



Inside a trade mark – Retail store layout can be registered as a trade mark in Europe

In Case C-421/13, *Apple Inc. v Deutsches Patent- und Markenamt*, the Court of Justice of the European Union has said that a retail store layout can, in principle, be protected as a trade mark for services. Aside from the goods and retail services relating to the goods, the protection can relate to services which are ancillary to the sale of the goods within the retail store, such as demonstrations of the products.

After being rejected for trade mark protection by the German Patent Office, Apple Inc.'s flagship store layout was found by the German Appeal court to consist of some distinctive features compared to the layout of other stores involved in the same area of business. The Appeal court, however, was still in some doubt as to whether the interior design could qualify as a trade mark. The European Court of Justice's order has removed this doubt and affirmed that a three dimensional layout of a store can be as much a trade mark as any other type of trade mark.



This is a significant development for businesses which rely on novel visual aspects of their store layouts to imprint brand awareness and brand loyalty in the minds of their customers.

It remains to be seen how this guidance is interpreted by the Trade Mark Offices in Germany and in other European countries. The judgement highlighted the need for the layout to depart significantly from normal layouts in order to be distinctive.

If your store layout is unique or if it is an essential feature of your business and you would like to explore the feasibility of protecting your store layout as a trade mark, please get in touch with one of our [trade mark attorneys](#) via our website at www.aathornton.com.

At A.A. Thornton & Co. our trade mark attorneys handle all aspects of the trade mark registration procedure, including oppositions and appeals. The services of our trade mark attorneys can be [viewed here](#).

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