O/0589/26

REGISTERED DESIGNS ACT 1949 (AS AMENDED)

IN THE MATTER OF

REGISTERED DESIGN NO. 6371510

IN THE NAME OF

AIM APPAREL MCR LTD

AND

AN APPLICATION FOR A DECLARATION OF INVALIDITY

UNDER NO. 299/24

BY NIKE INNOVATE C.V.

Background and pleadings

1. Registered design number 6371510 (“the contested design”) was filed on 12 June 2024 and was registered with effect from the same date. It stands in the name of Aim Apparel MCR Ltd (“the proprietor”). There is a single illustration of the design, which is reproduced below:

2. The product indication is given as “AIR Logo for use on Articles of Clothing, Apparel, Headwear & Footwear” and the design is registered as “graphic symbols and logos, surface patterns, ornamentation” in class 32-01 of the Locarno classification system.

3. On 26 November 2024, Nike Innovate C.V. (“the applicant”) applied for the registration of the design to be declared invalid under s. 1B, given effect by s. 11ZA(1)(b), and s. 11ZA(3) of the Registered Designs Act 1949 (“the Act”). The applicant says that the contested design is not new, nor does it have individual character, compared to other designs made available prior to the relevant date. It also claims that it would have the right to prohibit use of the contested design under ss. 10(2)(b) and 10(3) of the Trade Marks Act 1994.

4. The proprietor filed a defence and counterstatement which was served on the applicant on 26 August 2025. These proceedings have not been straightforward and following a Case Management Conference (“CMC”) held on 12 January 2026, the proprietor filed an amended counterstatement on 23 January 2026. The counterstatement says, among other things, “This design/logo is one of our first concepts and as such it is one which we have been using since 2021 and falls out of the grace period and as such we will not be defended [sic] against any claim made against this design registration”. Consequently, when I wrote to the parties on 29 January 2026 with my CMC decision, I included the following preliminary view:

> “**Design registration 6371510 (invalidity no. 299/24)**

> 12. An amended counterstatement has been filed in which AIM admits that it has been using this design since 2021 and that this is use outside the grace period. It therefore appears that the proprietor accepts that the design is not novel and that there is no valid defence to the application for invalidation. The tribunal's preliminary view is that this is reason to treat the design registration as invalid under s. 1B of the Act. If either party wishes to challenge this preliminary view, they must request to be heard within 14 days of the date of this letter. Absent a request for a hearing, the preliminary view will be automatically confirmed, the defence will be treated as withdrawn and a decision will issue in due course invalidating the design."

5. Neither party requested to be heard in respect of the preliminary view, as confirmed in the tribunal's letter to the parties dated 3 May 2026.

Decision

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

> "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; […]."

7. Section 1B of the Act, so far as is relevant, 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 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.”

8. 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; 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 which is, in the present case, 12 June 2024. Some disclosures are excluded from the assessment. These are identified at s. 1B(6).

9. The proprietor concedes that it has used the contested design since 2021 and that this falls outside the grace period in s. 1B(6)(c). No other exemption is claimed. In view of the fact that the proprietor admits that it disclosed the contested design in 2021, prior to the grace period, the design was not new at the relevant date nor did it have individual character. It must be declared invalid.

10. Design registration 6371510 is hereby declared invalid.

Costs

11. I indicated, above, that these proceedings have been complex. The parties are allowed twenty-one days to file any submissions on costs, after which a supplementary decision will be issued. The appeal period for both this decision and the supplementary decision will run from the date of the supplementary decision.

Dated this 7th day of July 2026

Heather Harrison

For the Registrar,

The Comptroller-General