



COMPETITION APPEAL TRIBUNAL

NOTICE OF A CLAIM UNDER SECTION 47A OF THE COMPETITION ACT 1998

Case No: 1615/5/7/23

Pursuant to Rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (the “Tribunal Rules”), the Registrar gives notice of the receipt of a claim for an injunction (the “Claim”) on 25 October 2023, under section 47A of the Competition Act 1998 (the “Act”), by Up and Running (UK) Limited (the “Claimant”) against Deckers UK Limited (the “Defendant”).

The Claim arises from an alleged infringement of the prohibition contained in section 2 of the Act (the “Chapter I prohibition”) and section 18 of the Act (the “Chapter I prohibition”).

The Claimant is a company incorporated in the United Kingdom, and since 1992 has operated a retail business selling specialist running shoes and accessories. The Claimant primarily sells products through bricks and mortar stores (of which it operates 29 in the UK), although it also makes sales through a website, upandrunning.co.uk. The Claimant offers a bespoke fitting service and gait analysis in its stores to ensure customers are provided with the right footwear; this service cannot be emulated on the internet.

According to the Claim, the Claimant was approached with a view to distributing HOKA branded running products in 2016. The Claim describes HOKA as a manufacturer of quality running shoes and apparel, whose products are particularly good in injury prevention. The Defendant supplied HOKA branded running products to the Claimant on a wholesale basis from 2018 until 2021.

According to the Claim, the COVID-19 pandemic and resulting lockdowns had a devastating effect on bricks and mortar retail; store closures and a decrease in footfall resulted in overstocking and stock holding of out-of-date products. Around August 2020, the Claimant presented a business proposal to the Defendant involving the launch of a new website (runningshoes.co.uk) on which excess stock would be sold at a discount. According to the Claimant, the proposal was declined by the Defendant, but was implemented by the Claimant nonetheless to ensure the survival of the business in the event of further COVID-19 lockdowns.

The Claimant contends that the Defendant warned them in November 2020 that if HOKA products were not removed from runningshoes.co.uk, the Defendant would refuse to supply HOKA products in the future and would cancel the Claimant’s account. The Defendant informed the Claimant in December 2021 that they would no longer supply HOKA products to them following the Autumn/Winter 2021 season.

The Claimant contends that the measures adopted by the Defendant constitute:

- (1) an attempt to engage in retail price maintenance (“RPM”);
- (2) an attempt to force a cartel on the Claimant;
- (3) restricting the use of the internet as a marketing tool; and
- (4) abuse of a dominant position.

According to the Claim, the Claimant requests injunctive relief and states that it has suffered damage to its business due to the cancellation of the HOKA account by the Defendant.

The Claimant seeks:

- (1) An injunction requiring the Defendant to restore supplies of HOKA products to the Claimant.
- (2) A costs capping order.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP, or by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, KC (Hon)
Registrar

Published 17 November 2023