

O-0657-25

TRADE MARKS ACT 1994

IN THE MATTER OF

TRADE MARK APPLICATION

NO. UK00004114242

BY ZAHID BHATTI

TO REGISTER



IN CLASS 41

AND THE OPPOSITION THERETO

UNDER NO. OP000452013

BY IGNITION LAW LIMITED

BACKGROUND AND PLEADINGS

1. On 20 October 2024, Zahid Bhatti (“the applicant”) applied to register the trade mark shown on the cover page of this decision.
2. The application was published for opposition purposes on 1 November 2024 for services in Class 41.
3. On 17 January 2025, legal representative Daneel Williams LLP filed a Form TM7 on behalf of Ignition Law Limited (“the opponent”). The opposition is based upon section 5(2)(b) of the Trade Marks Act 1994 (“the Act”) and is directed against all of the applied for services.
4. Under section 5(2)(b), the opponent relies upon one earlier mark, namely UK00918263059, and relies on its Class 41 services.
5. The Form TM7 was served on the applicant by email on 21 January 2025 and I copy an extract from the Tribunal’s covering letter below.

“If you wish to continue with your application, you need to file a notice of defence and counterstatement by completing Form TM8 - please note the important deadline below. You will find a blank Form TM8 on the IPO website, together with brief guidance on what happens after it is filed:

<https://www.gov.uk/government/publications/trade-mark-forms-and-fees>

Rule 18(1) and 18(3) of the Trade Marks Rules 2008 require that you must file your notice of defence and counterstatement (Form TM8) within **two months** from the date of this letter.

Alternatively, if both parties wish to negotiate to resolve the dispute, they may request a “cooling off period” by filing a Form

TM9c, which will extend the 2 month period in which to file a Form TM8 by up to a further seven months. Form TM9c is also available on the IPO website (above). Please note both parties must agree to enter into cooling off.

IMPORTANT DEADLINE: A completed Form TM8 (or Form TM9c) MUST be received on or before 21 March 2025.

6. On 11 February 2025, the Tribunal wrote to the applicant again and I copy an extract below.

“Please find enclosed a letter dated 21 January 2025 that was sent to you via Royal Mail’s “Signed for” service and also to your email address. This letter was returned by the Royal Mail marked “not collected”.

As service is deemed not to have been effected, this letter is being issued by Royal Mail standard post and the period allowed for the applicant to file TM8 and counterstatement has been reset. This is in accordance with the description of “effective service” as set out in Section 7 of the Interpretation Act 1978, and the Appointed Person’s decisions in BL O/0051/23 MARCOS and BL O/874/22 MySmile.

Please find enclosed a copy of the notice of opposition - Form TM7 - filed against your application.

...

IMPORTANT DEADLINE: A completed Form TM8 (or Form TM9c) MUST be received on or before 11 April 2025.

7. On 28 April 2025, the Tribunal wrote to the applicant again and I copy an extract below.

“The official letter dated **11 February 2025** invited the applicant to file a TM8 and counterstatement on or before **11 April 2025**.

As no TM8 and counterstatement has been filed within the time period set, Rule 18(2) applies. Rule 18(2) states that the application:

“.....shall, unless the registrar otherwise directs, be treated as abandoned.”

The registry is minded to deem the application as abandoned as no defence has been filed within the prescribed period.

If you disagree with the preliminary view, you **must** provide full written reasons and request a hearing on, or before, **12 May 2025**. This **must** be accompanied by a Witness Statement setting out the reasons as to why the TM8 and counterstatement are being filed outside of the prescribed period.

If no response is received the registry will proceed to deem the application abandoned.”

8. On 30 April 2025, Nabeel Amir, on behalf of the applicant, wrote to the Tribunal by email as follows:

“We write further to your letter dated 28 April 2025 regarding **Opposition Number OP000452013 and Trademark No. UK00004114242**. We did not receive the original letter dated 21 January 2025 inviting us to file Form TM8 and a counterstatement. As noted in your subsequent correspondence dated 11 February 2025, Royal Mail returned the letter undelivered, marked "not collected." So, the original

correspondence was not deemed adequate, and the filing deadline was reset to 11 April 2025.

Unfortunately, despite resetting the deadline and issuing the letter by standard post, we again did not receive the correspondence within a reasonable time, resulting in unintentional non-compliance with the TM8 filing requirement.

We have tried to engage with the process and respond as quickly as possible. I have attached the TM8 and supporting documents to show that we intend to move forward responsibly and resolve the matter on time.

Given these circumstances, we respectfully request that the Registrar exercise discretion under Rule 18(2) of the Trade Marks Rules 2008 and does not treat the application as abandoned. We are committed to rectifying this position and have attached Form TM8 and the supporting documents for your consideration.

We trust that this demonstrates our intention to proceed with the application and fully engage with the opposition process. We respectfully request that the Registry accept the enclosed Form TM8 and allow the matter to progress accordingly.

We are looking forward to receiving your positive response.”

9. The applicant’s Form TM8 and counterstatement, together with some extraneous documents, was attached to the email.

10. The applicant was reminded of the requirement to file a witness statement which it duly did on 2 May, with a statement of truth signed and dated on that date by Zahid Bhatti as extracted below.

WITNESS STATEMENT

1. I, **Zahid Bhatti**, of **Smithfield House, 24–28 Digbeth, Birmingham, B5 6BS**, am the Applicant on behalf of **Ignition Pro – School of Entrepreneurs**. The facts in this statement come from my personal knowledge, correspondence with the UK Intellectual Property Office, and relevant postal documentation. I make this statement in support of a request for the Registrar to accept my late filing of Form TM8 and counterstatement.
2. The original letter dated 21 January 2025 inviting me to file a TM8 and counterstatement was **not received**. As noted in the Tribunal’s correspondence dated 11 February 2025, the letter was **returned undelivered** by **Royal Mail**, marked “not collected.”
3. As a result, the Tribunal appropriately reset the deadline to 11 April 2025. However, the reissued correspondence also **failed to arrive in time**, meaning I remained unaware of the deadline until after it had passed.
4. As soon as I became aware of the missed deadline, I took immediate action and submitted the required TM8 and counterstatement on 30 April 2025, along with a full explanation via email to the Tribunal.
5. I have acted in good faith at all times and have shown my clear intention to engage with the opposition process. The delay was neither deliberate nor negligent, but was due to postal service issues beyond my control.
6. I respectfully submit that the Opponent has not been prejudiced by this short delay and request that the Registrar exercises discretion under Rule 18(2) of the Trade Marks Rules 2008 to allow the matter to proceed on its merits.

11. On 6 May 2025, the Tribunal wrote to the applicant as follows:

“After careful consideration of the contents of the papers you have provided, it is the **preliminary view** of the Registrar that the reasons given are **not sufficient** to exercise his limited discretion and admit a late filed Form TM8 into these proceedings. Therefore, **the Registrar’s preliminary view is that this application is to be declared abandoned.**

If either party disagrees with the preliminary view, they should request a hearing within 14 days from the date of this letter that is on, or before, **20 May 2025.**”

12. The applicant duly requested a hearing.

THE HEARING

13. A joint hearing took place before me, via Microsoft Teams as an audio call, on Monday 9 June 2025.

14. Talha Fazlani, from Freeman Harris Solicitors, appeared on behalf of the applicant having filed skeleton arguments prior to the hearing.

15. The opponent, having confirmed that it agreed with the Tribunal's preliminary view, did not attend the hearing.

16. Regarding the postal address provided by the applicant, Mr Fazlani said he does "not receive or monitor post on an ongoing basis for that specific address and considering the post was meant to be signed for, there is no active reception service to take in delivery of such notifications." Furthermore, the email notification landed in his client's spam folder.

17. Once his client became aware of the Form TM7 having been served on around 20 April, the Form TM8 was submitted on 30 April which was "quite prompt".

18. At the point that the applicant filed his witness statement on 2 May, he was not legally represented.

19. I asked Mr Fazlani whether I would be right in thinking that his client only went to the address provided periodically to collect the post.

20. He said that the address was not his client's primary place of business, that being St James Tower in Manchester. The address provided by the applicant was one for receiving post, but not for post which requires signature because it is not an active place of business, nor is it monitored on a regular basis. If post was "put through the box" his client would go and check it.

21. I followed up my question by saying that it appeared that the Royal Mail said that the piece of post in question was “not collected” and that would suggest that a card was left for the post to be collected from the sorting office, but that never happened, and I asked Mr Fazlani whether my analysis of the situation was correct.
22. He said that was the case – his client did not monitor the address in question, and it was an oversight on his client’s part for which he was very apologetic.
23. I then asked about the claim in the skeleton arguments that the email with the Tribunal’s correspondence went into his client’s junk/spam folder. However, there was no mention of an email in his client’s witness statement.
24. Mr Fazlani only clarified this point “towards the end of last week” when he received instructions from his client. Mr Fazlani asked his client whether he had received an email notification. He said he had not. On being asked to check his junk/spam folder he found the email.
25. His client had not been pro-active. He should have used “an address which is used for the purposes of this business” and he had not pro-actively checked his junk/spam folder, so he was not aware of this issue when he filed his witness statement.

DECISION

26. The filing of a Form TM8 in opposition proceedings is governed by rule 18 of the Trade Mark Rules 2008 (“the Rules”). The relevant parts read as follows:
- “18. (1) The applicant shall, within the relevant period, file a Form TM8, which shall include a counter-statement.
- (2) Where the applicant fails to file a Form TM8 or counter-statement within the relevant period, the application for registration, insofar as it relates to the

goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned.

(3) Unless either paragraph (4), (5) or (6) applies, the relevant period is the period of two months beginning immediately after the notification date.

(4) This paragraph applies where—

(a) the applicant and the person opposing the registration agree to an extension of time for the filing of Form TM8;

(b) within the period of two months beginning immediately after the notification date, either party files Form TM9c requesting an extension of time for the filing of Form TM8; and

(c) during the period beginning on the date Form TM9c was filed and ending nine months after the notification date, no notice to continue on Form TM9t is filed by the person opposing the registration and no request for a further extension of time for the filing of Form TM8 is filed on Form TM9e,

and where this paragraph applies the relevant period is the period of nine months beginning immediately after the notification date.”

27. The combined effect of Rules 77(1), 77(5) and Schedule 1 of the Rules means that the time limit in rule 18, which sets the period in which the defence must be filed, is non-extensible other than in the circumstances identified in Rule 77(5) which states:

“A time limit listed in Schedule 1 (whether it has already expired or not) may be extended under paragraph (1) if, and only if –

(a) the irregularity or prospective irregularity is attributable, wholly or in part, to a default, omission or other error by the registrar, the Office or the International Bureau; and

(b) it appears to the registrar that the irregularity should be rectified.”

28. There is no suggestion in this case that there has been any irregularity on the part of the Tribunal. Consequently, the only basis on which the applicant may be allowed to defend the opposition proceedings is if I exercise in its favour the discretion afforded to me by the use of the words “unless the registrar otherwise directs” in Rule 18(2).

29. Sitting as the Appointed Person in *Kickz*, Mr Geoffrey Hobbs KC held that the discretion conferred by Rule 18(2) can be exercised only if there are “extenuating circumstances”. And sitting as the Appointed Person in *Mark James Holland and Mercury Wealth Management Limited* (BL-O-050-12) (“*Mercury*”) Ms Amanda Michaels KC held that there must be “compelling reasons” to justify the Registrar exercising that discretion. In considering relevant factors, Ms Michaels referred to the criteria established in *Music Choice Ltd’s Trade Mark* [2006] R.P.C. 13 (“*Music Choice*”), which provides guidance applicable by analogy when exercising the discretion under rule 18(2). The factors are as follows:

The circumstances relating to the missing of the deadline including reasons why it was missed and the extent to which it was missed

30. It has been confirmed that the address provided by the applicant is not regularly monitored. Furthermore, in respect of the email correspondence, the applicant did not pro-actively check his junk/spam folder. As noted above, the stipulated deadline for the filing of the applicant’s Form TM8 and counterstatement was originally 21 March 2025, but this date was subsequently extended to 11 April 2025. The Form TM8 and

counterstatement were filed by the applicant on 30 April 2025. Therefore, the deadline was missed by 19 days.

The nature of the opponent's allegations in its statement of grounds

31. The opposition was brought under sections 5(2)(b). There is nothing to suggest that the opposition was without merit.

The consequences of treating the applicant as defending or not defending the opposition

32. If the applicant was allowed to defend the opposition, the proceedings would continue, and the matter would be determined on its merits.

33. In his skeleton arguments, Mr Fazlani said at paragraph 17, "If the late filing is not admitted, the Applicant faces significant harm. The Applicant has been actively using and developing goodwill under the mark "Ignition Pro – School for Entrepreneurs" since 2019. Denial of the opportunity to defend the trademark would jeopardize years of branding efforts and disrupt business operations."

34. While it is the case that if the applicant was not allowed to defend the opposition, its application would be deemed abandoned, and the applicant would lose its filing date of 20 October 2024, it would be possible for the applicant to re-file its application.

Any prejudice caused to the opponent by the delay

35. The opponent has not commented on this point.

Any other relevant considerations such as the existence of related proceedings between the parties

36. There are no other relevant considerations.

37. Having addressed each of the relevant factors as proposed in *Music Choice*, I need to decide whether the applicant's witness statements and subsequent comments at the hearing revealed extenuating circumstances or compelling reasons that would enable me to exercise my discretion to allow the proceedings to continue.

38. After carefully considering the expected detriment to the applicant in the event that discretion was not exercised in its favour, I find that the loss of a filing date and then the enactment of further proceedings on much the same basis is often the consequence of a failure to comply with the non-extensible deadline for filing a Form TM8, as is the short term putting in jeopardy of branding efforts and disruption of business operations. This factor is not, therefore, particularly compelling.

39. Having taken all of the relevant factors into account, I am not satisfied that the reasons why the Form TM8 and counterstatement were filed late are particularly compelling, nor do they constitute extenuating circumstances sufficient to permit the Registrar to exercise its discretion under rule 18(2).

40. The applicant has been "the author of its own misfortune".¹

CONCLUSION

41. The preliminary view is upheld and the late-filed Form TM8 is not to be admitted into the proceedings. Subject to an appeal, the application is treated as abandoned.

¹ *Kickz AG and Wicked Vision Limited* (BL- O-035-11), paragraph 15.

COSTS

42. As my decision terminates the proceedings, I must consider the matter of costs.

43. I award the opponent costs in line with Tribunal Practice Notice 1/2023:

Official fee:	£100
Preparing a statement:	£250
Total:	£350

44. I order Zahid Bhatti to pay Ignition Law Limited the sum of £350 as a contribution towards its costs. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the final determination of the appeal proceedings.

Dated this 17th day of July 2025

John Williams
For the Registrar