still managed to continue to market and to offer for sale our "Pegasus" goods & services to other key / influential businesses (albeit at a much reduced level of activity because of the above situations necessarily taking up the majority of my / our time). This has included being in discussions / meetings with well-known companies such as BP and Ford, with whom we have developed long-term relationships, since 1999 in the case of BP. Please refer to **EXHIBITS X120 to X126**, which provide **CONFIDENTIAL** examples of high-level meetings and discussions I / we held with BP and Ford in 2006 and in 2007, resulting in my giving presentations to both companies, as per **EXHIBITS X120 to X123** in July to October 2006 and as per **EXHIBITS X124 to X126** in July to October 2007. In no way did I want to submit **CONFIDENTIAL** and "commercially sensitive" items such as those enclosed within **EXHIBITS X120 to X126**, however I / we feel there was no choice but to divulge such information, in the circumstances.

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It does concern me that GEC and / or their associates may be using their (vexatious, unjustified and unreasonable) revocation applications before UKIPO, as some kind of ongoing "fishing exercise", to see what else they and / or their associates (listed in **EXHIBITS X172 to X178**) can learn about my / our **CONFIDENTIAL** and / or "commercially sensitive" Pegasus technologies / related business activities, in order to try to "kill them off" as well (as they are not yet satisfied with level of damages & losses they individually / collectively caused to date).

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**5. PROOF OF USE (& UK TRADING NAME RIGHTS) (1998 - 2010)**

As the revocation applications have all been "consolidated" by UKIPO, the dates covered by Sections 46(1)(a) and 46(1)(b) of the Act, being cited by GEC / Haseltine Lake, are pretty much continuous from 2002 until 2010 (from a "consolidated" perspective). As many of the activities in 2002 were ongoing (and had their origins in 1998 / 1999), I felt it would be simpler to comment upon the period 1998 to 2010 (how we got to 2002 & activities thereon until 2010) :-

**EXHIBITS X2 & X3** - Publication in 2009 of "First Edition" of Pegasus™ Story - Part 1 (abridged)

**EXHIBITS X4 to X19** - please note I am the owner / sole director and sole majority shareholder of many "Pegasus" named Limited Companies registered in England & Wales. Under UK Law, this gives me "statutory" protection / exclusive rights in the UK for identical / similar "trade names" protected by identical / similar registered Limited Company names. Therefore, I have statutory UK trade name protection, for "PEGASUS MOTORS & ENGINES" (Limited), "PEGASUS ELECTRIC MOTORS" (Limited) & "PEGASUS DRIVES & CONTROLS" (Limited), amongst many others. Please see Company Registration Certificates **X17, X18, X19** (& others).

**EXHIBITS X20 & X21** - evidence of the beginnings of the "Pegasus" Projects & associated "Pegasus" Technologies in 1998, including initial use of my "Pegasus" marks & signs, prior to their eventual registration in 2002, 2003 and 2004 respectively (after overcoming oppositions).

**EXHIBITS X22 to X35** - evidence of when I / we began my / our "Pegasus" electric motors, batteries, drives & controls research in 1999 and a prototype "Pegasus" electric motor in 2006. These Exhibits also show my / our Pegasus Project(s) were supported by many key organisations.

**EXHIBITS X36 to X48** - evidence of early examples of my / our "Pegasus" promotional materials and the "Pegasus Raceway", a key promotional item at our events. These Exhibits show "Pegasus" branded clothing, models, toys, posters & calendars sold at events and online.

**EXHIBITS X49 to X69** - Pegasus Project brochures from 2001 and 2002 and Newsletters. My / our website(s) from 2000 to 2010, each containing prominent references to "Pegasus" & "non-Pegasus" trademarks, goods & services. Please note **WWW.PEGASUS.EU** is our latest website.

**EXHIBITS X70 to X95** - are a selection of our UK and Foreign events from 2001 and 2002.

**EXHIBITS X96 to X119** - Corporate proposals / decisions in 2002 & 2003 and a key event to launch my / our British Racing Green Group [incorporating the Pegasus Project(s)] at the Birmingham NEC in January 2004. Typical Confidential business development, sales & marketing activities during 2004 and Pegasus Project(s) as offered by British Racing Green Group in 2005.

**EXHIBITS X120 to X126** - Confidential meetings, discussions & presentations in 2006 & 2007

**EXHIBITS X127 to X171** - selection of prominent UK and World-wide press reports / media articles published and distributed to trade associations, embassies, etc, from 1999 to 2005.

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**6. USE AND / OR REASONS FOR PROPER NON-USE (2002 - 2010)**

As the revocation applications have all been "consolidated" by UKIPO, the dates covered by Sections 46(1)(a) and 46(1)(b) of the Act, being cited by GEC / Haseltine Lake, are pretty much continuous from 2002 until 2010 (from a "consolidated" perspective). Therefore, I felt it would be simpler to comment upon the period 2002 to 2010 (as a continuous "consolidated" period) :-

**EXHIBITS X96 to X119** - Corporate proposals / decisions in 2002 & 2003 and a key event to launch my / our British Racing Green Group [incorporating the Pegasus Project(s)] at the Birmingham NEC in January 2004. Typical Confidential business development, sales & marketing activities during 2004 and Pegasus Project(s) as offered by British Racing Green Group in 2005.

**EXHIBITS X140 to X171** - It was between 2001 and 2004, when the Pegasus Project(s) really "came of age", when I / we were key members of Government / Industry steering groups and obtained the backing of the DTI and Regional Development Agencies SEEDA, AWM & EMDA (leading to set-up of the "British Racing Green Group" incorporating Pegasus Projects July 2002). The Pegasus Project(s) had definitely "arrived" towards end of 2002 (with the Pegasus Project being "elevated by others" to the "cover story" of "Electric & Hybrid Vehicle Technology International" (annual review 2002), published February 2003 (see **EXHIBITS X165 to X171**).

**EXHIBITS X172 to X178** - Unfortunately, as well as attracting unprecedented amounts of positive support for my / our projects, developing much needed sustainable / advanced green energy / power technologies ... unbeknown to me / us at the time, we had also attracted a sizeable but secretive "opposition" against our leading the debate / momentum. It was in 2002 / 2003 when I / we suffered from "overt, illicit, sustained and destructive political lobbying" of the MJA, the DTI and the RDA's concerned [to the sole benefit of parties listed within the "Synopsis" (**EXHIBIT X178**)], against me and / or the British Racing Green Group / Pegasus Project(s) and against my / our Pegasus "hybrid-electric" technologies ... to such an extent that "joint ventures" with the DTI / RDA's and "Key / VIP events" were suddenly cancelled in 2002, without reasons given (leaving me / us seriously "out of pocket" by several hundred thousand pounds). Despite promises received from the DTI / RDA's concerned that I / we would remain key to any "replacement events" ... at a so-called "replacement event" in October 2003, my / our Pegasus "hybrid-electric" technologies were "replaced" with "diesel" technologies instead. Such "anti-competitive" / "illicit lobbying" behaviour caused me / us significant damages, losses & delays. Because such prejudice / discrimination still continues, I / we are taking action (as per **EXHIBITS X172 to X178**). My / our "hybrid-electric" technologies being "replaced" by "diesel" technologies from 2003 to 2009, was against public interest & detrimental to UK competitiveness.

**EXHIBITS X120 to X126** - Although in July 2006, I had begun in-depth investigations into "anti-competitive" behaviour, "illicit lobbying", etc, there was still use of my "family" of registered / non-registered "Pegasus" trademarks in building up a "UK / European supply-chain" for Pegasus technologies in 2005 to 2007 and in high-level meetings / presentations held with BP and Ford in 2006 / 2007, as per **EXHIBITS X120 to X123** and **EXHIBITS X124 to X126**.

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**7. DISPUTE HISTORY (& GEC / HASELTINE LAKE'S BEHAVIOUR)**

I, Martin John Bryant am the owner of three UK Registered Trademarks No. 2219671, 2332488 and 2332489 respectively, for the mark PEGASUS registered between the years 2000 and 2003 for several goods & services in the Nice classes 9, 12, 41 & 42. I have been using the same / similar PEGASUS mark for same / similar goods & services since 1998, prior to registration of same / similar PEGASUS marks. Until 2003, the UK Patent Office (now the UK Intellectual Property Office hereinafter referred to as UKIPO) considered all electric motors to be electrical items proper to Nice Class 9 and since 2003 the UK Patent Office (now UKIPO) has considered electric motors to be proper to both Nice classes 7 and 9 (earlier decisions of UKIPO examiners).

I also wholly own and run companies named BRITISH RACING GREEN GROUP LTD, GROUP PEGASUS LTD, GROUPE PEGASUS LTD and other GROUP PEGASUS companies (see **EXHIBITS X4 to X19**) that collectively operate a range of internationally well-known projects called PEGASUS developing advanced technology and high performance products for automotive engineering and for other sectors, including but not limited to vehicle and non-vehicle design, electric motors and engines, hybrid-electric and electric-only propulsion systems, transport, power generation, renewable energy, energy storage, power transmission, distribution & control.

In November 2007, I was an applicant to the Community Trademark Application No. 6467112 for the mark PEGASUS for several goods and services in Nice classes 7, 9, 12, 25, 35, 41 and 42. All my trademarks for PEGASUS contain a stylised letter "E" and / or a WINGED-HORSE device incorporating a stylised letter "E" within the mark. My PEGASUS marks have all been established since 1998. I have evidence that the General Electric Company (hereinafter referred to as GEC) were well aware of My PEGASUS project(s) and were aware of My PEGASUS electrical machines, drives & controls research and development since 1999 (see **EXHIBITS X174, X178 & X185**).

GEC is an established manufacturer of electric motors. Unbeknown to me at the time, in the period from 2006 to 2009 it appears that GEC began to use the name PEGASUS in combination with a generic image of a WINGED-HORSE for a new range of electric motors, designed and developed for applications relating to the crushing of minerals and aggregates such as coal, rocks and stones (please refer to **EXHIBITS X179 to X184** for "screen capture" images and other evidence I downloaded from GEC's websites on 18th January 2009, used in my Opposition case before OHIM, hence the additional / explanatory notes enclosed with and / or upon the exhibits attached). GEC had no prior right to the name PEGASUS for electric motors or for any other goods & services. GEC had no previous history of using the name PEGASUS for any of its products, goods and services. In October 2007, GEC was the applicant to the Community Trademark Application No. 6377295 for the mark PEGASUS. GEC's Community Trademark Application No. 6377295 was advertised in 2008, at which point I became aware of GEC's intentions. GEC knew from the outset their application was likely to be opposed by me (hence GEC's unacceptable attempt at mitigating the situation by stating "not for land vehicles" - such a "limitation" was obviously never going to be acceptable). GEC knew from the outset it could avoid expensive oppositions, by contacting me beforehand (GEC did not contact me beforehand). GEC went ahead regardless, despite having absolutely no need to use the name PEGASUS !!!!

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Haseltine Lake are the trademark attorneys and agents acting on behalf of GEC in these matters. Amongst many issues being investigated on the periphery of the proceedings before OHIM (and now before UKIPO), I have noted with interest that Haseltine Lake are one of OHIM's (& UKIPO's) biggest customers by volume. Haseltine Lake (and OHIM) have engineered a number of "disadvantages" to me that would not be acceptable to the appropriate authorities (Improper influence over some of OHIM's employees, bringing OHIM into disrepute, already the subject of Official Complaints I have been forced to make to OHIM). I also note with interest that Kathryn Barrett Park, Senior Trademark Counsel for GEC, is chairman / a leading member of the International Trademark Association (INTA) (and a previous contender for the OHIM Presidency) making her one of the most "influential" people within the Trademarks Law community and with the regulatory bodies. I believe one of the reasons why the dispute between the parties has been prolonged / escalated by GEC / Haseltine Lake, is because Ms. Park and her team at GEC in the USA believe they can escape "responsibility" for their actions, because they are on the other side of the Atlantic (I can assure Ms. Park / GEC that "perception of distance" won't help them).

In December 2009, the parties (myself & GEC) appeared to be making some progress towards a settlement of the dispute before OHIM, with discussions & communications concerning "Issue 2(B)" of a proposed agreement (see 38 pages of additional information attached to this Witness Statement for some examples of agreements at "Issue 2(B)", "Issue 2(C)", "Issue 2(G)" & "Issue 2(F)x" (draft only) I sent to them, signed & dated by me). However, despite the parties entering into positive discussions and communications with a view to settling the dispute before OHIM in December 2009, for some reason unbeknown to me (at the time) in January 2010, Haseltine Lake (representing GEC) instigated "Revocation" proceedings before UKIPO, against my three UK Registered Trademarks No. 2219671, 2332488 and 2332489, for the mark PEGASUS (GEC / Haseltine Lake DID NOT contact me beforehand).

I believe the "Revocation" action now being taken by Haseltine Lake and / or GEC, after all this time, is nothing more than a "vindictive" and / or "desperate" act by Haseltine Lake / GEC, only now being undertaken by them, because of my official complaints made to OHIM, preventing them from continuing with their seemingly improper "influence" over some of OHIM's personnel and procedures (bringing OHIM into disrepute). I now believe it likely that OHIM may well have "instructed" or "recommended" Haseltine Lake and / or GEC to agree to and / or to sign the previous [ ISSUE 2(B) ] of a proposed agreement document (as it had also been submitted to OHIM as part of the evidence in support of my opposition case against their CTM application No. 6377295 for the mark PEGASUS. As an act of "spite", I believe Haseltine Lake and / or GEC attempted the "Revocations" instead. Alternatively (or additionally), I believe they instigated "vexatious" revocations for other reasons, relating to **EXHIBITS X174, X178, X189 & X190**).

GEC / Haseltine Lake need to "learn to negotiate" & allow meaningful discussions (a frustrating lack discussion so far) - that is if their CTM application, etc, was genuine (not in "bad faith"). Despite above history, I have continued to offer a range of "amicable" solutions to Haseltine Lake / GEC. Recently, I again indicated I would "settle" with them on the basis of one of the tried & tested type of agreements I sent to them (signed & dated by me) ( see 38 pages attached ).

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**8. RECENT DEVELOPMENTS, SUMMARY & DECLARATION(S)**

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I, Martin John Bryant, find it extremely disappointing to know that these matters (originally before OHIM, also now before UKIPO) could have been resolved "amicably" and with "relative ease", more than two years ago. Since May 2008, there has been a general lack of co-operation and a general lack of "normal" dialogue from the other side, who have often done "the complete opposite" of what would normally be expected of a party looking to resolve a dispute amicably. I have been left with the general impression that their main interest has been to prolong rather than to resolve the dispute. To understand the likely "real agenda" behind their "strange behaviour", please see attached **EXHIBITS X172 to X178** and **EXHIBITS X185 to X190**.

As it is hard for me to believe that Haseltine Lake and / or GEC are just "wholly incompetent", the only other conclusion I can come to is that their "strange behaviour", which has sought to prolong rather than resolve the dispute, must have been "done on purpose" (by design) to suit an "agenda" that frankly has got nothing to do with the matters before OHIM (and now also before UKIPO). In this respect I believe Haseltine Lake and / or GEC have taken the concept of "unreasonable behaviour" to the absolute extreme. It may well still be the case that Haseltine Lake / GEC instigated these (vexatious, unjustified and unreasonable) revocation proceedings (without contacting me beforehand), because they had been unable to "impose their will" upon myself and / or upon OHIM (despite their improper influence over some of OHIM's employees, bringing OHIM into disrepute, already the subject of Official Complaints I have been forced to make to OHIM), however, recently acquired evidence also points to the fact that GEC / Haseltine Lake instigated the (vexatious, unjustified and unreasonable) revocation proceedings (without contacting me beforehand), at the same time as GEC announced a new "sponsorship / partnership" with the "Highcroft" LE MANS Motor Racing Team (please refer to **EXHIBITS X189 & X190**), members of which are known by me to be leading figures in some of the organisations and Government / Industry steering groups I have been forced to investigate since July 2006 and to make complaints about, since May 2007 (as per **EXHIBITS X172 to X178**).

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As explained in the above Witness Statement(s) and as demonstrated by all the attached **EXHIBITS X1 to X190** - there has been both use of the marks and proper reasons for "non use" of the marks (due to circumstances that were beyond my / our control), during all periods specified by the (vexatious, unjustified & unreasonable) revocation proceedings (consolidated). GEC / Haseltine Lake's arguments for revocation of my marks are "disingenuous", "vexatious" & "circular", because they along with others (listed in attached "Synopsis") have been collectively / individually constructive towards / responsible for causing any periods of "non-use" to occur.

**CONFIDENTIAL**

Please also refer to 38 pages of additional information attached (some of my proposals / solutions).

**STATEMENT OF TRUTH** I (the Registrant / Opponent) confirm that the above statements and the exhibits attached to this Witness Statement are true and accurate to the best of my knowledge and belief. Signed :

MARTIN JOHN BRYANT (the Registrant / Opponent)

26/06/2010

On Date :