

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION NUMBERS 10021 AND 10031  
BY MARS UK LIMITED  
FOR REVOCATION OF REGISTRATION NUMBERS 1195169 AND 1195170  
STANDING IN THE NAME OF MAXIMS LIMITED**

## **TRADE MARKS ACT 1994**

### **IN THE MATTER OF Application Numbers 10021 and 10031 by Mars UK Limited for Revocation of Registration Numbers 1195169 and 1195170 standing in the name of Maxims Limited**

#### **DECISION**

1. Trade mark registration numbers 1195169 and 1195170 are registered for the mark MINIM'S in Classes 29 and 30 respectively, in the name of Maxims Limited. They have a filing date of 4 May 1983.
2. On 24 February 1998 Mars UK Limited applied for these registrations to be revoked under the provisions of Section 46(1)(a) of the Act. The applicants add that the proprietors were requested to provide evidence of use of the marks but have failed to do so. The proprietors filed a counterstatement on 8 June 1998, adding that they had, before the date of revocation, actively been seeking to sell a variety of goods in the UK market, including goods falling within Classes 29 and 30, under the trade mark MINIM'S.
3. Both sides ask for an award of costs in their favour.
4. The parties were asked to say whether they wished to be heard. Neither did and no written submissions were received.
5. Acting on behalf of the Registrar and after a careful study of the papers I give this decision.
6. The relevant parts of Section 46 read as follows:
  - 46.-(1) The registration of a trade mark may be revoked on any of the following grounds-
    - (a) that within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the United Kingdom, by the proprietor or with his consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use;"
7. The relevant dates under subsection 1(a) for registration number 1195169 are 19 September 1986 to 19 September 1991 (the registration procedure having been completed on 19 September 1986) and the relevant dates under subsection (1)(a) for registration number 1195170 are 19 June 1987 to 19 June 1992 (the registration procedure having been completed on 19 June 1987).
8. Section 100 is also relevant and reads:

"If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it."

9. While the registered proprietors have claimed to have been actively seeking to sell goods falling within Classes 29 and 30 in the UK market, no evidence has been submitted. In my view the claim to have used the mark is unsubstantiated. The applications for revocation therefore succeed.

10. It remains for me to determine the dates from which revocation will take place having regard to the provisions of Section 46(6). I consider that registration number 1195169 should be revoked with effect from 19 September 1991 and that registration number 1195170 should be revoked with effect from 19 June 1992, these being the dates five years after the completion of the respective registration procedures (the Section 46(1)(a) grounds).

11. As the applicants for revocation have been successful they are entitled to a contribution towards their costs. I order the registered proprietors to pay them the sum of £500. This sum is to be paid within seven days of the end of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

**Dated this 06 day of July 2001**

**JOHN MACGILLIVRAY**  
**For the Registrar**  
**the Comptroller-General**

Annex A: <http://webdb4.patent.gov.uk/cgi-bin/casablanca/cb.cgi>