

O/0276/26

REGISTERED DESIGNS ACT 1949

IN THE MATTER OF:

REGISTERED DESIGN NO. 6204922

IN THE NAME OF

FAR EAST DIRECT (UK) LIMITED

AND

APPLICATION FOR A DECLARATION OF INVALIDITY

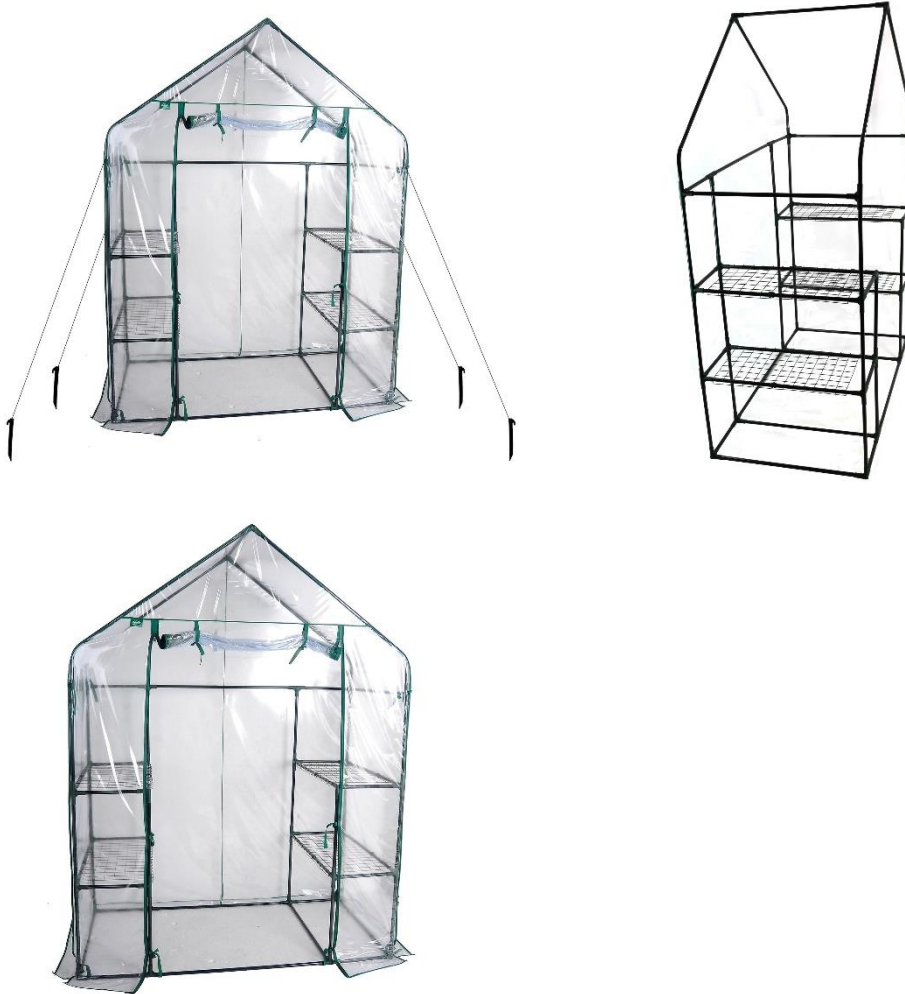
UNDER NO. 346/25

BY

VIVO TECHNOLOGIES LIMITED

Background and pleadings

1. On 27 April 2022, Far East Direct (UK) Limited (“the Registered Proprietor”) filed application no. 6204922 for a registered design for a 4 shelf walk in greenhouse in class 25, sub class 03 of the Locarno Classification. It was registered with effect from that date and is depicted in the following representations:



2. On 13 November 2025, Vivo Technologies Limited (“the Applicant”) applied for the registered design to be declared invalid under section 11ZA(1)(b) of the Registered Designs Act 1949 (“the Act”), on the grounds that the design was not new and did not have individual character in accordance with the requirements of section 1B of the Act. The Applicant claims that the same product has been sold on Amazon since at least 13 January 2016 and includes images of examples of those listings.

3. The Registered Proprietor filed a defence and counterstatement on 22 January 2026 denying the Applicant's claim. In particular, it states that it has been manufacturing and retailing the item since before the registered design date of 27 April 2022. It also states that the evidence supplied by the Applicant includes their product listing on Amazon.

4. The Registered Proprietor was asked to clarify its defence and whether it was claiming that the design was made available to the public in March 2021, if so this would invalidate their design from April 2022 and the Tribunal would move to issue summary judgement.

5. On 11 February 2026, in response to the tribunal's letter, the Registered Proprietor responded as follows: "We realise that the design application was made 3 weeks over the 12 month grace period and apologise. We will completely accept the findings and judgement of the tribunal."

6. Following this response, the Tribunal issued a preliminary view that as the Registered Proprietor had confirmed that the design was disclosed on 21 March 2021 and was not relying on any of the exceptions at section 1B(6) a decision would be issued invalidating the design based on a prior disclosure.

7. The parties were offered the chance to be heard if they disagreed with the Tribunal's preliminary view. Neither party requested a hearing.

8. Consequently, the matter has proceeded to a decision on the papers.

Decision

9. 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".

10. 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 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.

(8) For the purposes of this section, a design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character –

(a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the complex product; and

(b) to the extent that those visible features of the component part are in themselves new and have individual character.

(9) In subsection (8) above 'normal use' means use by the end user; but does not include any maintenance, servicing or repair work in relation to the product."

may be declared invalid on the ground of an objection by the holder of rights to the sign which include the right to prohibit in the United Kingdom such use of the sign."

11. A design may only be registered if it is new and has individual character. A design is new if no identical design has been disclosed before the relevant date, and it has individual character if there has been no disclosure of a design giving the same overall impression to the informed user before the relevant date. The relevant date is the date of application for the registered design: in this case, 27 April 2022. Some disclosures are excluded from the assessment as per section 1B(6), (which deals with disclosures in the 12 months before the relevant date) or disclosures made under condition of confidentiality, or disclosures that are very obscure, none of which has been claimed. It is important to note that it does not matter who made the disclosure. A novelty-destroying disclosure can be made even by the rightful owner of the design (unless one of the exceptions apply).

12. In light of the Registered Proprietor's admission that it had disclosed the registered design to the public more than 12 months before the relevant date and in absence of any reason to exclude the disclosures made, it follows that the registered design must be declared invalid. The design was not novel when it was filed.

13. The design registration no. 6204922 is hereby declared invalid.

Costs

14. As the Applicant has been successful, it is entitled to an award of costs. My assessment is as follows:

| | |
|---|------|
| Official fee for the application to invalidate: | £48 |
| Statement of case and considering the counterstatement: | £100 |
| Total: | £148 |

15. I order Far East Direct (UK) Limited to pay Vivo Technologies Limited the sum of £148. 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 March 2026

Leisa Davies

For the Registrar,