



## HIGH COURT OF AUSTRALIA

11 March 2026

KATIE JANE TAYLOR v KILLER QUEEN LLC & ORS  
[2026] HCA 5

Today, the High Court by majority allowed an appeal from the Full Court of the Federal Court of Australia.

The appellant, Katie Jane Taylor (born Katie Jane Perry), is an Australian fashion designer. On 29 September 2008 ("the priority date"), the appellant applied for and subsequently became the registered owner of the trade mark "Katie Perry" in Australia in class 25 "clothing" ("the Designer's Mark"). The second respondent, known worldwide as Katy Perry, is a music artist and performer. The other respondents are companies associated with her. On 7 November 2011, the second respondent became the registered owner of the trade mark "Katy Perry" in Australia in class 9 "recording disks" and class 41 "entertainment" ("the Singer's Mark").

The appellant commenced proceedings in the Federal Court of Australia claiming that the respondents had infringed the Designer's Mark. By way of cross-claim, the respondents sought rectification of the Register of Trade Marks ("the Register") by cancelling the registration of the Designer's Mark, relying on the grounds set out in s 88(2)(a) and (c) of the *Trade Marks Act 1995* (Cth) ("the Act"). The s 88(2)(a) ground, read with s 60 of the Act, required the Court to consider whether the use of the Designer's Mark at the priority date would be likely to deceive or cause confusion because of the reputation of the Singer's Mark at that date. The s 88(2)(c) ground required the Court to consider whether the use of the Designer's Mark at the time when the application for rectification was filed was likely to deceive or cause confusion because of the circumstances applying at that time. The primary judge granted relief in the appellant's favour and dismissed the respondents' cross-claim.

On appeal, the Full Court overturned the primary judge's findings in relation to s 88(2)(a) and (c) of the Act, concluding that both grounds for rectification were made out. The Full Court also concluded that the discretion not to rectify the Register in s 89 of the Act was not enlivened in the circumstances and ordered that the Register be rectified by cancelling the registration of the Designer's Mark.

The High Court, by majority, held that the Full Court erred in concluding that the grounds for rectification in s 88(2)(a) and (c) of the Act in respect of the Designer's Mark were established. With respect to the ground in s 88(2)(a) read with s 60 of the Act, the majority held that the primary judge's conclusion, that the use of the Designer's Mark in respect of "clothing" would not be likely to deceive or cause confusion because of the reputation that the Singer's Mark had acquired in Australia before the priority date as required by s 60 of the Act, could not be said to be erroneous. With respect to the ground in s 88(2)(c), the majority agreed with the primary judge's conclusion that the respondents had not made out that, because of the circumstances applying at the time when the application for rectification was filed, the use of the Designer's Mark was likely to deceive or cause confusion.

*This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*