

# REPORTS OF PATENT, DESIGN AND TRADE MARK CASES

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## **esure Insurance Ltd v Direct Line Insurance plc**

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*Trade Marks Registry*

[2008] R.P.C. 5

Trade mark: Application: Device mark of computer mouse on wheels for insurance and financial services: No colour limitation: Opposition: Earlier device mark of telephone on wheels for insurance and financial services: Whether mark confusingly similar: Whether likelihood of association: Whether use of later mark took unfair advantage of or was detrimental to distinctive character and repute of earlier mark: Survey evidence: Whether vitiated by manner in which survey conducted: Whether vitiated by parties' advertising campaigns: Whether threshold level for 'similarity': Whether use of the mark in opponent's distinctive colour was 'normal and fair use': Enhanced distinctiveness of earlier mark: Whether risk of unfair advantage/ detriment sufficient: Whether 'fettering' a separate head of detriment: Blurring: Dilution: Comments on cross-examination

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