

O-403-17

TRADE MARKS ACT 1994

APPLICATIONS 501484 AND 501485 BY FASHION INTERNATIONAL LIMITED

TO REVOKE TRADE MARKS 1504626 & 2222335 OWNED BY APPLE INC.

FOR NON-USE

AND

APPLE'S APPLICATION FOR THE REVOCATION APPLICATIONS

TO BE STRUCK OUT AS AN ABUSE OF PROCESS

Background

1. On 5th December 2016, Fashion International Limited (“the applicant”) applied to revoke trade mark registrations 2222335, IMOVIE and 1504626, MacX for non-use. Both marks are registered in the name of Apple Inc. (“the proprietor”).
2. These applications were part of a series of 70 applications filed by three entities under the control of Mr Michael Gleissner, a German national with an address in Belgium. The proprietor asked me to strike out the applications as an abuse of process. In a provisional decision dated 18th January 2017 I indicated that 68 applications would be struck out.¹ I issued a final decision on 15th March 2017 confirming the outcome set out in the provisional decision and ordering the applicant to pay the proprietor £38,085 in costs.² So far as I am aware, there was no appeal against that decision.
3. The two revocation applications covered by this decision were filed after 29th November 2016 when the first of two procedural hearings was held to address, inter alia, the proprietor’s request that the applicant’s other 68 applications should be struck out. This meant that the applicant’s evidence, which was filed as a result of directions given at the hearing on 29th November, did not specifically address the two applications in suit. In these circumstances, I considered that it would be procedurally irregular to include these applications in my decision on the other 68 applications.
4. However, the proprietor has since applied for these two applications to be struck out on the same basis as the other 68.

Decision

5. The applicant was given the opportunity to comment on the applicant’s application, but no comments were received.
6. As explained above, the applications under consideration were part of the series of 70 applications, 68 of which were covered by my decision of 15th March 2017. These applications appear to have been filed for the same reasons as the other 68. Therefore, *prima facie*, the findings in my earlier decision appear to apply equally to

¹ See BL O/015/17

² See BL O/118/17

these applications. In the absence of any arguments to the contrary from the applicant, I direct that these applications should also be struck out as an abuse of process.

Reasons

7. I adopt the reasoning from my decision of 18th January 2017.

Costs

8. The proprietor is entitled to a further award of costs in relation to these two applications. This should include the cost of filing counterstatements and the procedural correspondence culminating in this decision. The applicant has not filed any specific submissions going to the merit of these applications, so they have not added to the applicant's costs in that respect.

9. I therefore order Fashion International Limited to pay Apple Inc. the sum of £250 in respect of these applications. This sum should be paid within 21 days of the end of the period allowed for appeal.

Dated this 25th Day of August 2017

**Allan James
For the Registrar**