

BL O/242/18

TRADE MARKS ACT 1994

IN THE MATTER OF CONSOLIDATED PROCEEDINGS  
UK APPLICATION NO 3191771 IN THE NAME OF  
WORLD INTERNATIONAL LIMITED  
IN RESPECT OF THE TRADE MARK:

**WORLD**

AND

OPPOSITION THERETO  
UNDER NO 408462 BY WORLD GYM INTERNATIONAL IP, LLC

AND

IN THE MATTER OF UK APPLICATION NO 3201871  
IN THE NAME OF WORLD GYM INTERNATIONAL IP, LLC  
IN RESPECT OF THE TRADE MARK:

**World**

AND

OPPOSITION THERETO  
UNDER NO 409185 BY WORLD INTERNATIONAL LIMITED

## Background and pleadings

1. On 18 October 2016, World International Limited applied to register 'WORLD' as a trade mark under no. 3191771. It stands as follows:<sup>1</sup>

### **Class 3**

Perfumery; essential oils; cosmetics; make-up; eye make-up; eyeliners; blushers; lipsticks; hair lotions; soaps.

### **Class 25**

Clothing; footwear; headgear; swimwear; sportswear; leisurewear.

### **Class 26**

Lace; embroidery; ribbons; braid; buttons; hooks and eyes; pins; needles; artificial flowers.

### **Class 38**

Telecommunication services; communication services for the electronic transmission of voices; transmission of data; electronic transmission of images, photographs, graphic images and illustrations over a global computer network; transmission of data, audio, video and multimedia files; simulcasting broadcast television over global communication networks, the Internet and wireless networks; provision of telecommunication access to video and audio content provided via an online video-on-demand service; satellite communication services; telecommunications gateway services.

2. The application was published on 4 November 2016, following which World Gym International IP LLC filed a notice of opposition. It bases its case on sections 5(2)(b) and 3(6) of the Trade Marks Act 1994 (the Act). Under section 3(6), World Gym International IP LLC opposes all of the goods and services. Under section 5(2)(b), it opposes 'clothing, footwear, headgear, swimwear, sportswear and leisurewear' in class 25 of the application and relies upon the following two marks:

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<sup>1</sup> *International Classification of Goods and Services for the Purposes of the Registration of Marks under the Nice Agreement (15 June 1957, as revised and amended).*

Mark details and relevant dates:	Goods and services relied upon:
<p>UKTM: 3163690</p> <h1>World Gym</h1> <p><b>Filed:</b> 10 May 2016</p> <p><b>Registered:</b> 5 August 2016</p>	<p><b>Class 25</b> Clothing; shirts; tank tops; shorts; pants; sweat bands; sweat suits; jackets; hats; gloves; socks; footwear.</p> <p><b>Class 41</b> Gymnasium services; health club services; providing exercise and fitness facilities; conducting exercise classes; conducting seminars on nutrition and fitness; providing personal instruction on nutrition, exercise and physical fitness; providing mixed martial arts training and fitness; providing boxing training and fitness; providing kickboxing training and fitness; conducting bodybuilding , mixed martial arts, athletic, and sports exhibitions, competitions, and contests; information, consultancy and advisory services relating to all the aforesaid services.</p>
<p>EUTM: 11334638</p> <h1>World Gym</h1> <p><b>Filed:</b> 9 November 2012</p> <p><b>Registered:</b> 20 June 2013</p>	<p><b>Class 25</b> Clothing, shirts, tank tops, shorts, pants, trousers, sweat bands, sweat suits, jackets, hats, gloves, socks, footwear, wrist wraps, elbow wraps, knee wraps.</p> <p><b>Class 28</b> Weightlifting belts; wrist wraps and wrist supports for use when weightlifting; elbow wraps and elbow supports for use when weightlifting, knee wraps and knee supports for use when weightlifting.</p>

	<p><b>Class 41</b>  Gymnasium services; health club services; providing exercise and fitness facilities; conducting exercise classes; conducting seminars on nutrition and fitness; providing personal instruction on nutrition, exercise and physical fitness; providing mixed martial arts training and fitness; providing boxing training and fitness; providing kickboxing training and fitness; conducting bodybuilding, mixed martial arts, athletic and sports exhibitions, competitions and contests</p>
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3. In relation to its section 3(6) ground, World Gym International IP submits:

*“Research has revealed that the only director of the Applicant company is Michael Gleissner, who has filed countless trade mark applications worldwide. Many, if not all, these trade mark applications appear to have been filed without any definite and present intention to use the marks in question; the aim appears to be to use any registrations obtained to extract payment from any third parties who wish to use similar trade marks. Mr Gleissner has also filed countless revocation applications against existing trade mark registrations, often in relation to marks which are very much in use, causing unnecessary work and expense for trade mark attorneys and their clients.*

*It is therefore highly probable that this trade mark application is part of the same pattern of behavior and as such has been filed in bad faith.”*

4. On 18 April 2017, World International Limited filed a counterstatement in which it denied the grounds of opposition. With regard to section 5(2)(b) the applicant submits

that the respective marks are visually, aurally and conceptually different. It accepts that the contested goods are 'somewhat similar' but concludes:

*“The marks themselves are different. As a result, a likelihood of confusion cannot exist and the relevant consumer would easily be able to differentiate between the goods and services offered under the marks.”*

5. With regard to the opponent's claim under section 3(6), the applicant submits that there is a presumption of good faith unless the contrary is proven. It submits:

*“In the case at hand, the Opponent has not provided sufficient arguments or evidence to show that the application of the subject mark was made in anything other than good faith.”*

6. With regard to intent to use the mark applied for the applicant says:

*“33...it must be noted that according to the law of the UK, the owner of a trade mark is not expected to make genuine use of the mark while examination or opposition proceedings are pending or, under any circumstance, before the five-year 'grace period' has begun.*

*Considering the above, there is no requirement for the Applicant to show intent to use the subject mark, as the registration is pending and the application is under opposition proceedings. In any case, a registered proprietor is entitled to make use of a trade mark at any point during the five-year grace period; there is no strict requirement to prove the intent to put a mark to use immediately before or after the registration. In certain cases, according to the UK law, an owner is not required to put its trade mark to use until 1 day before the expiration of the 'grace period' granted by the Act upon registration. The bona fide intention to make use of the subject mark if and when it achieves registration can, according to UK law, only be evaluated in the course of a revocation action due to non-use after 5 years of registration. Accordingly, and in any other circumstance, the*

*present application for registration was made in good faith and the claims of the Opponent to the contrary should be dismissed.”*

7. On 13 December 2016, World Gym International IP, LLC applied to register 'World' as a trade mark under number 3201871. It stands as follows:<sup>2</sup>

**Class 25**

Clothing; shirts, tank tops, shorts, pants, sweat bands, sweat suits, jackets, hats, gloves, socks, footwear.

**Class 41**

Gymnasium services, health club services; providing exercise and fitness facilities; conducting exercise classes; conducting seminars on nutrition and fitness; providing personal instruction on nutrition, exercise and physical fitness; providing mixed martial arts training and fitness; providing boxing training and fitness; providing kickboxing training and fitness; conducting bodybuilding, mixed martial arts, athletic, and sports exhibitions, competitions and contests; information, advisory and consultancy services relating to all the aforesaid services.

8. The application was published on 3 February 2017, following which World International Ltd filed a notice of opposition against class 25 in the application. It bases its case on sections 5(1) and 5(2)(a) of the Act 1994 and relies upon its published UK trade mark 3191771, referred to on the first page of this decision and currently opposed by World Gym International IP, LLC.

9. World International Ltd submits that the parties' marks and goods are identical.

10. On 29 September 2014, World Gym International IP, LLC filed a counterstatement in which it submitted the following:

*“The existence of UK trade mark application No. 3191771 is admitted but this application is subject to challenge by World Gym International IP, LLC, the applicant in this matter and should be refused.*

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<sup>2</sup> As above at 1.

*In the unlikely event that application No. 3191771 is not refused then it is admitted that the marks at issue are identical or closely similar and that the goods on which opposition is based are identical to the Class 25 goods against which opposition is directed.”*

11. Oppositions 408462 and 409185 were consolidated in a letter from the Tribunal dated 13 July 2017.

12. World Gym International IP, LLC filed evidence and submissions. Both parties requested a decision be taken from the papers filed in the course of proceedings and both sides seek an award of costs.

### **Approach**

13. I will deal first with opposition proceedings 408462, in particular, World Gym International IP, LLC’s claim under section 3(6) of the Act. I will then consider, if necessary, the remaining 5(2)(b) ground and opposition proceedings 409185, if it proves necessary to do so.

### **Opposition 408462**

14. World Gym International IP, LLC (the opponent) filed evidence which comprises a witness statement by Catherine Ayers, dated 26 June 2017. Ms Ayers is a Trade Mark Attorney at Cleveland Scott York, the opponent’s attorney. The key points from her evidence are as follows:

*“2...Mr Gleissner has acquired a fair degree of fame in the trade mark field over the last few years. In the UK, he has hit the headlines in the trade mark world with respect to the series of disputes with Apple Corporation and a finding of abuse of process with respect to those disputes - see decision No. 0-015-17.*

*3. Mr Gleissner is also known for controlling the filing of hundreds of trade mark applications and for being a Director in connection with over 1,000 UK*

*registered companies. Further information regarding Mr Gleissner's activities has been documented in a number of sources, including the World Trade Mark Review and I am attaching a copy of a recent article in that connection..."*

15. Ms Ayers provides an article from World Trademark Review, written by Tim Lince. It is dated 23 August 2016<sup>3</sup> and concerns trade mark filings by businesses linked to Mr Gleissner. Its investigations are said to show that between February 2016 and the date of the article, some seven months later, Mr Gleissner personally registered more than 1000 companies in the UK, with him listed as the sole employee in every case. Several paragraphs in the article concern filings by these companies at the USPTO for trade marks such as BAIDU and THE HOME DEPOT. The worldwide activities of the Gleissner companies are said to include the filing of TESLA and PAN AM at the Benelux office and I also note the filing of EUIPO in Portugal by EUIPO INTERNATIONAL LIMITED (another of the companies registered to Mr Gleissner). The article concludes that the reason for this particular trade mark filing practice remains a mystery, but speculates that it may be to obtain or devalue domain names. The author of the article says that a lawyer for one of Mr Gleissner's companies described one of his job responsibilities on LinkedIn as 'manipulating trademarks to reverse hijack domain names through UDRP' (a comment he has now removed).

16. Ms Ayers includes the schedule of companies and trade marks referred to in that article<sup>4</sup> and states that she and her colleagues have made random checks on a selection of those companies. Details of 50 trade marks held by these companies are also provided in evidence.<sup>5</sup>

17. Ms Ayers concludes:

*"6...The sheer size of the portfolio of UK incorporated companies indicates that the vast majority of these will never trade and the number of different trade marks involved here indicates that there can have been no real*

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<sup>3</sup> See exhibit CA/1

<sup>4</sup> See exhibit CA/2

<sup>5</sup> See exhibit CA/3

*intention to use the trade marks in question when the applications were filed.”*

18. With regard to domain names in particular, Ms Ayers provides an article from OnlineDomain.com, dated 30 August 2016. It is titled ‘*Michael Gleissner [Bigfoot, Fashion One, CKL Holdings] Loses 5<sup>th</sup> UDRP Complaint [With 0 Wins]*’.<sup>6</sup> The article lists the outcome of a number of domain name disputes involving Mr Gleissner and his companies and includes the following:

*“Michael Gleissner is filing these frivolous complaints with the help of his thousands of shell companies and his hundreds of questionable trademarks all over the world.”*

19. In support of this, Ms Ayers provides some evidence of attempts by companies controlled by Mr Gleissner to obtain domain names corresponding to third party trade marks. A page taken from [www.acorndomains.co.uk](http://www.acorndomains.co.uk) is dated 14 February 2017 and appears to be taken from a forum dealing with domain name disputes.<sup>7</sup> A user identified as max\_rk wrote the following:

*“I received demand to surrender my domain. On[e] quick check showed Mr Gleissner has 199 or so companies registered in format \*\*\*\*\*International Ltd or similar. £0 in bank accounts in total. Looks like all shell companies.*

*In letter to me Morton & Associates claim that I have infringed their client’s trademark which has classes related to vehicle parts and vehicle part services. Domain name descriptive, one word, nothing to do with vehicles. The website does not promote vehicle parts.”*

20. The writer of that post provides a link to an article about Mr Gleissner on DomainNameWire and asks if anyone has come across similar situations.

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<sup>6</sup> See exhibit CA/4 pages 1 and 2.

<sup>7</sup> See exhibit CA/4 pages 3 and 4.

21. In 2016 Bigfoot Ventures LLC (one of Mr Gleissner's companies) was held to have engaged in an attempted 'reverse domain name hijacking', that is, using the Uniform Domain Name Dispute Resolution system in an attempt to acquire the domain name slized.com. Ms Ayers provides a copy of that decision, which was issued by the World Intellectual Property Organization (WIPO) and is dated 8 August 2016.<sup>8</sup> The case indicates that Bigfoot Ventures LLC claimed, without support or justification, that its registered Benelux trade mark 'SLIZED' had been used in 'global commerce' in respect of each of the classes of goods for which it had been registered. The adjudication panellist upheld the respondent's complaint that the applicant had misrepresented its use of the trade mark and was trying to hijack the domain name.

22. Ms Ayers concludes:

*"8. It is clear, therefore, from the information attached that the trade mark application in suit has not been filed with a bona fide intention to use the trade mark in the course of trade, in relation to the goods for which it has been applied for. The purpose of the trade mark application is to acquire a statutory right in an attractive name, in the domain name market, to assist in acquiring registrations of similar domain names. In that connection; I note that many of the company names and trade marks referred to in Exhibits CA/2 and CA/3 are names which are likely to be attractive as domain names. For example, a large percentage are common forenames or are quite generic, although I note that Mr Gleissner's legal team have tried to apply for registration in relation to goods/services for which the marks are not directly generic. Examples are ATMOSPHERE, BINGO, CARAVAN, CHOCOLATE, CRYSTAL, EASY, HOME, to name but a few."*

23. Given that the applicant did not file evidence, this concludes my summary, insofar as the section 3(6) ground is concerned.

## **Decision**

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<sup>8</sup> See exhibit CA/5. Case D2016-1306.

24. Section 3(6) of the Act states:

“3(6) A trade mark shall not be registered if or to the extent that the application is made in bad faith.”

25. The law relevant to this ground was summarised by Arnold J. in *Red Bull GmbH v Sun Mark Limited and Sea Air & Land Forwarding Limited*<sup>9</sup> in the following terms:

“131. First, the relevant date for assessing whether an application to register a trade mark was made in bad faith is the application date: see Case C-529/07 *Chocoladenfabriken Lindt & Sprüngli AG v Franz Hauswirth GmbH* [2009] ECR I-4893 at [35].

132. Secondly, although the relevant date is the application date, later evidence is relevant if it casts light backwards on the position as at the application date: see *Hotel Cipriani Srl v Cipriani (Grosvenor Street) Ltd* [2008] EWHC 3032 (Ch), [2009] RPC 9 at [167] and cf. Case C-259/02 *La Mer Technology Inc v Laboratoires Goemar SA* [2004] ECR I-1159 at [31] and Case C-192/03 *Alcon Inc v OHIM* [2004] ECR I-8993 at [41].

133. Thirdly, a person is presumed to have acted in good faith unless the contrary is proved. An allegation of bad faith is a serious allegation which must be distinctly proved. The standard of proof is on the balance of probabilities but cogent evidence is required due to the seriousness of the allegation. It is not enough to prove facts which are also consistent with good faith: see *BRUTT Trade Marks* [2007] RPC 19 at [29], *von Rossum v Heinrich Mack Nachf. GmbH & Co KG* (Case R 336/207-2, OHIM Second Board of Appeal, 13 November 2007) at [22] and *Funke Kunststoffe GmbH v Astral Property Pty Ltd* (Case R 1621/2006-4, OHIM Fourth Board of Appeal, 21 December 2009) at [22].

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<sup>9</sup> [2012] EWHC 1929 (Ch)

134. Fourthly, bad faith includes not only dishonesty, but also "some dealings which fall short of the standards of acceptable commercial behaviour observed by reasonable and experienced men in the particular area being examined": see *Gromax Plasticulture Ltd v Don & Low Nonwovens Ltd* [1999] RPC 367 at 379 and *DAAWAT Trade Mark* (Case C000659037/1, OHIM Cancellation Division, 28 June 2004) at [8].

135. Fifthly, section 3(6) of the 1994 Act, Article 3(2)(d) of the Directive and Article 52(1)(b) of the Regulation are intended to prevent abuse of the trade mark system: see *Melly's Trade Mark Application* [2008] RPC 20 at [51] and *CHOOSI Trade Mark* (Case R 633/2007-2, OHIM Second Board of Appeal, 29 February 2008) at [21]. As the case law makes clear, there are two main classes of abuse. The first concerns abuse vis-à-vis the relevant office, for example where the applicant knowingly supplies untrue or misleading information in support of his application; and the second concerns abuse vis-à-vis third parties: see *Cipriani* at [185].

136. Sixthly, in order to determine whether the applicant acted in bad faith, the tribunal must make an overall assessment, taking into account all the factors relevant to the particular case: see *Lindt v Hauswirth* at [37].

137. Seventhly, the tribunal must first ascertain what the defendant knew about the matters in question and then decide whether, in the light of that knowledge, the defendant's conduct is dishonest (or otherwise falls short of the standards of acceptable commercial behaviour) judged by ordinary standards of honest people. The applicant's own standards of honesty (or acceptable commercial behaviour) are irrelevant to the enquiry: see *AJIT WEEKLY Trade Mark* [2006] RPC 25 at [35]-[41], *GERSON Trade Mark* (Case R 916/2004-1, OHIM First Board of Appeal, 4 June 2009) at [53] and *Campbell v Hughes* [2011] RPC 21 at [36].

138. Eighthly, consideration must be given to the applicant's intention. As the CJEU stated in *Lindt v Hauswirth*:

"41...in order to determine whether there was bad faith, consideration must also be given to the applicant's intention at the time when he files the application for registration.

42. It must be observed in that regard that, as the Advocate General states in point 58 of her Opinion, the applicant's intention at the relevant time is a subjective factor which must be determined by reference to the objective circumstances of the particular case.

43. Accordingly, the intention to prevent a third party from marketing a product may, in certain circumstances, be an element of bad faith on the part of the applicant.

44. That is in particular the case when it becomes apparent, subsequently, that the applicant applied for registration of a sign as a Community trade mark without intending to use it, his sole objective being to prevent a third party from entering the market.

45. In such a case, the mark does not fulfil its essential function, namely that of ensuring that the consumer or end-user can identify the origin of the product or service concerned by allowing him to distinguish that product or service from those of different origin, without any confusion (see, inter alia, Joined Cases C-456/01 P and C-457/01 P *Henkel v OHIM* [2004] ECR I-5089, paragraph 48)."

The applicant in this case is World International Limited, not Mr Michael Gleissner. However, in *Joseph Yu v Liaoning Light Industrial Products Import and Export Corporation*,<sup>10</sup> Professor Ruth Annand, sitting as the Appointed Person, stated:

*"22. [A] claim of bad faith is not avoided by making an application in the name of an entity that is owned or otherwise controlled by the person behind the application."*

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<sup>10</sup> BL/013/15

26. Mr Gleissner is the sole Director of, and therefore controls, the applicant. This has not been disputed by the applicant and I find that, as a consequence, Mr Gleissner's motives can be attributed to the applicant in this case.

27. The opponent's case appears to be based on the fact that Mr Gleissner owns a very large international network of shelf companies through which he holds a wide portfolio of trade marks, which are often used in legal proceedings to oppose or cancel third party trade marks and/or to acquire domain names and that, as a consequence, that applicant has no intention of using the trade mark for its essential function (to distinguish the goods/services of one undertaking from those of others).

### **The five year grace period**

28. The applicant submits that under UK law an owner is not required to put its trade mark to use until one day before the expiration of the 'grace period' granted by the Act upon registration of a trade mark. It concludes that any assessment of intention to use the mark can only be made at that point.

29. It is clear from *Red Bull*<sup>11</sup> that the relevant date for assessing the proprietor's intention is the date of application which in this case is 30 September 2016. When it signed the application form, the applicant confirmed, in accordance with section 32(3) of the Act, that the trade mark was being used (for the goods and services) or that there was a bona fide intention it would be so used.

30. In *CKL Holdings NV v Paper Stacked Limited*, Geoffrey Hobbs QC, sitting as the Appointed Person, considered this point:

“22. However, that does not detract from the proposition that a declaration made pursuant to the requirements of s.32(3) can be false by reason of the absence of any bona fide intention to use a mark, with that in fact being indicative or symptomatic of the relevant mark having been put forward for

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<sup>11</sup> See paragraphs 131 and 138

registration in relation to goods or services of the kind specified in an improper manner or for an improper purpose, such as to justify refusal of the relevant application for registration on the ground of bad faith.”

31. In other words, the applicant’s submission is wrong in law as it conflates the separate issues of (i) the five year grace period following the registration of a trade mark for the commencement of actual use of that mark and (ii) the declaration pursuant to section 32(3) of the Act that, at the date of application for a trade mark, the mark is in use in relation to the goods and services or that there is a bona fide intention so to use it.

### **Presumption of good faith**

32. The applicant submitted in its counterstatement that there is a presumption of good faith, unless the contrary is proven and concludes that the opponent:

*“...has not provided sufficient arguments or evidence to show that the application or subject mark was made in anything other than good faith.”*

33. Evidently, the counterstatement was filed before the evidence rounds were completed so this statement cannot refer to documents which were subsequently filed by the opponent.

34. With regard to the ‘good faith’ point, I bear in mind the decision in *Ferrero SpA’s Trade Marks*<sup>12</sup> which concerned the ‘stockpiling’ of trade marks. In that case David Kitchen Q.C. (as he then was), sitting as the Appointed Person, upheld a finding that the proprietor had applied to register trade marks in bad faith on the basis of unanswered evidence that it had been stockpiling unused marks. He held:

“16. I have also come to the conclusion that the hearing officer was entitled to find the allegation established on the basis of the materials before him. By the date of Mr Rickard’s declaration the registered proprietors had filed

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<sup>12</sup> [2004] RPC 28

in excess of 60 applications to register trade marks including the word KINDER but had only ever used six. The number of applications had increased to some 68 by the date of Ms Bucks' witness statement. The large number of unused applications and the period of time over which the applications had been made led Mr Rickard to conclude that the registered proprietors were filing applications without any real and effective intention to use them. The evidence of Mr Rickard was never answered by the registered proprietors. No attempt was made to justify or explain the filing policy.

17. [...] the hearing officer was entitled to come to the conclusion that the applicants had established a *prima facie* case that the registered proprietors did not have a genuine intention to use the marks in issue at the dates they were filed. He was also, in my view, entitled to come to the conclusion that the *prima facie* case was not answered and that the allegation was therefore made good."

35. Whilst this case is a number of years old, there is no reason to conclude that it is no longer legally sound to the extent that it states that stockpiling trade marks with no intention to use them may well justify an allegation that the unused marks have been applied for in bad faith. *Ferrero* clearly indicates<sup>13</sup> that once a *prima facie* case has been established it is incumbent on the proprietor to answer the complaint.

36. I also bear in mind *EUIPO v Copernicus Trademarks Ltd*<sup>14</sup> in which the GC held that filing an EU trade mark application as part of a blocking strategy, with no intention to use the trade mark in accordance with its essential function (to distinguish the goods/services of one undertaking from those of others) is an act of bad faith.

37. In its submissions filed on 13 September 2017, the opponent drew my attention to another decision of this tribunal in *Viva Media GmbH v Viva Technologies Limited*.<sup>15</sup> This was a case concerning a company owned by Mr Gleissner in which the hearing

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<sup>13</sup> At paragraph 17

<sup>14</sup> Case T-82/14

<sup>15</sup> BL O/015/17

officer upheld an opposition based on section 3(6) of the Act on the basis that the contested mark was part of a blocking strategy and the applicant had no intention of using the trade mark in accordance with its essential function. Whilst there are some similarities between this case and the *Viva* case, not all of the same evidence has been provided, nor are the cases factually on all fours with each other. In other words, I cannot simply transfer the findings in that case to this one. I must, as always, decide this case on its own facts.

38. In my judgement, the opponent has presented a prima facie case that the application was filed in bad faith, as the applicant had no intention to use the mark in accordance with its essential function to distinguish the goods and/or services of one undertaking from those of others.

39. The applicant's counterstatement made some general points, which I have considered above and none of these assists its case. A 'presumption of good faith' cannot operate where a prima facie case of bad faith has been established and the applicant has elected to remain silent; nor can the five year period allowed under the Act in which to use a registered trade mark remove the requirement that at the time of application the applicant must have an intention to use the mark in accordance with its essential function.

40. The applicant has not provided any evidence that it, or any other of Mr Gleissner's companies, has used this trade mark in the course of trade, or indeed, any of the other trade marks mentioned in the articles and evidence. The applicant has not provided any rationale for filing the application nor has it responded to any of the specific points raised by the opponent. Other than filing a counterstatement, the applicant has not engaged in these proceedings.

41. I am satisfied that the applicant has made out a prima facie case of bad faith, to which no response or rebuttal has been made by the applicant.

42. The opposition under section 3(6) of the Act succeeds.

### **Remaining grounds**

43. Having made such a finding with regard to the 3(6) ground, there is no need to consider the remaining grounds as they do not improve the opponent's position.

### **Opposition 409185**

44. In the consolidated proceedings 409185, World International Ltd rely on this successfully opposed mark as the sole basis of proceedings under section 5(1) and 5(2)(a) of the Act. Consequently, those proceedings are also concluded.

### **COSTS**

45. World Gym International IP, LLC has been successful and is entitled to an award of costs in its favour. I bear in mind that these are consolidated proceedings and that World International Ltd filed no evidence. The cost award is as follows:

Official fees:	£200
Preparing the notice of opposition and considering the counterstatement (408462):	£200
Considering the notice of opposition and preparing a counterstatement (409185):	£200
Preparing evidence and submissions:	£500
<b>Total:</b>	<b>£1100</b>

46. I order World International Ltd to pay World Gym International IP, LLC the sum of £1100. These costs should be paid within 14 days of the date of this decision or, if there is an appeal, within 14 days of the conclusion of the appeal proceedings (subject to any order of the appellant tribunal).

**Dated this 18<sup>th</sup> day of April 2018.**

**Al Skilton  
For the Registrar**