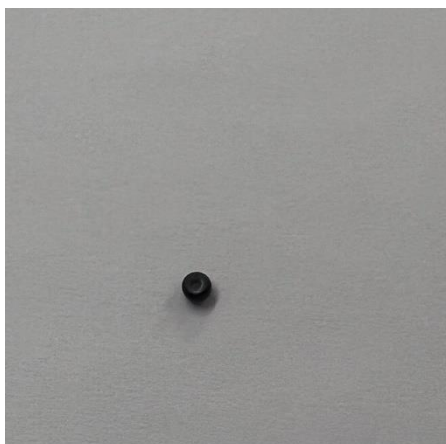


**O/1107/25**

**REGISTERED DESIGNS ACT 1949**

**IN THE MATTER OF REGISTERED DESIGN NOS. 6325982 & 6325981  
IN THE NAME OF KEIKOS WORLD LTD  
IN RESPECT OF THE FOLLOWING DESIGNS:**



**AND**

**APPLICATIONS FOR INVALIDATION THEREOF  
UNDER NOS. 125/24 & 128/24  
BY AJRD LTD**

## Background and pleadings

1. Keikos World Ltd (“the proprietor”) filed the following applications in class 28, sub classes 6 (hair styling apparatus and instruments) and 4 (wigs and false beauty articles) of the Locarno Classification on 13 November 2023 (“the relevant date”):

(i) Application no. 6325982  
“Micro Beads Micro rings”  
 (“the first registered design”)

(ii) Application no. 6325981  
“Nano Rings”  
 (“the second registered design”)

2. The designs were granted on 5 December 2023 and published on 6 December 2023. The designs are depicted in the representations on the cover page of this decision.<sup>1</sup> Each registration specifies that “no claim is made for the colour shown”.

3. On 17 June 2024, AJRD Ltd (“the applicant”) requested that the registered designs be declared invalid under section 11ZA(1)(b) of the Registered Designs Act 1949 (as amended) (“the Act”), which states as follows:

“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.”

4. The applications are based upon section 1B of the Act. The applicant claims that the registered designs are not novel when compared to multiple products which were

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<sup>1</sup> The first and second images on the cover page show the first and second registered designs, respectively. There is only one representation of each design.

available on the market prior to the relevant date. Insofar as there are any differences between the claimed prior art and the registered designs, the applicant contends that these are immaterial.

5. On 23 September 2024, the proprietor filed notices of defence and counterstatements. The basis of the proprietor's defence in respect of both invalidation actions is that the evidence of claimed prior art is unreliable.

6. Neither party is professionally represented. Only the applicant filed evidence. I also note that the applicant attached evidence of claimed prior art to the applications for invalidation.<sup>2</sup> No hearing was requested and neither party filed written submissions in lieu. This decision is taken after a careful consideration of all the papers before me.

### **Relevance of EU law**

7. The provisions of the Act relied upon 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.

### **Decision**

8. Section 1B of the Act 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.

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<sup>2</sup> These documents constitute evidence in accordance with rule 21(1)(a) of the Registered Designs Rules 2006 (as amended) (“the Rules”).

(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 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 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.

[...]”

#### Prior art

9. The designs claimed by the applicant to predate the first registered design are as follows:

(i) “Silicone Lined Micro Rings”

Sold on violahairextensions.co.uk

Date available: 20 January 2022



(ii) “SILICONE LINED MICRO RINGS/BEADS”

Sold on euphoriaone.co.uk

Date available: 17 April 2021



(iii) "Micro Rings"

Sold on [hairplanet.co.uk](http://hairplanet.co.uk)

Date available: 9 September 2016



(iv) "Micro beads hair extension tool silicon micro ring"

Sold on [alibaba.com](http://alibaba.com)

Date available: 25 November 2017



10. The designs claimed by the applicant to predate the second registered design are as follows:

(i) "SILICONE LINED NANO RINGS"

Sold on violahairextensions.co.uk

Date available: 5 August 2020



(ii) "SILICONE LINED NANO RINGS"

Sold on euphoriaone.co.uk

Date available: 29 September 2020



(iii) "Silicone Lined Nano Rings"

Sold on hairplanet.co.uk

Date available: 16 June 2015



(iv) "Silicone Lined Nano Rings"

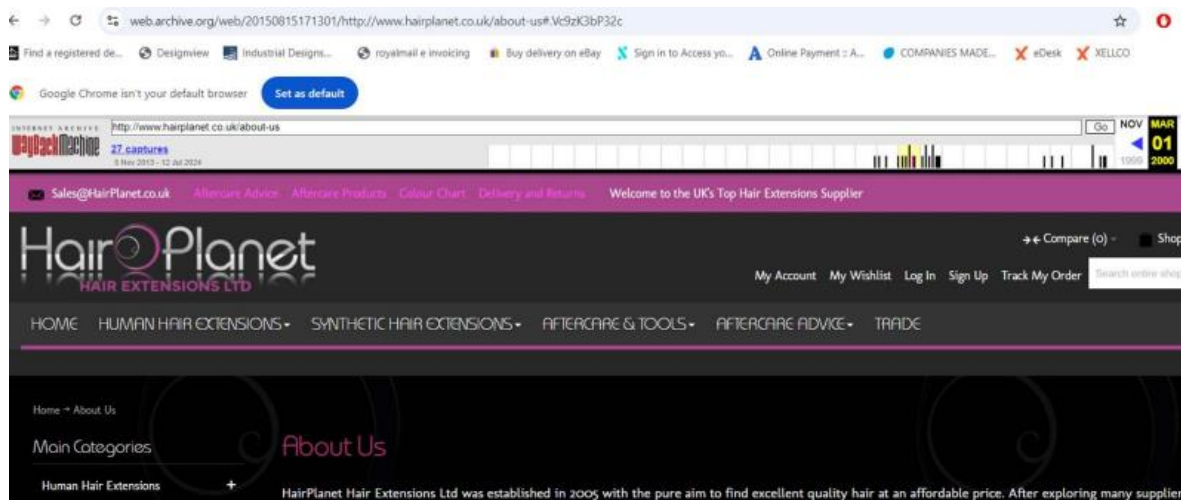
Sold on ebay.co.uk

Date available: 6 June 2019



11. The printouts from these websites were all obtained using an internet archiving tool, namely the Wayback Machine. Within its counterstatements, the proprietor challenged the reliability of this evidence, specifically taking issue with the dates of the printouts. In support of its position, the proprietor produced further printouts from Alibaba, Hair Planet, eBay and Euphoria One obtained via the Wayback Machine. These are said to contain identical content to the printouts relied upon by the applicant, but the proprietor attempts to show that, according to the Wayback Machine, the webpages were the same at much different points in time, including before some of the companies were even established. An illustrative example is as follows:





12. In the above, the Wayback Machine 'banner' shows a date of 1 March 2000, but the information provided by Hair Planet says that the company was established in 2005.

13. In its evidence, the applicant contends that the Wayback Machine's dates in the proprietor's printouts cannot be accurate. In respect of those from Alibaba, the applicant highlights that the website URL contains the string "20171125", which is said to correspond to 25 November 2017 (as opposed to "19981207", if it were from 7 December 1998, as claimed). Moreover, the applicant highlights that the Wayback Machine information indicates that there has only been "1 capture" of this website, which was on 25 November 2017. It is argued that, if the proprietor was correct, more than one capture would be available, and the date range of the captures would date further back. The same arguments are made in relation to the other printouts. In relation to those from Hair Planet, the applicant highlights that the URLs contain the strings "20160909" for 9 September 2016 and "20150815" for 15 August 2015 (as opposed to "20020605" for 5 June 2002 and "20000301" for 1 March 2000) and that there were "5 captures" between 9 September 2016 and 27 September 2021 and "27 captures" between 5 November 2013 and 12 July 2024, respectively. As for those from eBay, the applicant highlights that the URL contains the string "20190606" for 6 June 2019 (as opposed to "19990508" for 8 May 1999) and that "55 captures" were taken between 6 June 2019 and 24 September 2020. Finally, in relation to the printouts from Euphoria One, the applicant highlights that the URL contains the string "20200929" for

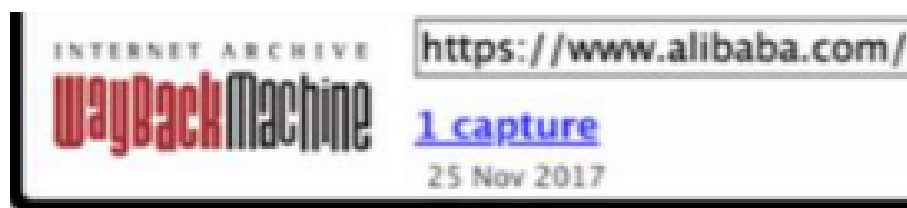
29 September 2020 (not “20050930” for 30 September 2005) and that “3 captures” were taken between 29 September 2020 and 27 June 2022.

14. Having considered all the materials before me and both parties’ submissions, I do not accept the proprietor’s contention that the applicant’s evidence from the Wayback Machine is unreliable. Aside from the clear indication of the date in the Wayback Machine ‘banner’, the dates of the printouts the applicant originally supplied are shown in the URLs. For example, the printouts from Alibaba show the URL as “web.archive.org/web/20171125[...]” (indicating 25 November 2017), whilst those from eBay show the URL as being “web.archive.org/web/20190606[...]” (indicating 6 June 2019). In *Aikon International Limited v Ben Arnold*, BL O/0408/23, Dr Brian Whitehead, sitting as the Appointed Person, stated that such indications should be accepted as demonstrating the correct date of evidence from the Wayback Machine:<sup>3</sup>

“33. [...] Each of the wayback machine extracts at Exhibit AP7 includes a date stamp. The date shows the month, day, year, and time that the site was crawled.

34. For example, in <http://web.archive.org/web/20000229123340/http://www.yahoo.com/>, the date the site was crawled was Feb 29, 2000 at 12:33 and 40 seconds. The Hearing Officer may not have appreciated this, but fell into error in stating that the extracts were undated.”

15. The Wayback Machine banner also provides information as to how many captures of a particular website there have been and when. For example, the following can be seen in the printouts from Alibaba originally provided by the applicant:



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<sup>3</sup> Although this was a trade mark case, I can see no reason why this would not apply when considering evidence from the Wayback Machine in designs cases.

16. As is clear from this, only one capture has been taken of this website, and this was on 25 November 2017. As a further example, the printouts from eBay originally filed show the following:



17. From this, it is clear that the website was captured 58 times between 6 June 2019 and 24 September 2020. To my mind, the applicant's evidence from the Wayback Machine is consistent, and I accept it as reflecting the content of the websites in question on the dates given. For the avoidance of doubt, this also applies to the other claimed prior art relied upon.

18. I acknowledge that, on the face of it, the printouts provided by the proprietor do appear to show the websites displaying the same content as those provided by the applicant, seemingly at points in time when some of that content could not have existed. However, upon closer inspection of the documents, I do not believe that this can be correct. The printouts provided by the proprietor allegedly show captures by the Wayback Machine in 1998, 1999, 2000, 2002 and 2005, but the information in the website URLs and the Wayback Machine banners remains the same as in the applicant's original printouts. Therefore, the documents themselves do not support the proprietor's argument; they are inconsistent. Moreover, the applicant responded to the proprietor's criticisms in the evidence rounds and, notwithstanding having the opportunity to do so, the proprietor did not provide any further comment on the matter. I accept the applicant's explanation and consider it to have adequately answered any questions raised as to the reliability of its evidence.

19. I note that, within its counterstatements, the proprietor does not explicitly deny the applicant's claims that the registered designs are not new. Having dismissed the proprietor's argument regarding the reliability of the evidence of claimed prior art, there is now technically no basis upon which the proprietor defends the applications for

invalidation. Nevertheless, for reasons that will become apparent, I will proceed to assess the applicant's claims on their merits.

20. The designs shown above were made public by eBay, Viola Hair Extensions, Euphoria One, and Hair Planet on their UK websites before the filing of the registered designs. I am satisfied that this constitutes disclosure in accordance with the Act. The printouts from the Alibaba website also predate the filing of the registered designs. Although they are from a global website, the proprietor has not commented upon whether this disclosure falls within any of the exceptions set out in section 1B(6) of the Act. As Professor Phillip Johnson, sitting as the Appointed Person, stated in *Munchun Lin v Lu Zhang*, BL O/0983/25:

“15. It is important to note that *Senz* [T-22/13 and T-23/13 *Senz Technologies BV v OHIM*, EU:T:2015:310] is also authority for the proposition that once a design has been made available to the public before the relevant date it is for the party challenging the disclosure to discharge the burden of establishing that the circumstances of the case prevented the disclosure from becoming known in the relevant sector (*Senz*, [26]; also see T-651/16 *Crocs v EUIPO*, EU:T:2018:137, [47] and [54]). It is also the case that whether a design would be so known in the relevant sector is a question of fact that is dependent on the circumstances of each individual case: C-479/12 *H. Gautzsch Großhandel*, EU:C:2014:75, [34].

16. Accordingly, a Hearing Officer needs to consider only whether a disclosure is excluded for one of the reasons set out in section 1B(6) where it is specifically raised by the person alleging it, and where such a finding is made it is one where appellate tribunals will give the usual deference to factual findings by Hearing Officers.”

21. In the circumstances, I find that the design made public by Alibaba also constitutes disclosure in accordance with the Act.

## Novelty

22. 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.”

23. I will begin by comparing the first registered design with the prior art shown at paragraph 9(ii) and the second registered design with the prior art at paragraph 10(i). This is because they appear to be the most similar overall to the registered designs, the products are shown from various angles, and/or they are the clearest images.

24. Before doing so, I should outline that, whilst the registered designs consist of a single product and the images of the prior art show multiple products, the latter clearly represent multiple individual rings/beads or nano rings, as opposed to a “unitary object” as would be the case with, for example, a chess or cutlery set.<sup>4</sup> My comparisons are not with the collection of rings/beads or nano rings as a whole, but with the individual rings/beads or nano rings which make up the collectives.

25. Moreover, it will be recalled that the registered designs both expressly limit the scope of their protection by disclaiming the colour features shown.<sup>5</sup> As such, I disregard the colour shown in the representation of the registered designs; the protection afforded to the registered designs is limited to their shape, configuration and any features of appearance which derive from the choice of materials.



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<sup>4</sup> See the General Court's judgement in Case T-9/15, *Ball Beverage Packaging Europe Ltd v EUIPO*.

<sup>5</sup> As per rule 6 of the Rules.

*The first registered design*

26. The designs to be compared are as follows:

The registered design	The prior art
	

27. In my view, the registered design and the prior art share the following design features:



- (i) The overall shape of the rings/beads is cylindrical;
- (ii) The rings/beads appear to have the same proportions of length to diameter and to circumference;
- (iii) The rings/beads are hollow;
- (iv) The rings/beads have an outer ring with a slight sheen, and an inner, opaque ring;
- (v) The inner rings of the rings/beads are inset, i.e. slightly narrower than the outer rings.

28. I note that the image of the prior art includes what appear to be the words 'Euphoria One Hair Extensions'. I do not consider this to form part of the design because it clearly represents a 'watermark', i.e. visible text overlaid on a digital image to identify the owner and deter theft. Therefore, this has not been factored into my assessment.

29. I cannot identify any (or any material) differences between the registered design and the prior art. I find that the registered design is identical to the prior art (or that their features differ only in immaterial details). The registered design lacks novelty and, as such, fails to satisfy the requirements of section 1B(1) of the Act.

### *The second registered design*

30. The designs to be compared are as follows:

The registered design <sup>6</sup>	The prior art
	

31. To my mind, the registered design and the prior art share the following design features:

- (i) The nano rings are a curved cylindrical shape;
- (ii) The nano rings appear to appear to have the same proportions of length to diameter and to circumference;

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<sup>6</sup> I have increased the zoom and enlarged the image of this design for the purposes of the comparison.

(iii) The nano rings are hollow;

(iv) The nano rings appear have an outer ring made from one material and an inner ring made from another, though the poor-quality image of the registered design makes it very difficult to determine with certainty;

(v) The inner rings appear to be inset, i.e. a degree narrower than the outer rings.

32. I note that the outer rings of the nano rings appear to have a slight sheen. This is not shared by the registered design. However, the only representation of the registered design that is available to me is of poor quality. It is a photograph of a small object from reasonably far away, meaning that any appreciation of this feature may be lost in attempting to conduct a meaningful comparison with the prior art. In my view, the lack of any reflective effect is more likely to be due to the quality of the image, rather than representing an intended design feature. In addition, shadowing appears in the forefront of the image, meaning that any light source is likely to have been behind the product; it is entirely possible that a slight sheen on the back of the product exists but is simply not visible. In light of all this, I do not consider the apparent difference in reflective properties to be significant.

33. I am unable to discern any material differences between the registered design and the prior art. They are identical or differ only in immaterial details. The registered design lacks novelty and, as such, fails to satisfy the requirements of section 1B(1) of the Act. Even if I am wrong about this, the proprietor's only challenge to the application related to the reliability of the claimed prior art, i.e. it did not deny that the registered design lacks novelty.

## **Conclusion**

34. The applications for invalidation have been successful. Subject to any appeal against this decision, design numbers 6325982 and 6325981 will be declared invalid under section 11ZA(1)(b) of the Act.



## Costs

35. The applicant has been successful and is entitled to a contribution towards its costs. As a matter of practice, unrepresented parties are asked to complete a costs proforma if they intend to make a claim for costs. Proformas were filed by the applicant for both invalidations on 12 May 2025. Within each proforma, the applicant claimed the following:

Preparing its notice of cancellation (Form DF19A) and statement of case	6 hours
Considering the proprietor's notice of defence (Form DF19B)	4 hours
Preparing evidence	8 hours
Official fees	£48

36. Whilst I acknowledge that there is no right to be awarded the amounts claimed, I consider the time spent on these activities in each action to be reasonable. However, given the nature of the claims and the evidence filed in both invalidations, there is likely to have been some duplication of work. As such, I make a slight reduction to the overall time awarded to account for this. The official fees paid in connection with the filing of its Form DF19As are recoverable.

37. In relation to the hours spent on these proceedings, 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 per hour. I can see no reason to award anything other than this.

38. Taking all of the above into account, I award the applicant the sum of **£666**. This is calculated on the basis of 30 hours at £19 per hour, plus £96 in official fees.

39. I order Keikos World Ltd to pay AJRD Ltd the sum of **£666**. This sum should be paid within 21 days of the expiry of the appeal period, or within 21 days of the final determination of the proceedings if any appeal against this decision is unsuccessful.

**Dated this 25<sup>th</sup> day of November 2025**

**James Hopkins**  
**For the Registrar**