

O/0927/25

REGISTERED DESIGNS ACT 1949

CONSOLIDATED PROCEEDINGS

IN THE MATTER OF:

REGISTERED DESIGN NOS. 6229123 AND 6229125

IN THE NAME OF

TRINKETY PAWS LTD

AND

APPLICATIONS FOR INVALIDATION NOS. 129/24 AND 130/24

BY RICHARD ECCLESTON

Background and pleadings

1. Registered design nos. 6229123 (“the 123 design”) and 6229125 (“the 125 design”) stand in the name of Trinkety Paws Ltd (“the Proprietor”). The designs were both applied for on 5 September 2022. The 123 design was registered on 30 November 2022 and published on 1 December 2022 and the 125 design was registered on 5 December 2022 and published on 6 December 2022.

2. The designs are depicted in the following main representations (which I shall refer to collectively as the registered designs). The remainder are set out in the Annex to this decision:

The 123 design



The 125 design



3. The products in which the designs are embodied are indicated to be waterproof dog collars and leads. I note that no claim is made for the material colour or colour of the metallic components of the respective designs. This means that the designs protect collars and leads of any colour. The designs are registered as applying to articles for the care and handling of animals in class 30 and saddlery in subclass 4 of the Locarno classification system.

4. On 19 June 2024, Richard Eccleston (“the Applicant”) applied to invalidate the registered designs under section 11ZA(1)(b) of the Registered Designs Act 1949 (“the Act”), on the grounds that the designs were not new and did not have individual character as required by section 1B of the Act. The Applicant claims that the registered designs were first made available to the UK public prior to the applications in question by numerous companies in the UK and internationally for very similar or even identical designs. In support of this claim, Mr Eccleston filed screenshots of printouts taken from the Instagram pages of a selection of these companies dated between February 2021 and July 2022 showing listings for dog collars and leads with representations of the same. I shall refer to those in greater detail in the evidence summary.

5. The Proprietor filed a counterstatement to the applications on 10 August 2024, denying the Applicant’s claims. It is said that the registered designs were first published on the Proprietor’s own social media account in November 2021 and at publication the designs were new, unique and had individual character. The listings set out by the Applicant are said to differ from the registered designs. In particular the Proprietor claims that:

- the Proprietor’s brand is recognised by many customers for quality and values;
- the Proprietor created the “Waterproof Dog Lead and Collar” in a specific and distinguishable two-coloured design that allows customers to identify its brand product from other products of a similar nature that may have been available on the market after its design publication;
- the Applicant’s claims of identical products being on the market do not show that such designs were published prior to the first publication of the registered designs in November 2021;
- in any event the design and material used in those earlier designs are different.

6. Both parties filed evidence. The Applicant submitted evidence alongside his application for invalidation and filed further evidence in the form of witness statements from Ciara Birch dated 7 October 2024, Grace Buttery dated 14 October 2024 and Richard Kay dated 14 October 2024 with accompanying exhibits. The Proprietor's witness statement comes from Nadine Berger, dated 19 December 2024. Mr Richard Eccleston also filed evidence in reply dated 17 February 2025. Given the volume of the material filed, I shall summarise the contents of the witness statements to the extent that it is necessary.

7. Neither party is professionally represented and neither requested a hearing and, therefore, I have taken this decision after a careful consideration of the papers before me.

Relevance of EU Law

8. The provisions of the Act relied on in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.



Evidence

The Applicant's evidence

9. As noted, the Applicant filed evidence showing a range of dog collars and leads for sale from the websites and social media accounts of various designers. It is said that these show that the registered designs were not new and were available to buy online and via social media from other retailers a considerable period of time before the registered designs were applied for. The evidence displaying these listings is taken from a number of different sources. Some of these listings are dated after the Proprietor claims to have first published her designs on her social media account in November 2021 (prior to her application for registration). A great number of the listings are also very similar to each other depicting the same common features in terms of the metal work used i.e the buckles/clasps, rivets and edges. Some of the listings are

clearly further away in terms of similarity to the registered designs. Consequently, I have only referred to those listings which I consider to be closest to the registered designs. I shall return to these listings to the extent that it is necessary later in my decision.

10. Mr Eccleston relies on the following listings which were filed with his application for invalidation:¹

Collars	
<p><i>Woodle Designs (Ireland)</i></p> <p>A Biothane (waterproof) maker of collars and leads with many examples on their website and social media of two-coloured products. The listing of their work is taken from their Instagram account ‘woodle_designs_’ dated 12 April 2022.</p>	 <p>The image shows an Instagram post from the account 'woodle_designs_ Ireland'. It features a photograph of a wide, two-colored Biothane collar, with one half being bright red and the other half being orange. The collar is laid out in a circle on a light-colored surface. Below the photo, the post shows engagement icons (heart, comment, share) and text indicating it was liked by 'luna_theblackandtan and 43 others'. The caption reads: 'woodle_designs_ New product! Introducing our hound collar. Comprising of a strip of 38mm biothane at the back and a 19mm bucket and... more'. It also shows 'View all 4 comments' and the date '12 April 2022'.</p>
<p><i>Boundless Collars (UK)</i></p> <p>Established in 2020 to create and sell Biothane waterproof dog collars since early 2022. The image taken from its Instagram account is dated 8 July 2022. The date stamp of the design representation is however said to be 1 August 2021.</p>	 <p>The image shows an Instagram post from the account 'boundlesscollars'. It features a photograph of a wide, two-colored Biothane collar, with one half being purple and the other half being green. The collar is laid out in a circle on a light-colored surface. Below the photo, the post shows engagement icons (heart, comment, share) and text indicating it has '16 likes'. The caption reads: 'boundlesscollars Can't decide on a biothane colour? Why pick one when you can mix and ma... more'. It also shows 'View all 5 comments' and the date '8 July 2022'.</p>

¹ The remaining listings referred to are set out in the Annex to this decision.

Le Shoob (USA)

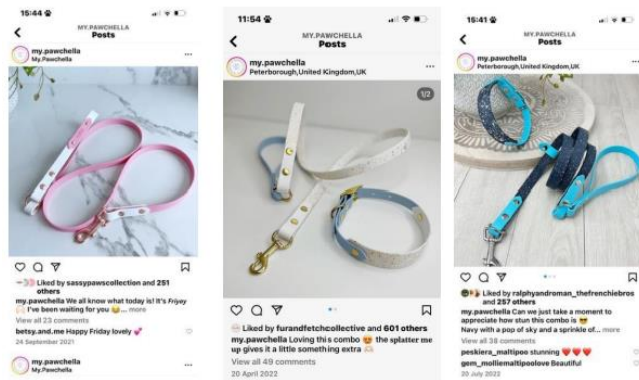
Established in the USA and selling waterproof dog collars, leads and accessories online and via social media since 2021. The listing on its Instagram account 'leshoob' is dated 15 February 2021



Leads

My Pawchella (UK)

Established in June 2020, producing two-coloured waterproof collars and leads since September 2021. The images taken from its Instagram account 'my.pawchella' are dated 24 September 2021, 20 April 2022 and 20 July 2022.



Ruffly Dog Shop (Australia)

A Biothane^{®2} maker of dog collars and leads accessories selling two tone collars and leads via its website and social media since July 2022. The image taken from its Instagram account 'rufflydogshop' is dated 5 July 2022.



² Biothane is said to be a brand name for a waterproof material.

Pawsome Paws (UK)

Established in 2019 and in the same years launched the waterproof two-toned dog collars and leads produced by 'Devil Dood Design'. The image taken from its Instagram account is dated 3 February 2019



Walk Wild (USA)

An international brand selling waterproof collars and leads since June 2020. The image taken from its Instagram account is dated 10 June 2020.



11. The Applicant also submitted evidence consisting of the aforesaid witness statements.

Mr Richard Kay witness statement dated 14 October 2024

12. Mr Richard Kay is the operations manager of Pawsome Paws Boutique Ltd ("PPB"). Mr Kay states that PPB was founded in 2016 for the creation of pet products. The brand sells its products in major UK retailers including John Lewis, Pets at Home,

Dunelm and many other pet stores. It is said to have launched its two-toned waterproof lead made from Biothane in February 2019 which was originally created by Devil Dood Designs. The launch was announced on PPB's social media account and the products were sold through their website from February 2019. Whilst the colours varied on the leads, the design remained the same. PPB understood that there were no other rights to the design in the UK when it started producing the products in 2018. In 2019 PPB launched and started selling its own branded two-coloured waterproof leads. Mr Kay states that the Proprietor's designs are too similar in style to their products to claim that their designs are unique or were designed/invented by them. He produces the same screenshot taken from the company's Instagram account as Mr Eccleston did in his application for invalidity.

Ciara Birch dated 7 October 2024.

13. Ms Birch is a sole trader having traded under the name 'Liv Like Busby' ("LLB") from June 2020. Ms Birch states that she started making waterproof dog collars and leads using Biothane material in February 2020. She provides details of the history of the Biothane material said to be a brand name for a waterproof webbing created and registered by 'BioThane Coated Webbing Corp' used by businesses and crafters to make items such as dog collars and leads.³

14. Ms Birch states that she launched two-coloured waterproof dog collars and leads on her website on 30th June 2020. She states that whilst the colours of the items varied, the style remained the same as the images produced in her statement, albeit in 2022 she altered the design of the dog lead to remove the double layer on the handle.

15. Ms Birch outlines the "minor differences" between her products and those of the registered designs. She states that the 123 design uses 6 rivets to attach the material and hardware, the hardware consists of a buckle and d-ring and the edges are rounded. LLB's products, on the other hand, use 7 'chicago screws' to attach the material and hardware, the hardware consists of a buckle, d-ring and strap keep. The edges are either square or triangular shaped. Similarly, for the 125 design rivets are used as opposed to 'chicago screws' and the edges are rounded as opposed to triangular shaped.

³ Exhibit A.

16. Ms Birch produces images of the following listings in support, taken from LLB's Instagram page and website account:

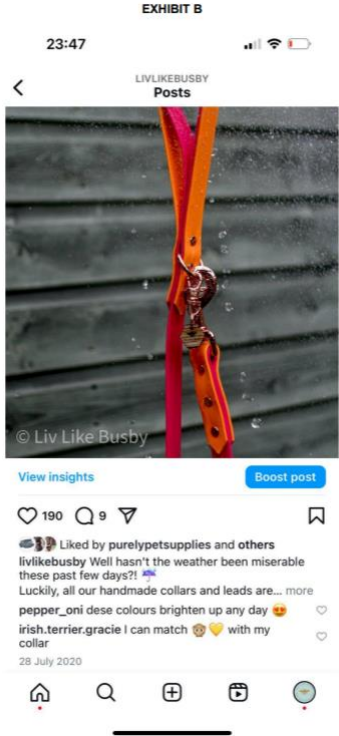
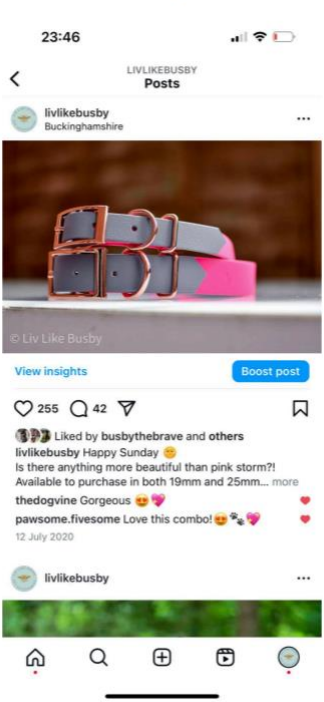
<p>Exhibit B</p> <p>Screenshot dated 28 July 2020 - lead</p>	<p>EXHIBIT B</p>  <p>23:47</p> <p>LIVLIKEBUSBY Posts</p> <p>© Liv Like Busby</p> <p>View insights Boost post</p> <p>190 9</p> <p>Liked by purelypetsupplies and others livlikebusby Well hasn't the weather been miserable these past few days?! Luckily, all our handmade collars and leads are... more pepper_oni dese colours brighten up any day irish.terrier.gracie I can match with my collar</p> <p>28 July 2020</p>
<p>Exhibit C</p> <p>Screenshot dated 12 July 2020 - collar</p>	<p>EXHIBIT C</p>  <p>23:46</p> <p>LIVLIKEBUSBY Posts</p> <p>livlikebusby Buckinghamshire</p> <p>© Liv Like Busby</p> <p>View insights Boost post</p> <p>255 42</p> <p>Liked by busbythebrave and others livlikebusby Happy Sunday Is there anything more beautiful than pink storm?! Available to purchase in both 19mm and 25mm... more thedogvine Gorgeous pawsome.fivesome Love this combo!</p> <p>12 July 2020</p>

Exhibit D

Screenshot dated 29 August 2020 - collar

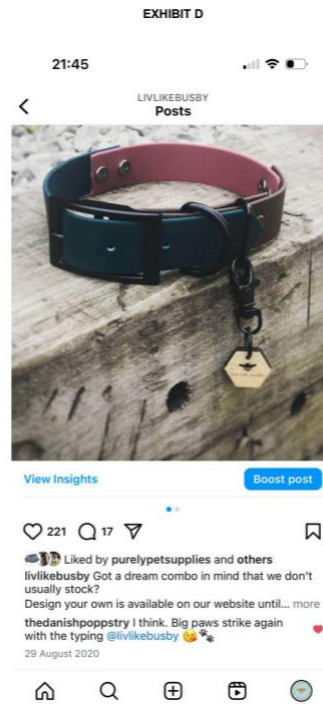


Exhibit E

Screenshots taken from LLB's website dated June 2022 as an example of the new design removing the double layer of the material from the handle of the leads.

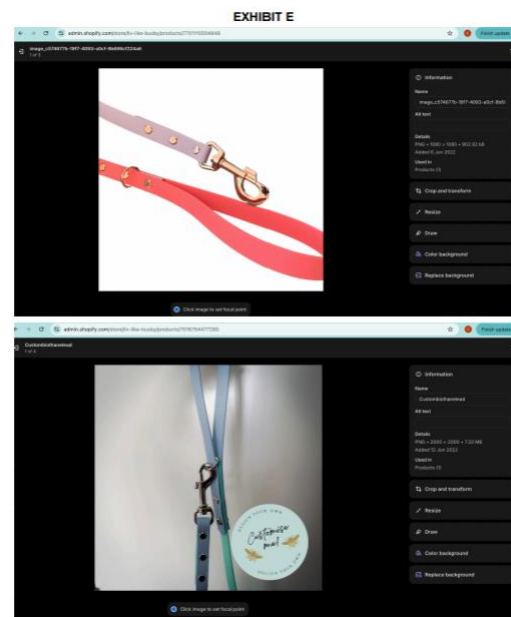


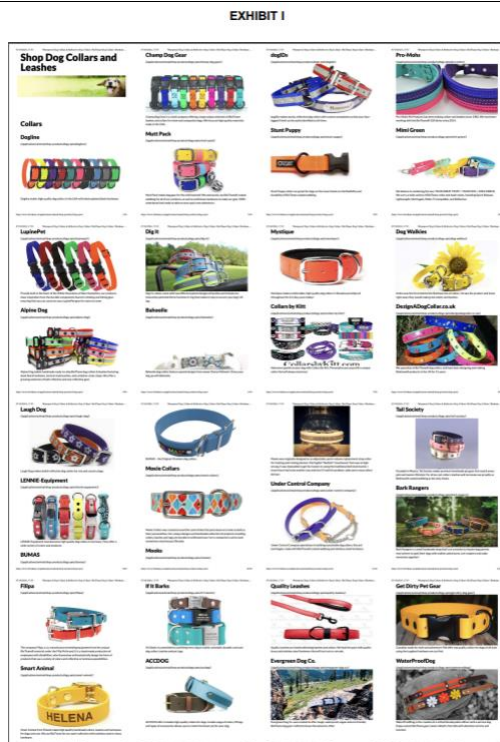
Exhibit H

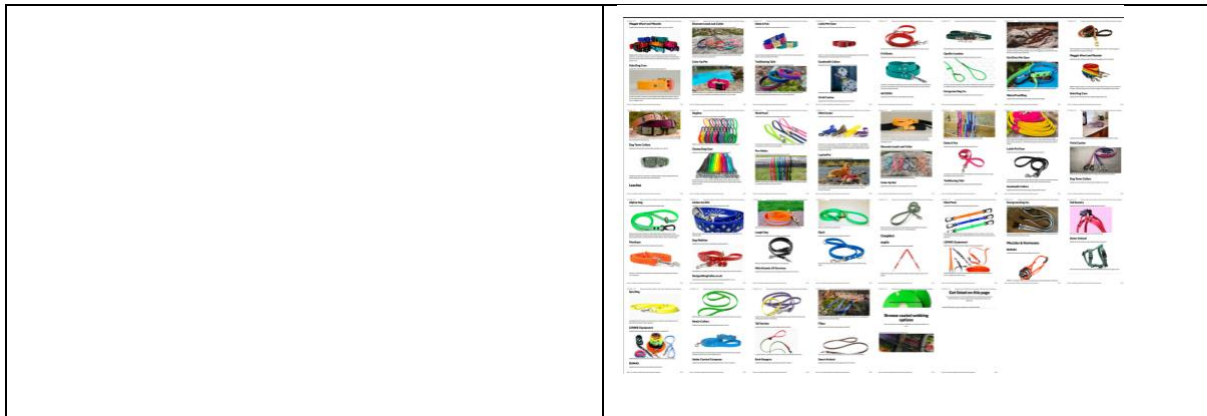
Images taken from Devildooddesigns Instagram account posted on 30 May 2018 showing a waterproof dog lead and collar alleged to be similar in style to the 123 design.



Exhibit I

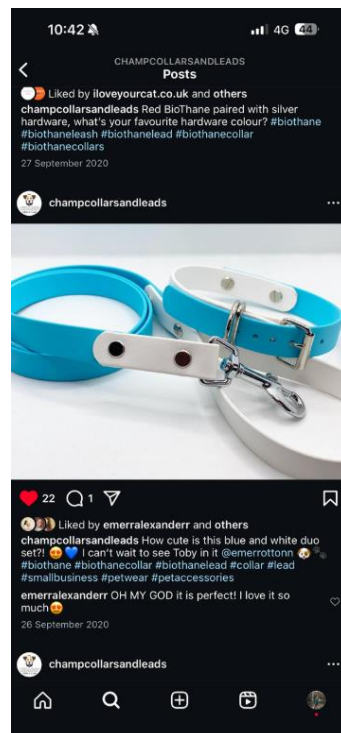
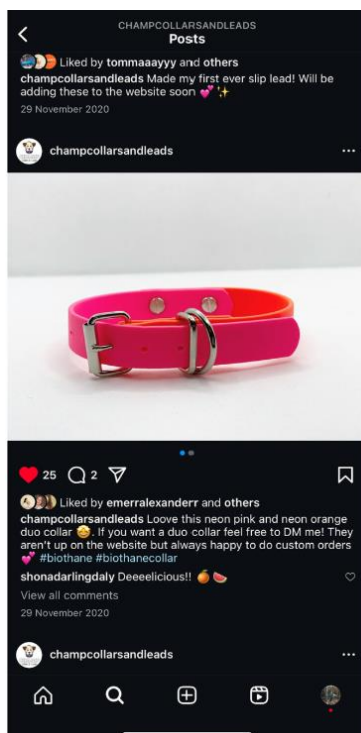
USA website links to multiple retail partners who sell a range of waterproof dog collars and leads similar to the registered designs





Grace Buttery dated 14 October 2024

17. Ms Buttery is a sole trader trading under the name 'Champ Collars and leads'. She states that she began making duo coloured waterproof dog collars and leads in 26 June 2020, as shown in the following listings dated 22 August 2020, 27 September 2020 and 29 November 2020.⁴



⁴ Exhibits A-C.

The Proprietor's evidence

18. The Proprietor filed evidence consisting of the witness statement of Nadine Berger dated 19 December 2024. Ms Berger is the founder and director of the Proprietor. The purpose of her statement is primarily to challenge the evidence filed by the Applicant and to serve to show the differences between the registered designs and the earlier designs. She states that the Applicant's evidence shows that there are material differences between those designs claimed to be prior art and her designs based on the visual aspects of the images produced, which significantly contrast with or do not resemble the aspects of the registered designs. The designs produced by the Applicant are said to differ significantly in terms of the materials used and the actual design itself. In particular, she notes the differences arising from the triangular/straight edges as opposed to rounded edges, a double layered handle loop, additional hardware such as the metal strap holder and the extra rivets. Further due to the low resolution of some of the images she states that it is not possible to decipher the images or their relevance.⁵

19. Ms Berger states that she had designed and sold two coloured waterproof dog collars and leads since 2019, but the products as per the registered designs were not published on her social media account until November 2021. She produces the following listing taken from her Instagram page:



⁵ Exhibit I of Ms Birch's statement.

20. She outlines the dispute she has had with ‘Love Your Furbabies’ a company controlled by the Applicant, claiming that the Applicant has copied and passed off her designs by selling goods that have replicated the shape and style of the registered designs after registration. I note that Ms Berger claims that these products were so similar in design and presentation to her registered designs that it has led customers into believing they were the Proprietor’s goods. This evidence, however, relates to matters more suitable to an infringement claim which is not within the remit of this tribunal.

21. Further Ms Berger acknowledges that other businesses offer similar designs, but she states because there are noticeable differences in their design elements in terms of style and aesthetics, there has been no known confusion amongst customers.

22. Whether the Applicant’s designs are similar or causes confusion makes no difference to my assessment, given that the dates of the images produced are after the relevant date and neither party has brought claims under any other sections of the Act. The evidence in this regard is, therefore, irrelevant to my assessment. My decision is limited purely as to whether the registered designs were new and had individual character.

Evidence in Reply

23. Mr Eccleston confirms his involvement with the company Love your Furbabies but states that he only became aware of the registered designs in March 2024 after the Proprietor had launched its products. He produces further screenshots of images of other makers that have been using contrasting colours for collars and leads which were widely available in the UK dating back to 2018 and prior to the Proprietor launching its product in 2023.

Decision

24. Section 11ZA(1)(b) of the Act states that:

“The registration of a design may be declared invalid –

...

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

25. Section 1B of the Act is 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 or no 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 account.

(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 geographical area comprising the United Kingdom and 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 conditions 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 period of 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.

[...]”

26. The relevant date is usually the application date of the registered design which would in both cases be 5 September 2022. However, because the Proprietor has made an unchallenged statement that it first published the registered designs within the 12 months permitted under section 1B(6)(c), I need to consider the position at November 2021.

Prior Designs

27. The first issue I must address is whether the designs relied upon by the Applicant constitute prior designs.

28. In order to be considered prior designs, the designs relied upon will need to have been disclosed prior to the relevant date and must not be excluded disclosures under section 1B(6). In *Senz Technologies BV v OHIM*,⁶ the General Court ('GC') held that:

“A design is therefore deemed to have been made available once the party relying thereon has proven the events constituting disclosure.”

29. The Applicant has relied on earlier designs claiming that they were made available to the public prior to the relevant date, online and via social media and on the Etsy marketplace. Screenshots taken mainly from Instagram have been produced of listings showing that the earlier designs were made available on UK and global social media accounts and websites between 2018 and 2022. The burden then shifts to the Proprietor to show that the disclosure event claimed by the Applicant could not have reasonably become known in the normal course of business to the circles specialised in this sector considered in the geographical area of the UK and the European Economic Area. The Proprietor has not sought to challenge these listings or made such a claim. The Proprietor, however, has produced evidence which shows that the registered designs were disclosed within 12 months before the relevant date which would afford her an exemption under section 1B(6). However, the Applicant has filed images of listings even prior to this date. I find that some of the listings of the goods on Instagram by the Applicant as set out in his pleadings constitute a prior disclosure, given that there are listings dated earlier than the date on which the Proprietor filed its application to register the registered designs and which are earlier to the prior disclosure claimed by the Proprietor of November 2021. The listings dated after this date cannot be regarded as prior designs. Further whilst the design representation attributed to Boundless Collars as filed by the Applicant is said to be date stamped 1 August 2021, there is no evidence produced to show that it was available to the public on that date as the post taken from Instagram is dated 8 July 2022, I cannot accept therefore that this listing was a prior disclosure. Nevertheless, there are other designs shown as produced by the Applicant in his Form DF19A which predate the Proprietor's disclosure of November 2021 and which are therefore acceptable prior designs.

⁶ Joined cases T-22/13 and T-23/13, paragraph 26.

Novelty

30. Section 1B(2) of the Act states that a design has novelty if no identical design or no design differing only in immaterial details has been made available to the public before the relevant date. In *Shnuggle Limited v Munchkin, Inc & Anor* [2019] EWHC 3149 (IPEC), HHJ Melissa Clarke, sitting as a Judge of the High Court, said:

“26. ‘Immaterial details’ means ‘only minor and trivial in nature, not affecting overall appearance’. This is an objective test. The design must be considered as a whole. It will be new if some part of it differs from any earlier design in some material respect, even if some or all of the design features, if considered individually, would not be.”¹

31. The Applicant has produced a number of different representations of examples of prior designs. However, in *PulseOn Oy v Garmin (Europe) Limited* [2019] EWCA Civ 138, Floyd LJ said:

“14. ... The comparison must be with the overall impression of each design relied on from the prior art ‘considered individually’, and not by ‘a combination of features taken in isolation and drawn from a number of earlier designs’: see Case C-345/13 *Karen Millen Fashion Ltd v Dunnes Stores* [2016] ECDR 13 at [23]-[25].”

32. Images of the registered designs and the relevant prior designs relied upon by the Applicant have been set out earlier in my decision and in the Annex to this decision. Both the earlier and prior designs appear in a variety of configurations. I note that the registered designs are not claimed to be made from Biothane material which is a registered design in its own right (both parties appear to concede that this is a type of waterproof material). This material does not form part of the features of the registered designs and therefore shall play no part in the comparison. When making a comparison I bear in mind how the products would be seen in conditions of normal use and I have used the principal representations as shown in the tables below. If necessary, however, I shall also take account of the other representations.

The 123 Design

33. Bearing in mind the relevant date for the assessment, Le Shoob's image (dated 15 February 2021) listed at paragraph 10, appears to have been made available to the public before November 2021 and represents the closest representation in terms of a comparison. Consequently, I shall proceed to undertake the comparison by reference to this prior design which appears to collectively represent the clearest and closest design in the pleadings. I shall only return to consider the other designs relied upon by the Applicant if it becomes necessary to do so.

34. Representations of the respective designs are as follows:

The 123 Design	The Prior Design
	<p data-bbox="810 869 1212 907"><i>Le Shoob 15 February 2021</i></p>  <p data-bbox="944 1406 1198 1473">Liked by boardsandbruski, adventures_with_marla and 1,467 others leshoob One of our signature, two-tone... more 15 February 2021</p>

35. The 123 design has the following features:

- A strap of waterproof material made up of three pieces of material in two colourways.
- Five puncture holes.
- A flat rectangular buckle with squared edges.
- A d-ring.
- Six rivets, made up of 2 sets of three rivets, holding the pieces of material and the metal work together.
- The edges of the straps are rounded.

36. Le Shoob's prior design has the following features:

- A strap of waterproof material made up of three pieces of material in two colourways
- A series of puncture holes but only three are visible.
- A flat rectangular buckle with rounded edges.
- A d-ring with a tag charm attached by a circular ring.
- A material belt/strap holder.
- Two single rivets used to secure the material and hardware.
- Triangular slanted edges.

37. As can be seen the differences between the respective designs consist of the number and placement of the rivets, the type of finish to the edges of the pieces of material, the addition of a strap holder, a rounded edged buckle and a tag charm attached to the d-ring by a circular ring.

38. In my view the differences between the designs outlined above are more than immaterial regarding the shape of the edges, the number of rivets used, the use of an additional belt/strap loop, the tag charm and the style/shape of the buckle. I find that these matters are such that the prior design does not defeat the contested design's claim to novelty.

39. I note that some of the other representations in the Proprietor's evidence show the edges of the straps to be rounded or squared, feature a d-ring buckle instead of a flat

buckle, and a differing number of rivets/chicago screws. I shall discuss this further below.

Individual Character

40. Section 1B(3) of the Act states that a design has individual character when it produces a different overall impression on the informed user than that produced by any design made available to the public before the relevant date. A design may create the same overall impression on the informed user as another design, while being different from it in some respects. This means that even if a design is “new” (novel), it may still lack the necessary “individual character” compared to the prior art. As HHJ Birss QC (as he then was) pointed out in *Samsung Electronics (UK) Ltd v Apple Inc* [2012] EWHC 1882 (Pat), “*The scope of protection of a Community registered design clearly can include products which can be distinguished to some degree from the registration.*” I therefore need to assess the similarities and differences and decide upon their impact on the overall impression of the design.

41. The approach to carrying out an assessment of individual character was helpfully summarised by HHJ Hacon, sitting as a Judge of the High Court, in *Safestand Ltd v Weston Homes PLC & Ors* [2023] EWHC 3250 (Pat) at [237]:

“(1) Decide the sector to which the products in which the designs are intended to be incorporated or to which they are intended to be applied belong;

(2) Identify the informed user and having done so decide

(a) the degree of the informed user’s awareness of the prior art and

(b) the level of attention paid by the informed user in the comparison, direct if possible, of the designs;

(3) Decide the designer’s degree of freedom in developing his design;

(4) Assess the outcome of the comparison between the RCD and the contested design, taking into account

(a) the sector in question,

- (b) the designer's degree of freedom,
- (c) the overall impressions produced by the designs on the informed user, who will have in mind any earlier design which has been made available to the public,
- (d) that features of the design which are solely dictated by technical function are to be ignored in the comparison, and
- (e) that the informed user may in some cases discriminate between elements of the respective designs, attaching different degrees of importance to similarities or differences; this can depend on the practical significance of the relevant part of the product, the extent to which it would be seen in use, or on other matters."

42. I also bear in mind HHJ Birss' further comments in *Samsung Electronics* as aforesaid, namely "*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.*"

The informed user and the sector concerned

43. The sector is the market for waterproof dog collars and leads. The informed user is a dog-owning member of the general public who wishes to use a dog collar and lead that is waterproof. The informed user is a knowledgeable, observant user, possessing the type of characteristics as set out in the case law.⁷ They show a reasonable degree of attention when using the products and are aware of the range of designs available for these products and the features that are normally included in them. This finding also applies to the 125 design.

The Design Corpus and Freedom of the Designer

44. In *Dyson Ltd v Vax Ltd*, [2010] FSR 39, Arnold J (as he was then) stated that:

⁷ *Samsung Electronics* as aforesaid.

“... 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).”³

45. The images of the designs produced by both parties show a length of strap in two different colourways, with a buckle/clasp at one end. They each also contain a d-ring and the earlier design also contains an additional strap loop/ring and tag charm.

46. It is clear from the evidence filed there were different waterproof dog collar designs available at the relevant date which differ from the registered design on account of their ornamentation and hardware although they all have a degree of similarity in respect of the basic collar shape.

47. There is limited design freedom in terms of the construction of the collar itself. The collar will need to operate within certain constraints to ensure that it meets the requirement of fitting around a dog's neck and having a mechanism to secure it in place. There is design freedom in terms of the hardware itself which can be different in terms of the shape of the buckle and whether a belt loop/ring is used in addition to the d-ring or not. Some designs show a flat buckle whereas others use a different style of buckle or a d-ring fastener. Further there are some elements of the design which do carry a reasonable degree of design freedom such as the material, colour combination, surface decoration, additional metal work and the actual mechanism used to secure the collar in place. Whilst the material appears to be of the same waterproof material, I note that they could be of any material provided it repels water. Given the use of different coloured material there is also the need for these pieces to be secured but there is design freedom in the number of fixtures used and their position. Whilst the colour of the material and the colour of the hardware metalwork is disclaimed this does not extend to the shape or size of the metal work itself which forms part of the registered design. I also note that there is design freedom regarding the shape of the edges of the straps whether they are triangular, squared or rounded.

48. I take from the examples that the designer had the freedom to decide the dimensions (length and width of the strap) within certain constraints so as to fit a dog comfortably, the colour, the style of the metal work used, the number of rivets used to

secure the straps to the metal work, whether an additional belt loop/strap ring is included or not, the stitching if any, the use of additional ornamental hardware and the shape of the strap edges – triangular, rounded or straight.

49. Turning therefore to whether the registered design has individual character, I recognise that the buckle used to secure the collar of the registered design is clearly dictated by function as it is necessary to ensure that the collar can be easily secured around and removed from the dog's neck. However, given that there is freedom regarding the style, finish and size of this fixture in my view there is a design choice as to how this feature is arranged and configured which would have been in part driven by the appearance of the product. There are a number of ways in which the collar could be secured and the type of clasp used. The decision of the Proprietor to use this specific type of buckle to secure the collar which whilst driven by functional considerations also represents a design choice which is partly about appearance. The colour combination, the way in which the ends are finished, whether to use additional hardware, the type and number of rivets are also design choices rather than purely based on functionality.

50. Taking all of the factors into account I find that these differences are material and the respective designs will create different overall impressions on the informed user. In my view the registered design does have individual character.

Other Prior Designs


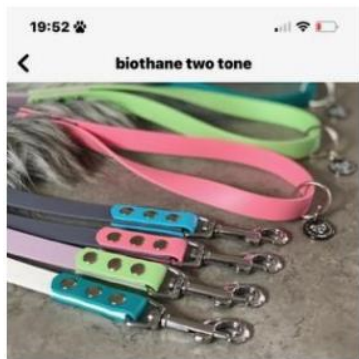
51. The Applicant relied on other representations of earlier designs which were said to have been made available to the public both after and before November 2021. However, I do not consider that these assist the Applicant. This is because these listings are further away from the prior art used for the purposes of the comparison because they use a combination of (or lack):

- a d-ring buckle and not a flat buckle.
- an additional belt loop/ring.
- Square or triangular edges as opposed to rounded edges.
- A greater or reduced number of rivets as opposed to three.
- The images do not show the configuration of the collar itself.

52. When considered collectively these additional listings relied upon each have aspects that are similar and aspects which differ from the registered design but given that those differences in each are material, I do not consider that these additional listings when taken individually place the Applicant in any stronger position. The invalidation application fails.

The 125 Design

53. Moving on to consider the 125 design for the dog lead. I shall undertake the comparison on the following representations:

The 125 Design	The Prior Design
	 <p>19:52 🐾</p> <p>< biothane two tone</p> <p>Liked by mutz_cutz_salon, jolly_hound and 579 others</p> <p>pawsomepawsboutique Massive thanks to @devildooddesigns for making us these exclusive coloured two tone biothane leads! I wanted to share a few things with you about what makes these leads AMAZING;</p> <ul style="list-style-type: none"> - They are completely waterproof - Can even go in the dishwasher - Biothane is a super strong material commonly used for horse bridles - Designed with a Möbius twisted handle for extra comfort - Colour will not fade <p>An absolute must for all pup wardrobes! We only have a limited amount available so if you need one make sure you grab one 💙💚</p> <p>3 February 2019</p>

54. The images of the designs produced by both parties show a length of strap (comprising of three pieces of contrasting coloured material) with a clasp at one end, and contain a folded looped end used as a handle at the other and a d-ring. Whilst the material appears to be of the same waterproof material, I note that they could be of any material provided it repels water. The material used is secured by three rivets in each and has a rounded finish. The prior design relied upon by the Applicant also includes a Möbius twisted handle for extra comfort and an additional charm tag attached to the d-ring, such features are absent from the registered design.

55. I shall firstly consider whether the registered design has individual character as per the case law cited above.

56. The sector in question and the informed user is the same as those for dog collars as set out above.

57. In terms of design freedom I consider that to some degree there are restrictions in terms of the composition of the dog lead in so far as it must have a mechanism of attaching the lead to a dog's collar or harness and the person taking the dog for a walk must be able to keep a firm hold of the lead. The d-ring function is included so as to enable the dog walker to shorten the lead. There is however design freedom regarding the colour combination used, the length/width of the strap and the style of clasp and the shape of the strap edges – triangular, rounded or straight. I notice that unlike with the images of the collars the Applicant has produced prior designs where the edges are rounded, three rivets are used to secure the metalwork and material, and the identical clasp is used. Further whilst one image produced in evidence shows a double layered handle the prior design used in the comparison only shows a single layered loop albeit that it features a möbius twist. Further, there is an additional decorative tag attached to the d-ring in the prior design. However, I consider that this twist feature and the charm tag are immaterial differences which will not create a different overall impression on the informed user when looking at the design overall and the features in common which are identical. The twist in the handle loop would in my view not be regarded as a design feature but rather I consider that the informed user may well consider it a flaw or that the material has twisted by happenchance and therefore be overlooked. The charm tag also is not a material difference such that users will rely on this feature to distinguish the prior design from the registered design. In my view these distinguishing features are minor and little weight will be attached to them such that they will not impact on the overall impression of the design when taken as a whole. Other than the different colour combinations used and the colour of the metal work such aspects which are disclaimed, in all other respects the designs are identical. For these reasons I consider that the registered design does not have individual character when compared to the prior design.

58. Even if I am wrong regarding the charm and the möbius twist of the handle and that these features would be regarded as material and thus considered novel (new),

this does not assist the Proprietor given my findings regarding individual character. I do not consider that it would alter the overall impression on the informed user regarding the design when taking the design as a whole.

59. Consequently, the invalidation succeeds as against the 125 design.

Overall outcome

60. The application for invalidation fails in relation to the 6229123 design which may remain on the register.

61. The application for invalidation succeeds in relation to the 125 design. Design registration number 6229125 is declared invalid.

Costs

62. As both parties have succeeded and failed in part, I consider that each bears their own costs save that the Applicant shall be awarded the official fee of £48 for bringing the proceedings against the 6229125 design which was successful.

63. I therefore order Trinkety Paws Ltd to pay Richard Eccleston the sum of £48. This sum is to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings if the appeal is unsuccessful.

Dated this 30th day of September 2025

L Davies

For the Registrar,

The Comptroller-General

Annex

The 123 Design



The 125 Design



The additional listings relied upon by the Applicant in his pleadings.

That's So Fetched Collar
Co – 28 August 2022



Loopy Leashes – 5
November 2020



Good Wolf - 11 June 2021



Hounds of Hampshire - 10 August 2022



My Pawchella – 8 July 2022



Woof Town Dogs – 1 August 2021 and 17 February 2021



Oh Dog – 12 July 2022

