

O-351-13

**TRADE MARKS ACT 1994**


**IN THE MATTER OF TRADE MARK REGISTRATION 2368198  
IN THE NAME OF WAPPLE.NET (LTD)  
OF THE FOLLOWING TRADE MARK IN CLASSES 9, 38, 41 & 42:**

The logo for Wapple.net is rendered in a vibrant green, bubbly, 3D-style font. The letters are thick and rounded, with a slight shadow effect that gives them a three-dimensional appearance. The ".net" part is smaller and more compact than the "Wapple" part.

**AND**

**AN APPLICATION FOR INVALIDITY (UNDER NO 84244)  
BY APPLE INC.**



- 1) The trade mark  was filed on 14 July 2004 by Wapple.net (Ltd) (“Wapple”) and it completed its registration procedure on 7 January 2005. The mark is registered for various goods and services in classes 9, 38, 41 & 42.
- 2) Apple Inc. (“Apple”) applied to invalidate the registration on grounds under sections 3(6), 5(2)(b), 5(3), 5(4)(a) and 56 of the Trade Marks Act 1994. Wapple filed a counterstatement denying the claims. Both sides filed evidence and the matter proceeded towards a hearing which was set down for 29 August 2013.
- 3) Shortly before the hearing the parties informed the tribunal that Wapple now accepted the invalidation of the registration, albeit, for reasons of “commercial expediency” and to not incur the costs of the hearing. Regardless of the reasons, the position is now that Wapple no longer dispute the claim. Accordingly, with no defence being pursued, the claim succeeds.
- 4) I hereby declare the registration invalid and, in accordance with section 47(6) of the Act, the registration is deemed never to have been made.
- 5) The parties also advised the tribunal that each would bear its own costs in respect of the proceedings. Therefore, no costs award is to be made.

**Dated this 2<sup>nd</sup> day of September 2013**

**Oliver Morris  
For the Registrar,  
The Comptroller-General**