

BL O/0675/25

In the matter of the Trade Mark Acts 1994

- and -

**UK TRADE MARK APPLICATION No. UK00003957559 FOR THE MARK COCO7 -
THE POWER TO CREATE ANYTHING In classes 3, 9, 16, 25, 35, 41 and 44 in
the name of SANCHA CURRIE (THE APPLICANT & APPELLANT
ON APPEAL)**

- and -

**Opposition thereto under OPPOSITION No. OP000445293 by CHANEL
LIMITED (THE OPPONENT & RESPONDENT ON APPEAL)**

Appeal to the Appointed Person Mr. Iain Purvis KC

15 July 2025

The Appellant was not represented.

The Respondent was not represented.

DECISION OF THE APPOINTED PERSON

IAIN PURVIS KC

1. This is an appeal by Sancha Currie, who is the Applicant for Trade Mark Application 3957559 the trade mark being

COCO7 - THE POWER TO CREATE ANYTHING

2. This was applied for in Classes 3, 9, 16, 25, 35, 41, and 44, and was opposed under Opposition 445293 by Chanel Limited, on the basis of various of their trade marks. The details of the opposition do not matter for today's purposes.
3. Chanel filed their form TM7A on 12th December 2023 and their form TM7 on 15th January 2024. It was duly served by the Tribunal on the Applicant by post to the email on 29th January 2024. The standard warnings were contained in the letter of service, requiring the filing of a TM8, a Notice of Defence and Counterstatement within two months from the date of the letter. The date for service of this document was highlighted as being 2nd April 2024. The letter also stated in standard form that if the deadline date was missed by the Applicant, in almost all circumstances the application would be treated as abandoned.
4. The deadline was missed. The TM8 was only filed on 19th April, some 17 days late. A purported witness statement was served on the same date, along with certain exhibits, outlining the reasons for the late filed TM8, which were essentially health reasons.
5. Various events followed on from that, which I will summarise. The Tribunal sent an official letter of 22nd April, noting that the witness statement was not signed and requiring an amended witness statement in proper form by 6th May. No such witness statement was received by 6th May. Further chasers were sent, and an extension of deadline was granted for filing the amended witness statement to 4th June. A proper witness statement was finally served on 4th June, setting out the medical conditions upon which the Applicant relied as being sufficient to justify the lateness of the TM8. I need not go into great detail about that in these medical conditions for the purposes of this Decision. However, the primary reason given was ongoing lower back pain which was said to be affecting the Applicant's ability to consistently communicate with her adviser, Mr. Akeem Famuyiwa of FractionalIP, who was handling the trade mark application and the opposition.
6. The Registry gave a preliminary view that the reasons given were not sufficient and they

were not going to allow the late form TM8 and would, therefore, allow the opposition, effectively by default. A hearing was requested. A skeleton argument by the Applicant was again late but was served. I note that the Applicant's representative on that occasion, Mr. Akeem Famuyiwa, failed to attend the hearing at 10.30 am, which was a telephone hearing. Only a representative of the Opponent appeared. Attempts were made, according to the Hearing Officer's judgment, to contact Mr. Famuyiwa by telephone and email, but to no avail. She waited until 10.45 before deciding to adjourn the hearing. It then transpired that there had apparently been an error with Mr. Famuyiwa's digital calendar which had been set for an hour behind actual UK time.

7. The hearing was refixed for 14th August. This time Mr Famuyiwa successfully managed to attend the hearing. The Hearing Officer heard full argument from the parties about the matter and, indeed, reserved her decision. After the hearing, Mr. Famuyiwa emailed the tribunal, sending further information, including certain documents supposedly supporting the application.
8. On 30th August 2024, the Tribunal wrote to the Applicant, stating that if they wished the additional documentation to be considered as evidence, it would need to be filed as a witness statement and that, otherwise, the matters would be treated as not being in evidence. Attention was drawn to the relevant Tribunal Practice Notice and a deadline of 6th September 2024 was provided for the Applicant's response. No response was received and the evidence was therefore discounted, although I note from the final decision of the Hearing Officer that she states that the materials did not advance matters very much further so far as she was concerned.
9. The Hearing Officer gave a detailed decision setting out the relevant rules applying to late filed TM8 documents. It has not been suggested that this account of the rules was in any way inaccurate. In essence, the period for serving a TM8 may not be extended save where there has been an irregularity in Registry practice (not suggested here), or by way of the overriding discretion of the Registrar under rule 77(5)(b).
10. She went on to set out a number of authorities indicating that this discretion could be exercised in 'extenuating circumstances' and concluded the account of the law with a summary of the factors which might be relevant as explained in also set out some relevant authorities in Music Choice Ltd's Trade Mark ("Music Choice") [2005] RPC 18.

11. Having done this, and applied those factors to the facts of the present case, she gave her reasons for refusing an extension. In summary, she decided (despite her considerable sympathy for the Applicant's medical condition and the difficulties that it may have caused) that the nature of that condition as explained in the evidence was simply not sufficient to provide a reasonable justification for the delay and the missing of the deadlines. In particular, she bore in mind that the only actual medical evidence provided in terms of a note from a doctor was a note excusing the Applicant from work which expired on 1st January 2024, well before the relevant period in issue. She also stated that it was entirely unclear on the evidence why the Applicant had been unable to meet the deadline of 2nd April 2024 but was apparently able to do so 17 days later, given that the medical issues she gave evidence about did not appear to have been especially active in the period before 2nd April.
12. In paragraph 44 of her lengthy decision, she explains that *"having carefully considered all the submissions made by both parties and having regard to the factors set out in the case law"*, she saw *"no compelling reason or extenuating circumstance which would justify the use of the registrar's discretion provided under Rule 18(2)"*.
13. She thus concluded that the late-filed TM8 should not be admitted into the proceedings and the Applicant be treated as not defending the opposition. Subject to any successful appeal, the application was deemed abandoned and an award of costs made to the Opponent.
14. The appeal which has been made against this decision was not backed up by a skeleton argument but the Notice of Appeal is relatively thorough and I am prepared to take that as being the argument which the Applicant wishes to advance before me.
15. Today was supposed to be a remote oral hearing at which the Applicant had indicated her intention to attend through her named representative. The Respondent chose not to attend. At 10.30 there was no sign of the Applicant or her representative on the call, despite all the relevant dial-in details having been provided. I therefore adjourned the hearing for 15 minutes to see if the Applicant could be found or would attend, albeit late. After the expiry of that period, the Applicant still being absent, I gave an oral decision in the form of this written Decision (which I have tidied up and updated from the transcript).
16. I should say that at 11.05am, some 35 minutes after the time of the Hearing, an email was

received by the Appointed Persons Secretariat from FractionalIP stating as follows (I have not altered any of the text):

'Unfortunately out appointed representative had to travel due to family members involved tragedy in the recent India Air plane crash.

As a result they will not be in attendance in today's hearing.

Regards,

Fractional IP admin team'

17. I assume this is a reference to the tragic crash of Air India jet in Ahmedabad on 12 June, over a month before the hearing. If any of Mr Akuyiwa's family were involved in that crash, he has my condolences, but I am unable to understand why FractionalIP could not let the Secretariat know prior to the hearing if he was not going to attend, or instruct another of its representatives to attend in his stead. In any event (i) my decision was given before receipt of this letter, and (ii) the letter does not ask for an adjournment anyway. I have therefore decided to go ahead and formally issue the decision.
18. In the absence of oral submissions or a skeleton argument, I can only deal with the matter today by reference to the Grounds of Appeal set out in the TM55P. Those Grounds of Appeal do not, in my judgment, provide any arguable basis for overturning what is a broad discretionary decision by the Hearing Officer.
19. Matters of discretion are not fertile grounds for an appeal unless the Hearing Officer exercising that discretion has made a serious error of law or a clear error of principle or has made serious errors of fact which underlay, materially, the exercise of that discretion. I can see none of that in the present case. Indeed none of the grounds of appeal even purport to identify any such error of law or principle or fact.
20. The first ground of appeal states that the Hearing Officer failed to give adequate weight to the cumulative medical evidence which demonstrated a continuous period of illness. Questions of weight given to the evidence are matters for the Hearing Officer to decide and are generally entirely inadequate to provide a ground for challenging discretion. In any event, having read the argument set out in the Notice of Appeal, it seems to me that the Hearing Officer weighed the evidence perfectly adequately and relied on the appropriate

factors when conducting her examination of the evidence.

21. The second ground of appeal is the proportionality of the response. It is suggested that the Hearing Officer failed to consider the proportionality of refusing the TM8. However, it is plain that the Hearing Officer did consider the proportionality of the response in particular in paragraphs 34-36 and 39 of her Decision. I do not think treating the Opposition as being successful is a disproportionate response to the late filing of a TM8, since it is the default response laid down by the Rules. Nor was this a case where the TM8 was simply a few hours late. It was 17 days late. Sanctions of this kind are important to ensure that the Rules are complied with, The fact that the refusal of the TM8 would effectively determine the opposition is something which the Applicant ought to have been well aware of. It was made clear in the letter accompanying the TM7. All trade mark applicants clearly take the risk that they will lose their trade mark if they do not file the TM8 on the appropriate day. I should also say that even though the opposition has succeeded, there is, in principle, nothing to stop the Applicant from filing another trade mark application for the same mark now if she wanted to. I cannot see, on the face of it, why she would be likely to suffer any real prejudice due to applying now rather than having applied last year or two years ago. Although there is prejudice in losing the Opposition, it is not fatal to her ability to seek and obtain a trade mark if she can establish the legal right to do so.

22. The third ground simply states that *"the Hearing Officer failed to consider that effective legal representation required client instructions"*. There is no reason, as far as I can see, to think that the Hearing Officer did not have that well in mind. She obviously understood that that was the basis upon which the application to exercise the discretion in the Applicant's favour had been made. allow the TM8 had been made.

23. The next ground of appeal is that the Opponent, Chanel Limited, would not suffer significant prejudice. That is a point that the Hearing Officer considered, pointing out that Chanel had not relied on such prejudice, though noting that delays in Opposition proceedings tended to increase costs and legal uncertainty. This is therefore not an arguable ground of appeal.

24. Beyond that, the Notice of Appeal suggests that the Hearing Officer did not consider all relevant factors in the light of the established case law. From what I have already said, it is plain that she set out those factors and she did take them into account, so I do not believe

that this is a reasonable ground of appeal either.

25. Finally, the Appellant suggests that the Hearing Officer *"failed to give sufficient weight to the Appellant's prompt action in providing additional medical evidence when requested, the absence of any pattern of deliberate delay or non-compliance and the genuine intention to defend the opposition as evidenced by the comprehensive form TM8 when filed."*

26. The Hearing Officer gave a full account of the facts and plainly took the overall circumstances into account. Plainly, the Hearing Officer does not have to state absolutely everything she has in mind when giving her decision. Furthermore, it seems to me that these facts would not, on their face, amount to an excuse for the failure to serve the TM8 in good time. I would also say that although it may be that there has been no pattern indicating 'deliberate' delay, there has certainly been a pattern of consistent delay and non-attendance, for whatever reason, in the course of this opposition. It is not just that the TM8 was late, the evidence in support of the application was late, the Applicant failed to attend the first time at the hearing in front of the Hearing Officer and, again has failed to attend today. None of that has served the Applicant well so far as this application or appeal is concerned.

27. In conclusion, I consider the Hearing Officer's decision is well expressed and objectively balanced. She has taken the right matters into account and there is absolutely no basis for challenging the exercise of discretion that she made. I therefore refuse this appeal, and confirm the decision of the Hearing Officer. The Trade Mark Application is deemed abandoned.

IAIN PURVIS KC

THE APPOINTED PERSON

20 July 2025

(Decision first given orally on 15 July 2025)