

Stretchline Intellectual Properties Ltd v. H&M Hennes & Mauritz UK Ltd – patent construction comes unstuck ...

The Court of Appeal has today dismissed H&M's appeal against the finding of the trial judge that H&M had breached the terms of a settlement agreement that it had entered into with Stretchline Intellectual Properties Ltd. The decision of the Court of Appeal is at [\[2017\]](#) EWCA Civ 199.

The judgments of the Court of Appeal and of the trial judge (Henry Carr J) provide a good example of the purposive construction of a patent and of the importance of the findings of fact as to what was common general knowledge. Whilst both parties could point to aspects of the wording of the patent that supported their suggested construction, H&M's construction was rejected because it was inconsistent with the common general knowledge. A more detailed Note as regards the issues before the trial judge is at [\[case note\]](#). An earlier linked decision in which the Court of Appeal upheld the High Court's decision to strike out H&M's invalidity defence and counterclaim is at [\[2015\]](#) EWCA Civ 516.

Nicholas Caddick Q.C. and **Andrew Norris** of Hogarth Chambers acted for the successful party, Stretchline, at the trial and in both appeals. They were instructed by, initially, Nelsons and later Potter Clarkson.

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