

BL O/699/19

REGISTERED DESIGNS ACT 1949

IN THE MATTER OF:

REGISTERED DESIGN Nos. 5002463, 5002464, 6009459 & 5002467

IN THE NAME OF H&S ALLIANCE LTD

IN RESPECT OF VARIOUS CASTOR WHEEL DESIGNS:

AND

APPLICATIONS FOR INVALIDATION (Nos. 29-32/18)

BY GBL UK TRADING LTD

The background and the claims

1. These proceedings concern four design registrations for castor wheels which are owned by H&S Alliance UK Ltd (“the proprietor”). GBL UK Trading Ltd (“the applicant”) requests the invalidation of each of the designs under section 1B¹ of the Registered Designs Act 1949 (“the Act”) which requires that a registered design be new and have individual character.

2. The registrations, all of which were described on their respective application forms as “castor wheels set”, were filed on 14 April 2016 (5002463, 5002464 & 5002467) and 22 March 2017 (6009459).

3. Each design contained multiple illustrations, which I will depict later.

4. In relation to designs 5002463 & 5002464, the claim is that products made to the designs were on the market before the relevant date. The applicant states that it imported them and placed them on eBay. It also refers to another earlier disclosure on Amazon. It further claims that the proprietor is engaged in an anti-competitive policy of registering designs which are in the public domain with a view to having competitor’s listings removed from marketplaces such as eBay and Amazon (a similar claim is made in relation to the other designs).

5. In relation to designs 5002467 & 6009459, the applicant relies on its own listings and, also, some listings made by others.

6. The proprietor filed counterstatements denying the grounds for invalidation. It put the applicant to proof of its claims, explaining why the designs are different from the prior art, and making the point that the type of listings relied upon can easily be amended and modified.

7. Both sides filed evidence beyond the respective statements of case/counterstatements. Given the number of designs involved, I will return to the

¹ Which is relevant in invalidation proceedings given the provisions of section 11ZA(1)(b) of the Act.

evidence when I consider each of the designs in turn. The matter was heard before me on 24 July 2019 at which Mr David Harris, of Barker Brettell, represented the proprietor. The applicant, who is not legally represented, was represented at the hearing by its director, Mr Mansour Malik.

The legislation and leading case-law

8. Section 11ZA(1)(b) of the Act reads as follows:

“(1) The registration of a design may be declared invalid

(a)...

(b) on the ground that it does not fulfil the requirements of sections 1B to 1D of this Act...”

9. Section 1B reads as follows:

“(1) A design shall be protected by a right in a registered design to the extent that the design is new and has individual character.

(2) For the purposes of subsection (1) above, a design is new if no identical design whose features differ only in immaterial details has been made available to the public before the relevant date.

(3) For the purposes of subsection (1) above, a design has individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public before the relevant date.

(4) In determining the extent to which a design has individual character, the degree of freedom of the author in creating the design shall be taken into consideration.

(5) For the purposes of this section, a design has been made available to the public before the relevant date if –

(a) it has been published (whether following registration or otherwise), exhibited, used in trade or otherwise disclosed before that date; and

(b) the disclosure does not fall within subsection (6) below.

(6) A disclosure falls within this subsection if –

(a) it could not reasonably have become known before the relevant date in the normal course of business to persons carrying on business in the European Economic Area and specialising in the sector concerned;

(b) it was made to a person other than the designer, or any successor in title of his, under condition of confidentiality (whether express or implied);

(c) it was made by the designer, or any successor in title of his, during the period of 12 months immediately preceding the relevant date;

(d) it was made by a person other than the designer, or any successor in title of his, during the period of 12 months immediately preceding the relevant date in consequence of information provided or other action taken by the designer or any successor in title of his; or

(e) it was made during the 12 months immediately preceding the relevant date as a consequence of an abuse in relation to the designer or any successor in title of his.

(7) In subsections (2), (3), (5) and (6) above “the relevant date” means the date on which the application for the registration of the design was made or is treated by virtue of section 3B(2), (3) or (5) or 14(2) of this Act as having been made.”

10. The relevant case law was conveniently set out by Birss J. in paragraphs 31 to 59 of his judgment in *Samsung v Apple* [2012] EQHC 1882 (Pat):

"The informed user

33. The designs are assessed from the perspective of the informed user. The identity and attributes of the informed user have been discussed by the Court of Justice of the European Union in *PepsiCo v Grupo Promer (C-281/10P)* [2012] FSR 5 at paragraphs 53 to 59 and also in *Grupo Promer v OHIM* [2010] ECDR 7, (in the General Court from which PepsiCo was an appeal) and in *Shenzhen Taiden v OHIM*, case T-153/08, 22 June 2010.

34. Samsung submitted that the following summary characterises the informed user. I accept it and have added cross-references to the cases mentioned:

i) He (or she) is a user of the product in which the design is intended to be incorporated, not a designer, technical expert, manufacturer or seller (*PepsiCo* paragraph 54 referring to *Grupo Promer* paragraph 62; *Shenzhen* paragraph 46).

ii) However, unlike the average consumer of trade mark law, he is particularly observant (*PepsiCo* paragraph 53);

iii) He has knowledge of the design corpus and of the design features normally included in the designs existing in the sector concerned *PepsiCo* paragraph 59 and also paragraph 54 referring to *Grupo Promer* paragraph 62);

iv) He is interested in the products concerned and shows a relatively high degree of attention when he uses them (*PepsiCo* paragraph 59);

v) He conducts a direct comparison of the designs in issue unless there are specific circumstances or the devices have certain characteristics

which make it impractical or uncommon to do so (*PepsiCo* paragraph 55).

35. I would add that the informed user neither (a) merely perceives the designs as a whole and does not analyse the details, nor (b) observes in detail minimal differences which may exist (*PepsiCo* paragraph 59)."

"Design freedom

40. In *Grupo Promer* the General Court addressed design freedom in paragraphs 67-70. In *Dyson* Arnold J. summarised that passage from *Grupo Promer* as follows:

"design freedom may be constrained by (i) the technical function of the product or an element thereof, (ii) the need to incorporate features common to such products and/or (iii) economic considerations (e.g. the need for the item to be inexpensive)."

"Effect of differences between the registered design and the design corpus

51. Apple drew my attention to paragraph 74 of the judgment of the General Court in *Grupo Promer* in which the Court agreed with the ruling of the Board of Appeal that:

"as regards the assessment of the overall impression produced by the designs at issue on the informed user, the latter will automatically disregard elements 'that are totally banal and common to all examples of the type of product in issue' and will concentrate on features 'that are arbitrary or different from the norm'".

52. Apple submitted that this showed that a design feature need not be unique to be relevant. It is only disregarded if it is totally banal. Thus, Apple submitted, for a feature to be relevant it merely needs to differ from the norm and by logical extension, the greater the difference from the norm, the more weight to be

attached to it. The point of this submission is to challenge the manner in which Apple contended Samsung was advancing its case. I do not think Apple's characterisation of Samsung's case was entirely accurate but in any case I accept Apple's submission on the law at least as follows. The degree to which a feature is common in the design corpus is a relevant consideration. At one extreme will be a unique feature not in the prior art at all, at the other extreme will be a banal feature found in every example of the type. In between there will be features which are fairly common but not ubiquitous or quite rare but not unheard of. These considerations go to the weight to be attached to the feature, always bearing in mind that the issue is all about what the items look like and that the appearance of features falling within a given descriptive phrase may well vary."

"The correct approach, overall

57. The point of design protection must be to reward and encourage good product design by protecting the skill, creativity and labour of product designers. This effort is different from the work of artists. The difference between a work of art and a work of design is that design is concerned with both form and function. However design law is not seeking to reward advances in function. That is the sphere of patents. Function imposes constraints on a designer's freedom which do not apply to an artist. Things which look the same because they do the same thing are not examples of infringement of design right.

58. How similar does the alleged infringement have to be to infringe? Community design rights are not simply concerned with anti-counterfeiting. One could imagine a design registration system which was intended only to allow for protection against counterfeits. In that system only identical or nearly identical products would infringe. The test of "different overall impression" is clearly wider than that. The scope of protection of a Community registered design clearly can include products which can be distinguished to some degree from registration. On the other hand the fact that the informed user is particularly observant and the fact that designs will often be considered side by side are both clearly intended to narrow the scope of design protection.

Although no doubt minute scrutiny by the informed user is not the right approach, attention to detail matters.”

11. I will start my assessment by considering design 5002464.

Design registration 5002464

12. The design was filed on 14 April 2016, which therefore constitutes the relevant date. Any prior art must have been made available before then to be capable of destroying the novelty of the registered design.

13. The full set of illustrations for design registration 5002464 contain four² images, all of which comprise a braked and unbraked castor with a flat mounting profile on its top, as set out below:



Standing view

Rear side view



Side view

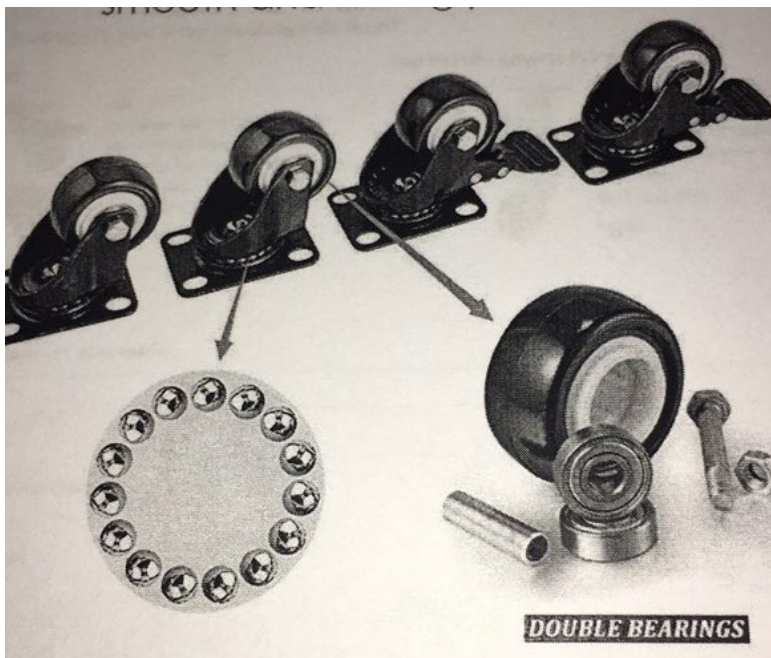
Bottom view

14. With its statement of case³, the applicant provided:

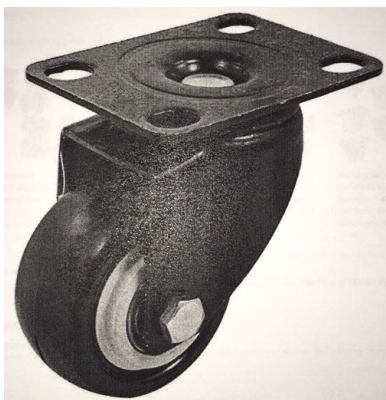
² The fifth image on the IPO's website is a replica of the side view above, and is used as the main representation for the IPO's case details.

³ Which contained a statement of truth signed by Mr Malik.

- i) A bill of lading from February 2016 issued to Globe Bargain Limited (a company run by Mr Malik's father) relating to the importation of what is described as "this similar product"; the document relates to various products including 40 cartons of castor wheels.
- ii) Prints from eBay and Amazon for a 4-castor set as depicted below, said to have been placed on those websites on 10 and 11 April 2016 respectively, two days before the relevant date:



- iii) An earlier disclosure on Amazon of another (unbraked) castor, said to be from November 2014:



iv) A further Amazon listing of an (unbraked) castor from November 2012:



v) Comments that the proprietor is engaged in anti-competitive practices and that it has 200 registered designs for what are considered (by the applicant) to be generic products. Three examples are provided of: a design for a diary/organiser, nail clippers, a comb.

vi) A copy of a take-down notice the applicant received following a complaint from the proprietor. Also provided is a listing from the French version of Amazon (from after the relevant date) which is said to be identical to the listing which the applicant had to take down in the UK; however, this does not assist because the listing in the UK must also have been from after the relevant date because the proprietor would have had to have had its registered design in order to request take-down.

15. Further evidence⁴ beyond that contained in the applicant's initial statement of case was given by Mr Malik, some of which picks up on points raised in the proprietor's counterstatement. I note the following:

i) That its bill of lading counts as proof of importation and that its eBay and Amazon listing shows what was imported.

⁴ In the form of an additional statement of case, which contained a statement of truth.

- ii) A “to whom it may concern” letter from Nani Soccer, a business partner of the applicant based in China which handles sourcing and purchasing etc. Signed by a Yassir Butt, it confirms that the applicant (and before it a business run by Mr Malik’s father) is a trusted customer. It is stated that Mr Malik and his father have been purchasing three castor wheel models since 2016. He says that the 3 models were sourced in December 2015 and contained in the shipment as per the earlier mentioned bill of lading. He also states that the 3 models have been available to the general public since early 2011. I only depict below the version that relates to design 5002464:

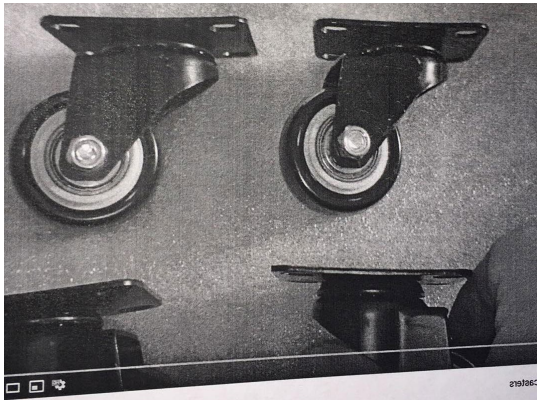


- iii) A “to whom it may concern” letter from a manufacturer in China, Weibida. Whilst the letter writer, a Mr Jasper Yuan, states that the applicant is a customer, he does not say that they have manufactured and sold castor wheels to the applicant. He does, though, say that certain castor wheels have been sold in the UK and Europe since 2011. The relevant image for design 5002464 looks like this:

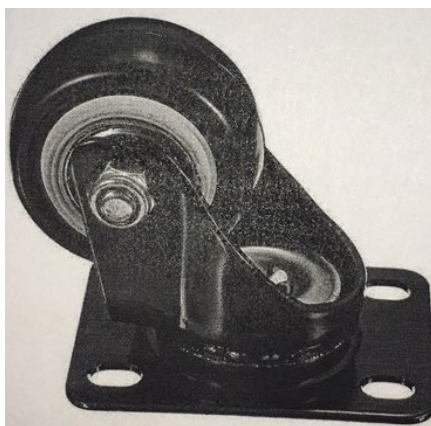


- iv) A statement that the proprietor's claim that the applicant's listing may have been modified is just an assumption, and they should provide evidence of their challenge.

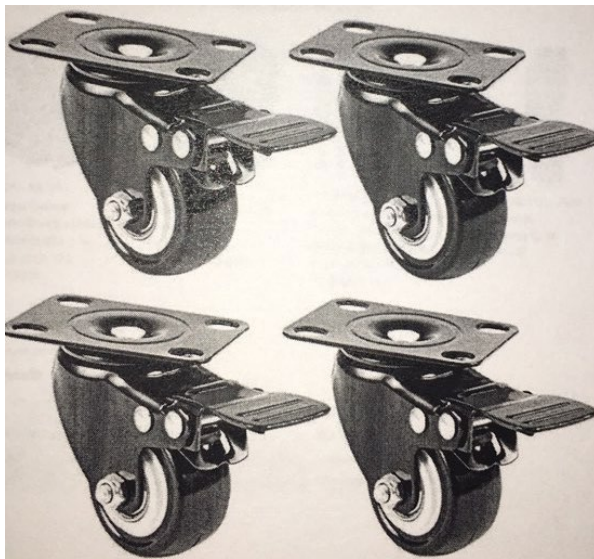
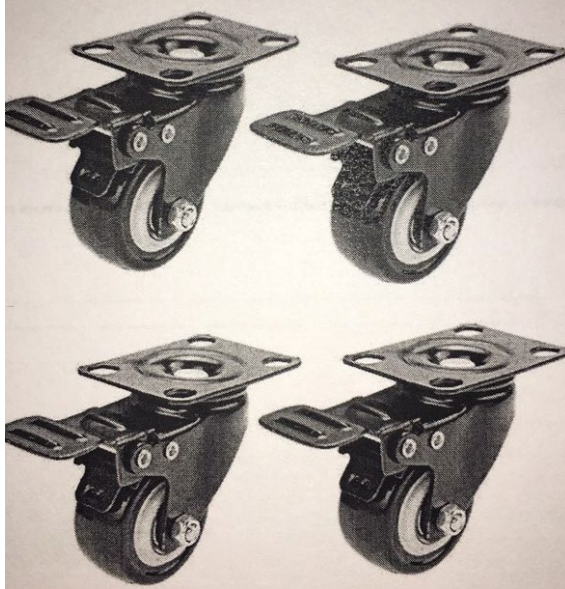
- v) In response to a point taken by the proprietor that annex 4 of the original statement of case (the castor shown at paragraph 14 (iii) above) does not depict a braked version of a castor, the applicant states that the evidence at least justifies that the unbraked version was being sold. Further evidence of an unbraked version is shown in print taken from a YouTube video dated 12 January 2016 which looks like this:



something which is also said to have been sold on the website bangggood.com since 2014:



- vi) Mr Malik also states that the braked version was disclosed in February 2016 on amazon.co.uk under the brand name Homex, and on the German version of Amazon on 21 May 2014, with the respective prints provided showing:



16. Mr Harris made a number of observations about the applicant's evidence, and the extent to which it could be taken into account. He submitted that the "to whom it may concern letters" were not filed as formal evidence and show no actual disclosures and, further, the applicant's own listings could have been amended/modified.

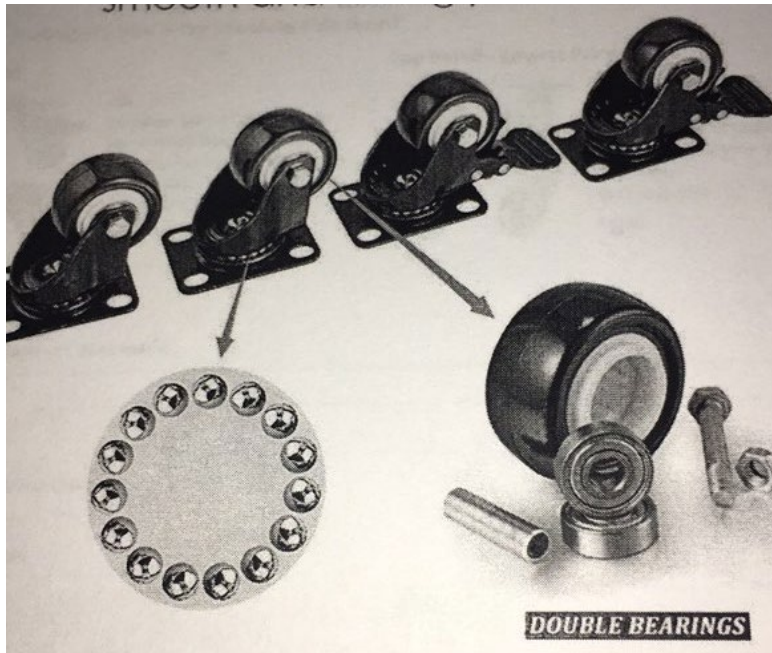
17. I accept the point about the “to whom it may concern” letters. They do not constitute evidence as such (the letter writers have not given evidence) and whilst they could be treated as hearsay evidence and given some weight, the absence of any real detail about the claimed disclosures (the claim being that they have been on the market since 2011) means that the images attached to the letters should not be used for the purposes of comparison. Another reason why they ought not be relied upon alone is that despite the writer of the first letter stating that the castor he depicts was the one in the shipment to Mr Malik’s father, the [applicant’s] listing itself seems to show a different castor (as I will come onto, the brake is not exactly the same).

18. In relation to the amendment/modification of listings, I have greater reluctance to reject Mr Malik’s evidence. I accept the general proposition that listings can be amended, something which is aptly shown by the proprietor’s evidence of them amending their own listings⁵. Mr Malik also appears to accept (although his comments are made in relation to the other designs) that marketplace listings are commonly amended so as to provide the consumer with more information about products. However, it does not follow that the listings in evidence have been modified to any material extent (by that I mean modified so as to change what has actually been disclosed). The proprietor could have cast more doubt by providing evidence that the picture of the item was different, but it has not done so. I am prepared to accept the listings for what they are.

19. Mr Harris also argued that the evidence in Mr Malik’s second statement of case should not be considered because such disclosures were not the disclosures relied upon in the first statement of case. Whilst I understand his point, the simple provision of further castors which are said to have the same overall impression should not be discounted, the case is simply that castors with the same overall impression have been disclosed.

⁵ The evidence came from a Mr Richard Hill, who works for the proprietor, with material being provided showing how amazon listings can be changed by replacing images and photos, but with the original listing date remaining the same.

20. I firstly consider the prior art from the applicant's own listings, which counts as prior art as the disclosure was from before the relevant date. The comparison is thus between:



and



Standing view

Rear side view



Side view

Bottom view

21. There are some design constraints in relation to castors. They need to have a wheel. They need to have an enclosure to contain said wheel and, often, a mechanism

so that the castor may swivel. There will need to be some way of affixing the castor to the item it is to operate with. Whilst this does produce some limitation in design freedom, this is not to the extent that all castors will inevitably look very similar to each other.

22. In terms of the design corpus, beyond the designs relied upon as disclosures, no other evidence of the design corpus is provided. It is, therefore, difficult to make an assessment of how far these designs stand out from other castors in the public domain at the relevant date. This factor is therefore neutral in the assessment.

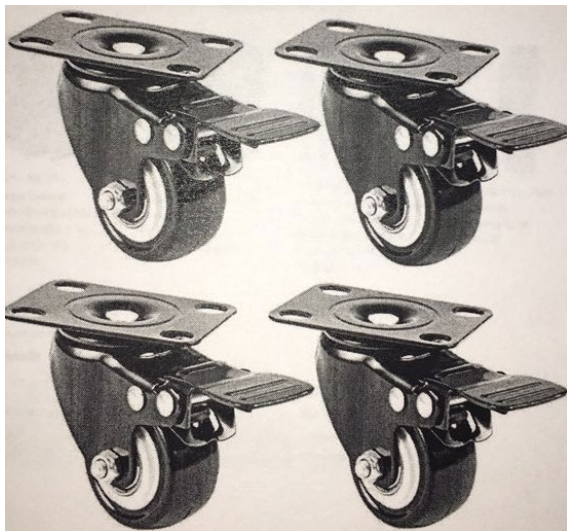
23. The above designs are very similar in the following respects: both comprise a braked and unbraked castor (the fact that the prior art has two of each does not matter); they both have a two-tone wheel that takes up a similar proportion of the whole design; they both have a similar (but I accept not identical) enclosure which is partially round but which then straightens when the enclosure attaches to the wheel, both with a bolt; they both have a lip above the enclosure, but below the mounting profile, in which ball bearings are contained, which are partially visible; they both have a rectangular mounting profile, with similarly placed fixing holes; both have a braked version attached to the enclosure with two circular fixings in a similar position, although, I accept Mr Harris' point that it is not clear if the stud-like aspect of the fixing on the opposite side of the registered design is mirrored in the prior art.

24. The biggest difference, as Mr Harris identified, is that the brakes in the braked versions flare out more in the prior art compared to the registered design, which also have a different number of lines on its top. There is also a slight dip towards the back of the brake in the registered design, which is not apparent in the prior art.

25. I accept that the differences are not immaterial and, therefore, the design is new (compared to this prior art). However, that does not mean that the design has individual character. In my view it does not. I take the view that the informed user, even if they recognise the differences, will still regard the designs as having the same overall impression. The differences in the brake, something which performs a specific functional requirement, the design of which could change with functional

improvements, will largely be discounted in terms of the overall impression as a whole. I therefore uphold the invalidation in relation to this claimed prior art.

26. It is not strictly necessary to consider the other items of prior art, however, in case of appeal, I shall give some brief findings. I begin with the design at 15(vi):



27. I note here that the brake is very similar indeed to the brake of the registered design. The other aspects of the design are also very similar. However, a major point taken by Mr Harris was that the prior art comprises only a braked version, whereas the registered design is a set comprising a brake and unbraked version.

28. I have strong reservations as to whether the registered design can be said to be a design, or whether it is actually two designs. That said, as no ground for invalidation is made on this basis, I can say nothing more. However, what I can say is that whilst I agree with Mr Harris that the novelty in the registered design cannot be destroyed by two separate pieces of prior art, one destroying the novelty of the braked version, another the unbraked version, it does not follow that a single braked or unbraked version cannot destroy the novelty in what is effectively some form of composite design. In my view, the informed user will view the registered design as having the same overall impression as the prior art above, the only difference being the inclusion/omission of a largely functional brake. The novelty would, thus, still be destroyed, the overall impression still being the same.

29. In terms of the other prior art, they comprise castors which, whilst not identical, are still in my view very similar unbraked versions of the castor. For the reasons given in the preceding paragraph, I do not think the absence/presence of the brake prevents the informed user in regarding them as having the same overall impression.

30. My finding is that design registration 5002464 is not valid.

Registered Design 5002463

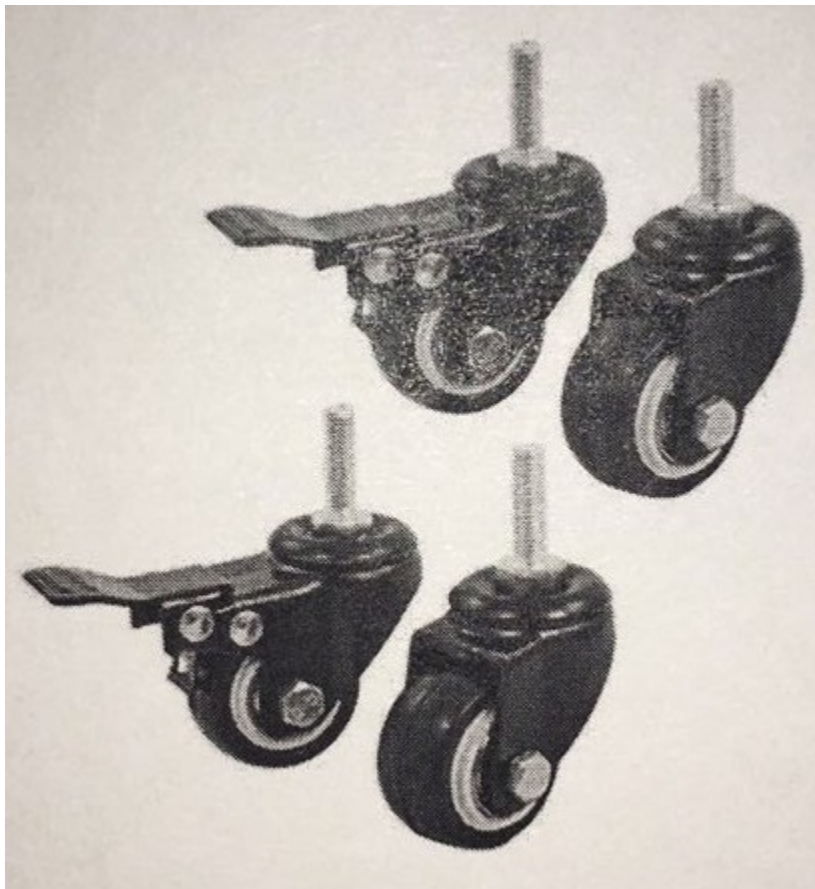
31. The relevant date is, again, 14 April 2016. The full set of illustrations for this design contains seven⁶ images, which, again, comprise a braked and unbraked castor. However, whilst four of the images have a flat mounting plate on its top (and which comprise what appears to be identical images to design 5002464), the other three illustrations replace that mounting profile with a threaded bolt:



⁶ Again, discounting a replica image.

32. The reservations I expressed earlier about whether this is one, or more, designs, is equally applicable here. The best that one can approach the matter is that the castor can be adapted to change the manner in which it is affixed.

33. All of the evidence (and my comments in relation to it) filed for design 5002464 is applicable here also. The only additional evidence that Mr Malik provided for this design was to show that a threaded bolt version has also been sold on amazon.co.uk (with a date of first sale from November 2014) as follows:



34. I repeat what I said earlier about not destroying the novelty in a design by combining different pieces of prior art. However, what I also said earlier in relation to design 5002464 is also applicable in that the absence/presence of certain features (in this case no composite braked/unbraked version, threaded/mounting plate) does not rule out a finding of there being the same overall impression. In my view, whether one considers the prior art from the applicant's own listings (notwithstanding the difference in the brake), the prior art in 15(vi), or indeed the above depicted prior art, the informed user will still consider them to have the same overall impression, the fundamental

shapes being the same or very similar, with the most obvious differences residing in the absence/presence of essentially functional aspects.

35. My finding is that design registration 5002463 is not valid.

Design registration 5002467

36. Excluding duplicates, there are four illustrations for this design:



Standing view



Rear side view



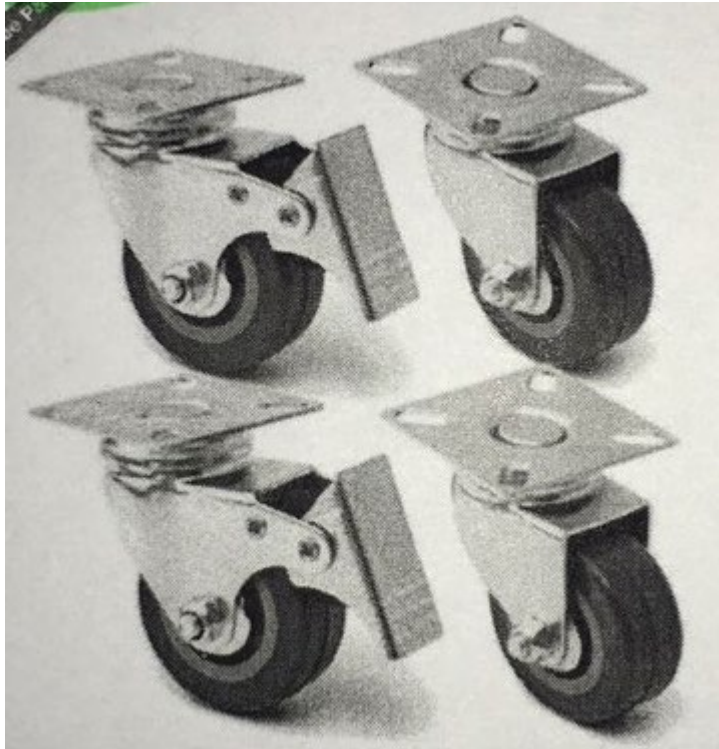
Side view



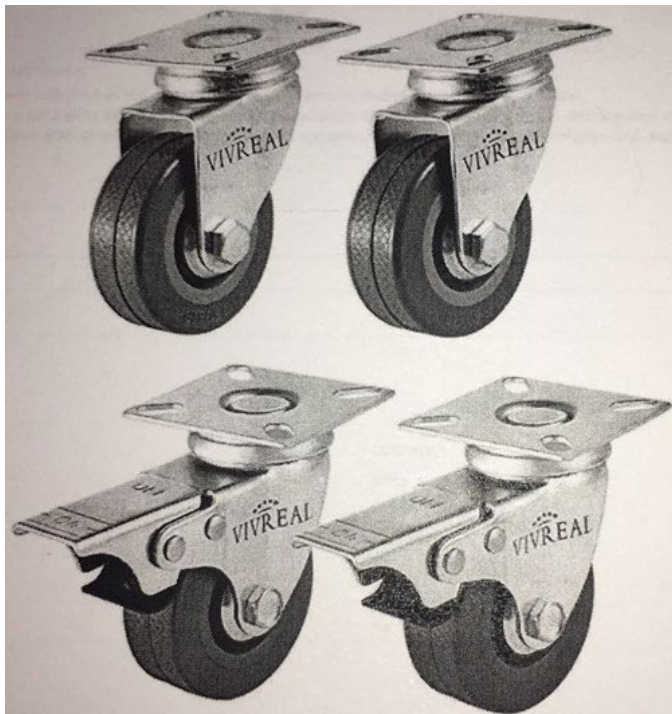
Front side view

37. The relevant date is, again, 14 April 2016. In the statement of case the following is provided/relied upon:

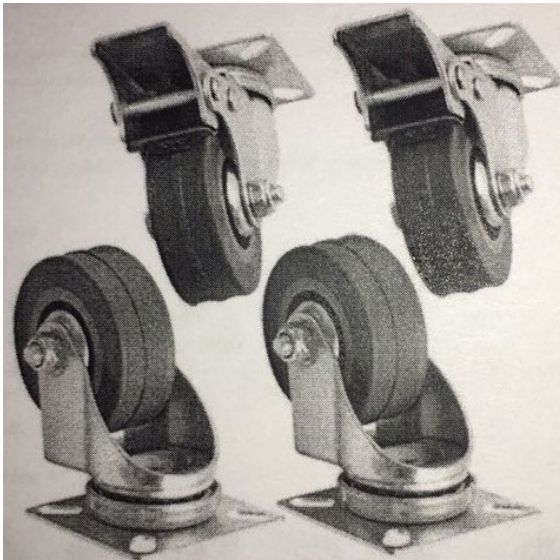
- i) The same bill of lading mentioned already.
- ii) The applicant's listing on eBay dated 10 April 2016, which looks like this:



iii) A listing on amazon.co.uk from 13 October 2011, which looks like his:

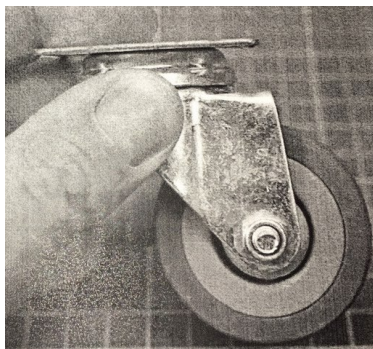
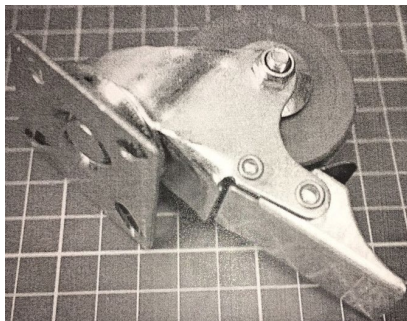


- iv) A further amazon.co.uk listing from 5 April 2015, which looks like this:



38. In terms of evidence in Mr Malek's second statement of case, I note:

- i) After stating that his listing has a flat rivet but one which cannot be seen due to the photograph provided, he refers to two further disclosures on YouTube, both from 14 May 2015, with the pictures provided looking like this:



- ii) "To whom it may concern" as already touched on, but given my finding that I will not compare the images in these letters, I will not set them out here.

39. The comments I have already made about the capacity to modify listings applies in equal measure here. I will, again, take the listings for what they are. I will first compare the registered design with the applicant's listing, which counts as prior art as it was from before the relevant date:



Standing view



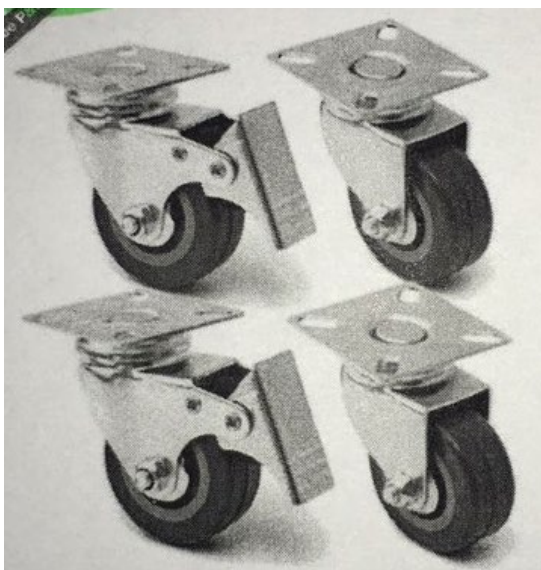
Rear side view



Side view



Front side view



40. The above designs are very similar in the following respects: both comprise a braked and unbraked castor (the fact that the prior art has two of each does not matter); they both have a flat profiled wheel with a contrasting coloured inner and outer ring of similar (but not identical) proportion; they both have a very similar enclosure which is partially round but which then straightens when the enclosure attaches to the wheel, both with a bolt of some form; they both have a square mounting profile, with similarly placed fixing holes; they both have a circular element between the enclosure and the mounting profile; they both have a braked version attached to the enclosure with two circular fixings in a similar position.

41. Mr Harris' main highlighted points of difference resided in the absence of flat fittings (those which attach the brake) in the prior art, the brake pedal in the prior art is generally flat apart from three broader ridges (compared to the registered designs' largely flat pedal with three lines at one end and a rectangular depression at the other), and the wheel's inner ring in the prior art is lighter than the prior art (in fact, the registered design's inner ring is darker than its outer ring).

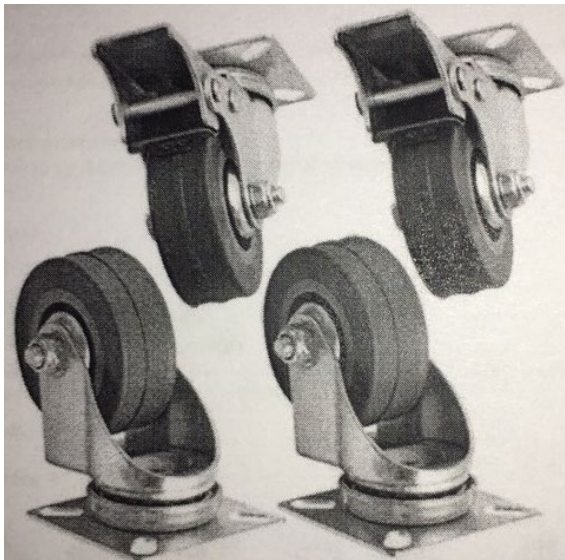
42. I come to the view that the difference in shading of the inner ring is a minor detail the informed user may not even appreciate and one that does little, in any event, to create a different overall impression. Similarly, too, the flatness or otherwise of the elements that affix the brake, which the informed user will appreciate to be a purely functional aspect. That then leaves the brake, both of which are rectangular and of similar proportion. Both have three lines or ridges at one end, although in the prior art they appear to stand out. The top of the brake is not adorned in the prior art, but it has a rectangular depression (although it does not appear to be depressed by much) in the registered design. Whilst I accept that these differences are not immaterial, I do not consider, even weighed with the other differences, that they do enough to avoid a finding that the designs have the same overall impression. The informed user may not even notice them even when considering the designs with the attentive approach they would adopt. Even if they did, they would consider them to be minor embellishments, likely to be associated with grip (a function) more than anything else.

43. Given the above findings, I will only give brief views on the other prior art. In relation to:



Mr Harris made similar points, but highlighted the further differences in the brake aspect as it contained the words ON and OFF, the existence of parallel ridges and the absence of a depression. For similar reasons to that already given I do not consider this (even taking into account the other differences) to create a different overall impression. Notably, the inclusion of the words ON and OFF are informative words relating to the function of the brake.

44. In relation to this design:



I cannot make a finding in the applicant's favour because the brake cannot be seen properly.

45. Finally, in relation to the disclosure on YouTube, they take the applicant no further forward compared to the two items of prior art under which I have already found in favour of the applicant.

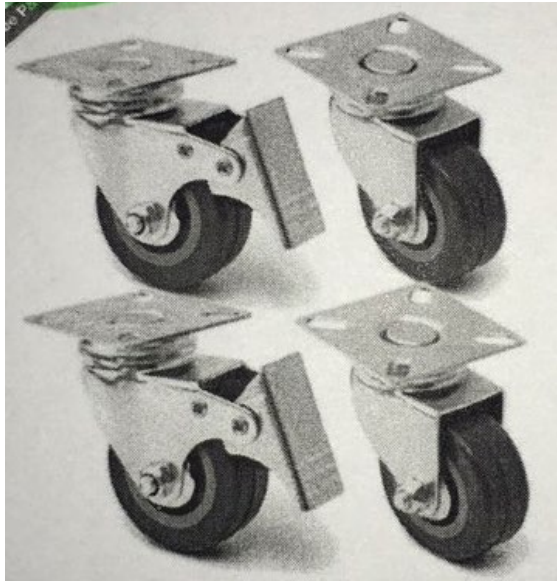
46. My finding is that design registration 5002467 is not valid.

Registered design 6009459

47. There are, again, four illustrations:



48. The relevant date for this registered design is 22 March 2017. The applicant relies upon the same material as per design 5002467. The same comments and findings I have made in relation to the relevance of the evidence apply here. I will start by comparing the design with the applicant's listing:



49. Much of what I have said in relation to 5002467 applies here in so far as the main similarities are concerned. Here, though, the two-tone aspect of the wheel has, like the prior art, a lighter shade at the inner ring compared to the outer. The additional differences highlighted by Mr Harris include what is described as a domed aspect to the fixings that attach the brake to the pedal and, in relation to the brake itself, the bottom end of the registered design turns upward whereas it is flat in the prior art with two parallel ridges as tread. At the top end of the brake, I can also see a slight parallel bump in its configuration.

50. The doming of the fixings is in my view a very small difference and will be put down to a minor change in the particular fixing mechanism used. In relation to the differences in the brakes, even if the informed user noticed the above differences, they would be put down to a very minor alteration to a functional part of the design and that that alteration itself is to improve functionality, making it easier to apply the brake. The difference in number of (functional) ridges is neither here nor there. Weighing these differences with the strong similarities, I consider the overall impression is still the same.

51. In relation to the other prior art, and given my view on the impact that the additional differences make, the findings I have already made in relation to 5002467 apply here also.

52. My findings is that design registration 6009459 is not valid.

53. For sake of completeness, I highlight that I have not felt it necessary to comment in detail on the applicant's claim that it is engaged in an anti-competitive practice of registering generic designs. The evidence is not sufficient to make this claim good.

Outcome

54. Subject to appeal, all four registered designs are hereby declared invalid.

Costs

55. The applicant is the successful party and is entitled to a contribution towards costs. In that regard, Mr Malik completed a costs pro-forma indicating how long he had spent preparing the case (1 hr 30 for the claim forms, 36 hours for preparing evidence, 6hr 30 for written submissions, 4 hours for commenting on the other sides' submissions/evidence, and 3hr 30 for obtaining the letters from China), and a further form, in relation to preparing for and attending the hearing (16 hours plus 3 hours for travel).

56. Costs are meant to be contributory in nature. In relation to quantum, I note that The Litigants in Person (Costs and Expenses) Act 1975 (as amended) sets the minimum level of compensation for litigants in person in Court proceedings at £19.00 an hour. I see no reason to award anything other than this. Bearing all this in mind, together with what Mr Malik has estimated in hours, and bearing in mind that the proceedings were dealt with together (although also reflecting that the four cases largely resolved down, at least in evidence, to two groups of two), I award costs on the following basis:

- Preparing a statement(s) of case and considering the counterstatements: 1.5 hours = £28.50

- Preparing evidence/submissions (including that filed with the counterstatement) and considering the other side's evidence/submissions: 35 hours in total = £665
- Attending the hearing: 16 in total = £304
- Official fees (£48 x 4) = £192
- **Total = £1184.30**

57. I order H&S Alliance UK Ltd to pay GBL UK Trading Ltd the sum of £1184.30 within 21 days of the expiry of the appeal period or within 21 days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 18th day of November 2019

Oliver Morris
For the Registrar,
the Comptroller-General