

Adidas loses UK trademark battle with Thom Browne

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By [Abhishek Kumar](#)

The UK High Court on Friday invalidated eight of Adidas' trademarks and dismissed infringement claims against designer Thom Browne. In her judgment, Judge Joanna Smith cleared Thom Browne of infringement allegations and said consumers could easily distinguish between Adidas' triple stripe and Thom Browne's four-bar marks. Smith also held that "robust case management" from an early stage would have aided the court given the number of marks at issue.

German sportswear manufacturer Adidas lost a long-running trademark dispute with US designer Thom Browne on Friday after the UK High Court in London invalidated eight of Adidas' trademarks and cleared the designer of infringement allegations.

Ruling that Thom Browne's four-bar design did not infringe Adidas triple-stripe trademarks, Judge Joanna Smith held eight out of sixteen of Adidas' trademarks invalid. In her judgment, she held an average consumer would be able to perceive the two marks distinctly (see [here](#)).

"If he or she were to be given six seconds (as adidas suggests), then I have no doubt that he or she would have no difficulty whatever in perceiving that difference," Smith wrote, adding that "I have no doubt that the average consumer is also able to perceive differences between the appearance of stripes, their width and the distance between them (i.e. their pattern)."

Smith declared the trademarks invalid for lacking clarity and precision in describing stripe positions, allowing impermissible variations in appearance, containing inconsistencies between descriptions and visual representations and failing to specify precise dimensions and orientations.

Agreeing with Thom Browne's argument that any confusion between the two marks would have been apparent on social media, the judge wrote she found no such evidence.

Smith also held clear market differentiation between the two product lines would make it difficult for consumers to confuse Thom Browne's pieces with those marketed by Adidas.

"Even if I am wrong and the average consumer would make a link between one or more of the TB Signs and the adidas Marks, I do not consider that any injury would be caused," she added.

Smith also dismissed Adidas' passing off claim related to Thom Brown's use of the four-bar design.

The judge commented that "robust case management" at an early stage in similar cases would help the court narrow the scope of the case.

"We acknowledge the court's decision and are pleased that the court has upheld key aspects of our trademark protection, specifically ruling that the 3-Stripes mark has a strong reputation and is distinctive of adidas products," a representative for Adidas told MLex about the invalidation of Adidas' trademarks.

"Originality and creativity are at the core of my collection. The judgment in the UK case with Adidas is so significant to me, because I see this as a triumph for designers around the world," designer Thom Browne told MLex.

The dispute dates back to 2007 when Adidas asked Thom Browne to stop using a three-bar design, following which Thom Browne switched to a four-bar design. In 2018, Adidas opposed Thom Browne's trademark application for a four-bars mark at the European Union Intellectual Property Office, or EUIPO. Earlier this year, the EUIPO dismissed Adidas' claim, holding it is unlikely that people would confuse the two trademarks.

Thom Browne initiated proceedings against Adidas in the Netherlands and the EUIPO alleging Adidas tried to monopolize its triple-stripe trademark by claiming a variety of visually different permutations, including colors, widths, lengths, positions and arrangements of stripes. Thom Browne also sought to invalidate Adidas' trademarks for non-use and lacking distinctive character.

In 2021, Adidas unsuccessfully sued Thom Browne in the US District Court for the Southern District of New York for trademark infringement, dilution, unfair competition and unfair business practices. In response to the US lawsuit, Thom Browne filed a complaint against Adidas in the UK seeking invalidation of Adidas' 16 trademarks which formed the basis of the current litigation.

Adidas counterclaimed, alleging that over a thousand items in Thom Brown's product range infringed Adidas' trademarks and despite being aware of Thom Browne's use of the four-bar design since 2009, Adidas had not previously taken action given Thom Browne's low sales figures in the UK.

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Areas of Interest: Intellectual Property

Industries: Consumer Products

Geographies: Europe, Northern Europe, United Kingdom

Topics:

Trademarks