

O-483-16

TRADE MARKS ACT 1994

SUPPLEMENTARY DECISION

IN THE MATTER OF INTERNATIONAL REGISTRATION No. 1236293

AND THE REQUEST BY DO-IT s.r.o.

TO PROTECT THE TRADE MARK



IN CLASSES 7, 9 & 42

AND IN THE MATTER OF OPPOSITION

THERE TO UNDER NO 404895

BY KEVIN HICKEY

BACKGROUND

1) It has been drawn to my attention that the decision issued in this matter on 16 August 2016 contained a typographical error. Specifically, paragraph 21 of the decision which read:

“21) I accept that a single word may qualify as an “artistic work” if it is visually embellished in some way such as in its form of stylisation or additional matter. In this case, it is the 3d element that allows it to be considered an artistic work and therefore protectable under copyright law. However, as anyone blessed with the gift of sight will attest, the word “be” in a three- dimensional form is not present in the applicant’s mark. The fact that both contain the letters “BE/be” is simply not enough. There is nothing in the applicant’s mark which conflicts with the applicant’s rights. **The ground of invalidity under section 5(4)(b) therefore fails.**”

should have read:

“21) I accept that a single word may qualify as an “artistic work” if it is visually embellished in some way such as in its form of stylisation or additional matter. In this case, it is the 3d element that allows it to be considered an artistic work and therefore protectable under copyright law. However, as anyone blessed with the gift of sight will attest, the word “be” in a three- dimensional form is not present in the applicant’s mark. The fact that both contain the letters “BE/be” is simply not enough. There is nothing in the applicant’s mark which conflicts with the opponent’s rights. **The ground of opposition under section 5(4)(b) therefore fails.**”

2) The error is plainly an irregularity in procedure and capable of being corrected under Rule 74. Consequently, I give the parties notice that paragraph 45 of the decision will be amended to the version shown above and apply as though that paragraph had appeared in the original version of the decision.

Dated this 17th day of October 2016

George W Salthouse
For the Registrar,
the Comptroller-General