

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION No 11061 BY INTERNATIONAL TIME
RECORDER COMPANY LTD FOR REVOCATION OF REGISTRATION NO
1050942 STANDING IN THE NAME OF BLICK PLC**

TRADE MARKS ACT 1994

**IN THE MATTER OF Application No 11061
by International Time Recorder Company Ltd
for revocation of Registration No 1050942
standing in the name of Blick Plc**

DECISION

Trade mark No 1050942 is registered in the name of Blick Plc for a specification of goods in Class 14 which reads “horological and chronometric instruments, and parts and fittings therefor”. The mark is as follows



I note that it is registered with a disclaimer in relation to the exclusive use of letters ITR. It has a filing date of 15 August 1975.

On 23 August 1999 International Time Recorder Company Limited applied for the registration to be revoked under the provisions of Section 46(1)(a) or (b) of the Act. The applicants add that the (then) proprietors were invited to demonstrate the mark was in use notwithstanding the fact that they are dormant but declined to do so.

I should explain at this point that at the time these proceedings were launched the registration stood in the name of ITR International Time Limited, a wholly owned subsidiary of Blick Plc. At a late stage in the action the registration was assigned to Blick Plc. The counterstatement and evidence in defence of the action were filed by ITR International Time Ltd as proprietor of record at the time. In the counterstatement ITR International Time Ltd deny the above grounds and say that genuine use of the mark had been made by Blick Plc with their consent. Nothing therefore appears to turn on the assignment of the registration. References in what follows to “registered proprietors” should be construed with the above background in mind.

Both sides ask for an award of costs in their favour.

Only the registered proprietors filed evidence. The parties were asked to say whether they wished to be heard. Neither did but written submissions were received from Brookes & Martin on behalf of the applicants (their letter of 25 September 2000).

Acting on behalf of the Registrar and after a careful study of the papers I give this decision.

The relevant parts of Section 46 read as follows:

“46.-(1) The registration of a trade mark may be revoked on any of the following grounds-

- 5 (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;
- 10 (b) that such use has been suspended for an uninterrupted period of five years, and there are no proper reasons for non-use;”

The relevant dates under subsection (1)(a) are 22 February 1977 to 21 February 1982 (the registration procedure having been completed on 21 February 1977). The applicants have not specified a period under subsection (1)(b) so I take it to be the five year period up to the filing date of the application for revocation on 23 August 1999, that is to say starting from 23 August 1994.

Section 100 is also relevant and reads:

20 “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.”

25 This is one of the three related revocation actions launched on the same date. The other two involve registrations in Classes 9 and 16. The cases have not been consolidated. Individual statutory declarations are before me from Richard Collins, Company Secretary of ITR International Time Ltd though the content of these declarations is essentially the same.

30 Mr Collins makes a generalised claim that the marks (he does not distinguish between the stylised mark of this registration and the plain block capital letters of the registrations in Classes 9 and 16) have been used with the consent of the proprietors on the full range of goods covered by this and the other registrations. The broad claim is followed by a more focussed one that the marks have been used

35 “..... in particular in relation to time recording apparatus and instruments, parts and fittings therefor, and the Class 16 goods listed above the EX 30 time recorder, parts and fittings, therefore (sic), and stationery supplies therefor.”

40 The ITR EX30 is the only product shown in the evidence. It is an electrical/electronic time recorder. I have accepted for the purposes of my decision on the Class 9 registration that a product of this kind properly falls in that Class. Mr Collins’ evidence deals with the nature of the claimed trade in Class 9 goods. There is nothing in the evidence that persuades me the registered proprietors have ever conducted a trade in the goods of the Class 14 registration.

For that reasons I do not intend to record any further details of Mr Collins' declaration. The proprietors would in any case face a further difficulty in that the evidence that has been filed does not show use of the stylised mark that is the subject of this particular registration.

5 For the above reasons I find that the application succeeds. It remains for me to determine the date from which revocation will take effect having regard to the provisions of Section 46(6). In the circumstances I consider that the registration should be revoked with effect from 21 February 1982 this being the date five years after the completion of the registration procedure (the Section 46(1)(a) ground).

10 As the applicants for revocation have been successful they are entitled to a contribution towards their costs. I order the registered proprietors to pay them the sum of £435. This sum is to be paid within seven days of the end of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

15 Dated this 6 day of October 2000

20 M Reynolds
for the Registrar
the Comptroller General

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