

O/0332/23

# **SUPPLEMENTARY DECISION**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF TRADE MARK APPLICATION NUMBER 3760624**

**BY CHENG HSUN LEE**

**TO REGISTER THE FOLLOWING TRADE MARK:**



**IN CLASS 9**

**AND**

**AN OPPOSITION THERETO UNDER NUMBER 433617**

**BY ROBERTS RADIO LIMITED**

## BACKGROUND

1. On 14 March 2023, I issued an interim decision in these proceedings (BL O/0274/23 refers). In summary, Cheng Hsun Lee (“the applicant”) applied to register the mark shown on the cover page of this decision for the following goods in Class 9:

*Loudspeakers; audio loudspeaker systems; audio timers; audio speakers; music headphones; earphones for smartphones; headphones; speakers; loud speakers; earbuds; wireless headphones; noise cancelling headphones; protective glasses; 3D spectacles, none of the aforesaid goods being musical instrument speaker cabinets.*

2. The entire application was opposed by Roberts Radio Limited (“the opponent”) under section 5(2)(b).

3. I concluded that the opposition was successful in relation to all the goods in Class 9 with the exception of:

*Protective glasses; 3D spectacles.*

4. I stated:

“40. As indicated earlier in this decision, the limitation “*none of the aforesaid goods being musical instrument speaker cabinets*” is not a logical limitation in relation to the goods which are proceeding to registration (*protective glasses* and *3D spectacles*) and I do not consider it appropriate for the specification to read as such on the Register. I therefore propose removing the limitation from the applicant’s specification. The applicant is allowed 14 days from the date of this interim decision to confirm to the Tribunal whether it has any objection to the limitation being removed. Either on receipt of the applicant’s acceptance of the suggested specification or if no response is received, I will issue a supplementary decision confirming the following interim conclusion.”

5. The applicant has not confirmed to the Tribunal any objection to the limitation being removed. Therefore, subject to any successful appeal, the application will proceed to registration, without the limitation, for the following goods:

*Protective glasses; 3D spectacles.*

## **COSTS**

6. The costs award made in the interim decision stands and is effective from the date of this supplementary decision. As a reminder, the costs award was as follows:

“44. The opponent has been successful for the most part and is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 2/2016. In the circumstances, I award the opponent the sum of £700, calculated as follows.

Official fee	£100
Preparing a statement and considering the other side’s statement	£200
Preparing for and attending a hearing	£400
<b>Total</b>	<b>£700</b>

45. I therefore order Cheng Hsun Lee to pay Roberts Radio Limited the sum of £700. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the final determination of the appeal proceedings.”

**Dated this 3<sup>rd</sup> day of April 2023**

**E FISHER (née VENABLES)**

**For the Registrar**