

O-169-10

TRADE MARKS ACT 1994

AND

THE TRADE MARKS (INTERNATIONAL REGISTRATION) ORDER 1996

SUPPLEMENTARY DECISION IN THE MATTER OF DESIGNATION NO 926043
IN THE NAME OF GIORGIO ARMANI S.P.A.

AND

OPPOSITION THERETO UNDER NO 71683
BY SUNRICH CLOTHING LIMITED

Supplementary decision

1. On 21 April 2010, I issued a decision in relation to the above proceedings. I found that the opposition succeeded under the provisions of section 5(2)(b) of the Act. I dismissed the opposition brought under the provisions of section 5(3) of the Act.

2. Following the issue of my decision, it was brought to my attention that my findings under section 5(2)(b) were not entirely clear. Thus, I issue this supplementary decision to clarify my findings under section 5(2)(b) of the Act.

3. In dealing with the objection under section 5(2)(b), I stated:

“15. Although its Notice of Opposition contains no such indication, in its evidence filed in reply to GA’s evidence, SCL states that its objection to the application is directed solely at the goods for which protection is sought in class 25. I proceed on that basis.”

4. At paragraph 16, I set out the respective goods of each parties’ registration/application, thus:

GA’s application	SCL’s earlier mark
Clothing, shoes, headgear	Clothing for men and boys

5. In *Yerse S.A’s application* OHIM 23/01/2006, it was stated:

“Clothing for women is considered similar to ready-made clothing for men and children. These goods share the same nature, the same method of use, the same manufacturers, the same distribution channels and the same outlets, even if they are sometimes displayed in different parts. Furthermore, certain items are designed for or suitable to both sexes, e.g. *unisex clothing*, not distinguished or distinguishable on the basis of sex in appearance. It is also not unusual for women and men of small-sized figure to look for a piece of clothing in children’s department in order to find a suitable size.”

Thus, whilst SCL set out its view, in its Notice of Opposition, that it considered GA’s application, insofar as it covered clothing for men and boys, to be identical or similar to the goods covered by its earlier mark, I found, at paragraph 19, that “clothing” within GA’s application is identical to “clothing for men and boys” of SCL’s earlier mark. At paragraph 20, I found that “shoes and headgear” are similar goods to “clothing for men and boys” of SCL’s earlier mark.

6. By way of clarification, I confirm that the opposition succeeds in respect of all of the goods of GA’s specification as applied for in class 25. That being the case, the application may proceed to registration insofar as it seeks protection for goods in classes 9, 12, 14, 16, 18, 24, 26, 28 and 35 but is refused in respect of all the goods for which registration is sought in class 25.

7. I confirm that the period for appealing my decision runs from the date of this supplementary decision.

Dated this 26 day of May 2010

**Ann Corbett
For the Registrar
The Comptroller-General**