



Judiciary of England and Wales

Fifth Avenue Entertainment LLC v Commodore Entertainment Corporation: Press Summary

Business and Property Division (Mr Justice Richards)

[[2026] EWHC 2730 (ChD)]

23 October 2026

Important note for press and public: this summary forms no part of the Court's decision. It is provided to assist in understanding the decision of the Court. The full judgment of the Court is the only authoritative document and will be published and publicly available at: www.judiciary.uk; <https://caselaw.nationalarchives.gov.uk>

Introduction and Background

Fifth Avenue Entertainment LLC (described as the “applicant” in the Judgment) is a company owned by Thomas McClary, a founder member of THE COMMODORES. The applicant had applied in 2021 to register “THE COMMODORES” as a trademark in the UK.

Commodore Entertainment Corporation (described as the “opponent” in the Judgment) is a company that considers it has rights over the name “COMMODORES”. It opposed the applicant’s application to register the UK trade mark.

In 2025, Mr Allan James, a Hearing Officer at the Intellectual Property Office, upheld the opponent’s objections. He refused the application of the applicant, Thomas McClary’s company, to register the trade mark in the UK. The Judgment decides an appeal against the Hearing Officer’s decision.

Result of the Judgment

The appeal is dismissed. That means that Thomas McClary’s company is not entitled to register “THE COMMODORES” as a trade mark in the UK.

It is important to note that the appeal did not involve a complete re-hearing. Rather, on an appeal, the court is only allowed to consider whether the Hearing Officer’s

conclusion was clearly unreasonable. In the appeal no evidence was heard. The court was looking only at the Hearing Officer's decision (see [58] to [63] of the Judgment).

Overall, the court decided that the Hearing Officer was entitled to conclude that the opponent had rights over the name "COMMODORES" following a transaction effected in 1984. The applicant's case had changed since the date of the Hearing Officer's decision and some of the arguments it was seeking to run could not properly be put forward on appeal. The opponent's rights were sufficient to mean that the applicant should not be allowed to register "THE COMMODORES" as a trade mark in the UK.

The Hearing Officer decided that the applicant's application to register the trade mark was made in bad faith because the opponent had been using the name "COMMODORES" for over 30 years and the applicant was unfairly trying to shut the opponent out from using the name. On appeal, the court declined to alter that conclusion (see [94] to [99] of the Judgment).