



THE REPUBLIC OF UGANDA

UGANDA REGISTRATION SERVICES BUREAU

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THE TRADEMARKS ACT, CAP 225

IN THE MATTER OF TRADEMARK APPLICATION NO. UG/T/2024/83781
"AFDBT" GOOD DOCTOR AND THE DEVICE IN CLASS 21 IN THE NAME OF BI
WANG
AND
OPPOSITION THERETO BY COLGATE-PALMOLIVE COMPANY

COLGATE-PALMOLIVE COMPANY:OPPONENT

VERSUS

BI WANG:APPLICANT

RULING

Before: Birungi Denis: Asst. Registrar Trademarks

A. Background.

1. On 08/07/2024, the Applicant, a Chinese National, filed trademark application number UG/T/2024/083781 for the registration the words "AFDBT GOOD DOCTOR" as a trademark in class 21 in respect of cheek brushes; floss for dental purposes; cosmetic utensils; brushes; toothpicks; electric devices for attracting and killing insects; toothbrushes; toothbrushes, electric; soap boxes; steel wool for cleaning; toothpick holders; toothbrush tumblers; toothbrush holders.

2. On 19th December 2024, the Opponent filed an objection against the registration of the Applicant's mark on grounds that the trademark is confusingly similar to its trademark numbers 59257 and 64262 registered on 20th July 2017 and 26th February 2019 respectively. By letter dated 18th February 2025, the Office transmitted the opposition to the Applicant's registered agent—Sipi Law Associates via email, requiring the Applicant to file a counterstatement as required by the Trademark Act and regulations. By 31st March 2025, which is the date the 42 days expired, the Applicant had not filed a counterstatement.
3. It latter transpired that on 23rd January 2025, the Applicant's trademark was registered and the Office issued a certificate dated 6th February 2025. Armed with a certificate of registration, the Applicant's agents communicated their position via email dated 18th February 2025, declining to file a counterstatement, contending that since the trademark had been registered, opposition proceedings had automatically terminated. Consequently, the Opponent's agents, by letter dated 27th June 2025, requested the Registrar to set the matter for hearing. On 11th July 2025, the Applicant's agent's filed a notice of withdraw of legal representation in opposition proceeding, leaving the Applicant without any legal representative or trademark agent. The Applicant neither instructed another advocate nor appointed an agent to represent him.
4. In response to the Opponent's letter dated 27th July 2025, the Office issued a hearing notice and advised the Opponent's agents to serve the Applicant directly. In an affidavit of service dated 23rd September 2025, the Opponent's agents state that they duly served the Applicant on 19th September 2025, via email (tesia@be-ip.cn), with a response from the recipient attached as annexure C. The said

response states as follows; "*Thank you for your email. We will not attend a hearing nor file a response.*"

Hearing and representation

5. Having been satisfied that the Applicant was not interested in participating in the hearing, I set the matter for hearing on 25th September 2025. Mr. Kajubi Brian of MMAKs advocates appeared for the Opponent. The Applicant was not present and was not represented by an advocate. The matter accordingly proceeded *ex parte*.
6. As the record shows, when the Applicant applied for registration of the trademark and was issued a certificate, there was a pending opposition and as such the grant of a certificate did not resolve the dispute contained in the opposition application. It is for that reason that I invited both parties for hearing so that I could hear them on critical legal questions arising from such an anomaly, particularly, whether the registration of the Applicant should be reversed to enable the opposition proceedings to continue. Unfortunately, the Applicant dishonored that invitation as a result of which I directed as follows;
 - (i) The matter proceeds *ex parte*;
 - (ii) The issue of whether the registration ought to be reversed to be addressed as a preliminary issue;
 - (iii) Counsel for the Opponent to inform the Applicant of the proceedings, the preliminary issue for determination, as well as timelines for filing submissions on the same.

Determination of the preliminary issue;

Whether the premature registration of trademark number 83781 should be reversed to enable opposition proceedings continue?

7. Before I delve into the gist of the dispute, let me first set out the legal procedure for opposition contained in the Trademarks Act and the regulations. Section 12 of the Trademarks Act, sets out the general procedure. It states;

"12. Objection to registration

- (1) A person may, within the prescribed time from the date of publication of an application, give notice to the registrar of objection to the registration.*
- (2) The notice shall be given in writing in the prescribed manner and shall include a statement of the grounds of objection.*
- (3) The registrar shall send a copy of the notice to the applicant and within the prescribed time after receipt, the applicant shall send to the registrar, in the prescribed manner, a counter statement of the grounds on which he or she relies for his or her application and if he or she does not do so, he or she shall be taken to have abandoned his or her application.*
- (4) If the applicant sends a counter-statement, the registrar shall furnish a copy of the counter statement to the person giving notice of objection and shall, after hearing the parties, if so required and considering the evidence, decide whether and subject to what conditions or limitations registration is to be permitted."*

8. The Trademark Regulations 2023, particularly regulations 28, 29 and 30 prescribe a more detailed procedure, including timelines for filing an opposition, details to include in the grounds for opposition and statutory forms that are used in filing of oppositions.

9. Opposition procedures in trademark filings serve several legal, economic, and public-interest purposes, the reason trademark procedures include publication in the gazette so that interested parties can file their objections to the trademark. Opposition procedures provide a structured mechanism for third parties to challenge the registration of a trademark before it acquires statutory protection. This way, opposition proceedings act as a form of quality control to ensure accuracy of the register. Opposition proceedings also offer a cost-effective preventive alternative to post-registration litigation. The key policy rationale for opposition proceedings in trademark filings is to prevent improper registration, protect prior rights, maintain the integrity of the trademark register, and serve the broader public interest. They operate as an essential checkpoint between application and registration, ensuring that only marks deserving of legal protection ultimately enter the register.

10. In line with the public policy objective behind opposition proceedings, any process that skips opposition proceedings must not be taken lightly and certain provisions of the Trademarks Act provide some insight on this. For example, section 16 of the Trademarks Act, which provides for registration, makes registration of a trademark conditional upon conclusion of opposition proceedings. It states as follows;

“16. Registration

(1) When an application for registration of a trademark in Part A or in Part B of the register has been accepted and –

(a) the application has not been objected to and the time for notice of the objection has expired; or

(b) the application has been objected to and the objection has been decided in favour of the applicant,

the registrar shall, unless the application has been accepted in error, register the trademark in Part A or Part B, and the trademark, when registered, shall be registered from the date of the application for registration and that date shall be taken to be the date of registration.

(2) On the registration of a trademark, the registrar shall issue to the applicant a certificate in the prescribed form of the registration signed by him or her and under the seal of the registrar.

(3) Where registration of a trademark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the registrar may, after giving notice of the non-completion to the applicant in writing in the prescribed manner, treat the application as abandoned unless it is completed within the time specified for the purpose in the notice."

11. Further, regulation 43 of the Trademark Regulations, 2023 provides as follows;

"As soon as possible after the expiration of sixty days from the date of the advertisement in the Gazette of any application for the registration of a trademark, the Registrar shall, subject to any opposition and the determination of the opposition, and subject to section 16(1) and (2) of the Act, and upon payment of the prescribed fee, enter the trademark in the register."

12. The underlined statement under section 16 (1) (a) and (b) of the Trademarks Act is clear. It sets two clear legal pathways to registration. The first one is where an application which has been published in the gazette, has not been objected to, and this can only be inferred from the expiry of the objection period. The section

pathway is; if the application is opposed, the opposition has been resolved in favor of the Applicant. Regulation 43 of the Trademark Regulations make entry of the trademark on the register, conditional on fulfilling the requirements of section 16 (1). None of the two requirements under section 16 (1) were satisfied in the present case. The opponent duly filed an opposition, however, before it could be resolved, the Applicant got registered. To use football analogy, this registration is akin to an offside goal. An offside goal is disallowed because an attacker is in an illegal offside position and scored because of the unfair advantage accorded to him by that position.

13. I agree with Mr. Kajubi's submission that the law bars the issuance of a certificate until the Registrar has confirmed that the application satisfies the conditions under Section 16 (1) (a) and (b) of the Trademarks Act. However, I do not agree with the submission that section 23 applies to this situation. The prohibition on registration of a trademark or part of a trademark that is contrary to law, under section 23, refers to the illegality in substance of the trademark itself such as a trademark promoting violence, and not illegality in procedures of registration. In the present case, the illegality is in the procedures and not the substance of the trademark.

14. Illegality in procedure is also illegality with similar consequences as substantive illegality. For example, the Supreme Court **Civil Appeal No 03 of 2014: Sinba (K) Ltd and 4 others V Uganda Broadcasting Cooperation**, confirmed the finding of the Court of Appeal and the High Court, that the sale of the Respondent's (UBC) land without prior approval of the Minister as required by section 6 (a) of the Uganda Broad Casting Corporation Act, was illegal. Section 6(a) of the UBC Act stipulated that UBC could only sale or otherwise dispose of property subject to prior approval of the Minister. In that case, prior approval was not obtained

(approval was obtained after the transaction) and the Supreme Court held that such was an illegality that could not be left to stand.

15. While in the Sinba case (supra), the Supreme Court was dealing with land, the principles regarding illegality are the same and hence applicable to the present trademark matter, where the Registrar approved registration of a trademark, when there was a pending opposition, and before resolution of the opposition, contrary to section 16 (1) of the Trademarks Act.

16. It is trite law that a contract or any act tainted with illegality is void *ab initio*. This principle was reaffirmed by the Supreme Court in the Sinba case (supra) where the Supreme Court agreed with the lower courts that sale of the Respondent's land contrary to the UBC Act resulted in the transaction being null and void *ab initio*. In line with this principle, it is evident that registration of a trademark in violation of section 16 (1) of the Trademarks Act, is null and void *ab initio*. Consequently, I find that the registration of trademark number UG/T/2024/83781 was illegal, null and void *ab initio*.

17. While the Trademarks Act does not provide a clear guidance on what should be done when a trademark is found to have been registered illegally in breach of section 16, the purposive rule of statutory interpretation would require that the purpose or intention of the legislator in regulation 16 (1) is safe guarded. Further, the Registrar has the administrative mandate to keep a clean and accurate register. Under section 2 (7) of the Trademarks Act, the legislature granted the Registrar powers to control and manage the register of trademarks. It provides; "*The register shall be kept under the control and management of the Registrar*". This power of control and management, includes, I believe, expunging and removing any illegal

registration that have been determined either by the Registrar or Court, to be illegal.

18. To control and manage the register, implies that the Registrar is a custodian of the register, with the responsibility of keeping an accurate register in public interest. I am alive to the provisions of section 88 of the Trademarks Act that grant the Registrar wide powers to rectify the register upon application by an aggrieved party. However, the procedural circumstances of this case do not fall under that procedure. The procedure under section 88 arises when an aggrieved party files an application as prescribed in the regulation, seeking cancellation of a registered mark.
19. While filing of a cancellation application under section 88 of the Act would have been an alternative recourse, it would impose an unnecessary burden on the opponent in terms of time and costs as it would require filing a fresh cancellation application and paying fees, so as to reverse the illegal registration so that opposition proceedings can continue. This would not only be unfair to the opponent, but would also delay administration of justice on mere technicalities.
20. For the above reasons, it is my considered view that under the general powers of control and management of the register granted to the Registrar under section 2 (7) and considering my findings of the illegality of the registration of the impugned mark, the Registrar can legally cancel the registration, effectively reversing the process to pre-registration opposition proceedings. The preliminary question is therefore answered in the affirmative. Consequently, I hereby cancel the registration of trademark UG/T/2024/83781 and expunge it from the register. The process is accordingly reversed back to application stage to enable opposition

proceedings to continue in accordance with the Trademarks Act and the Trademark Regulations.

I so order

Given under my hand this 19th day of December 2025

Birungi Denis
Assistant Registrar of Trademarks