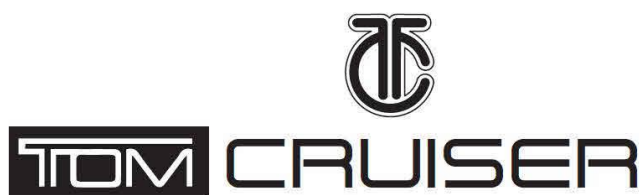


O/0672/26

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NUMBER 4062562
IN THE NAME OF ABDULWAHED BIN SHABIB DISTRIBUTION
FOR THE TRADE MARK**



IN CLASS 18

AND

**THE OPPOSITION THERETO UNDER NUMBER 449897
BY SAMSONITE IP HOLDINGS S.A.R.L.**

Background and pleadings

1. Abdulwahed Bin Shabib Distribution (“the applicant”) filed an application for the trade mark shown on the cover page of this decision (number 4062562) on 12 June 2024 (“the relevant date”) for goods in class 18:

Leather and imitations of leather, and goods made of these materials, namely bags for campers, bags for climbers, bags for sports, beach bags, briefcases, garment bags for travel, handbags, net bags for shopping, nose bags (feed bags), purses, re-usable shopping bags, rucksacks/backpacks, school bags, school satchels, sling bags for carrying infants, slings for carrying infants, suitcase handles, tool bags (empty), travelling bags, travelling sets (leatherware), travelling trunks, valises, wheeled shopping bags, suitcases with wheels, suitcases; animal skins; hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

2. Samsonite IP Holdings S.a.r.l. (“the opponent”) opposes the application under section 3(6) of the Trade Marks Act 1994 (“the Act”), as follows:

“It is submitted that the Contested Application and numerous others filed for by the Applicant incorporate elements taken from other third party brands. These include, but are not limited to the following:

Applicant's Mark	Application No.	Class No.	Owner	Third Party Brand	Brand Owner	Example UK Trade Mark No. owned by Brand Owner
	UK00004062562	18	ABDULWAHE D BIN SHABIB DISTRIBUTION	TOM CRUISE	Mr Tom Cruise	N/A – Unregistered Right
	UK00004073404	03, 09, 25	ABDULWAHE D BIN SHABIB DISTRIBUTION		The Chapel Hair & Spa Limited	UK00002635458

Calvin Bags	UK0000406258 4	18	ABDULWAHE D BIN SHABIB DISTRIBUTIO N	Calvin Klein	Calvin Klein Trademark Trust	UK0000213003 2
	UK0000407352 3	18	ABDULWAHE D BIN SHABIB DISTRIBUTIO N		C. & J. CLARK INTERNATIONA L LIMITED	UK0090016791 6
	UK0000408688 5	03, 18, 25	ABDULWAHE D BIN SHABIB DISTRIBUTIO N		The North Face Apparel Corp.	UK0091791902 2
	UK0000407346 4	18, 25	ABDULWAHE D BIN SHABIB DISTRIBUTIO N		Under Armour, Inc.	UK0090646926 6 and UK0090470379 9

	UK0000407336 2	03, 18, 25	ABDULWAHE D BIN SHABIB DISTRIBUTIO N	TOMMY HILFIGER	Tommy Hilfiger Licensing, LLC	UK0080122568 3
	UK0000401427 1	18	ABDULWAHE D BIN SHABIB DISTRIBUTIO N	AMERICAN TOURISTER	Samsonite IP Holdings S.a r.l.	UK0091246357 6
	UK0000401427 5	18	ABDULWAHE D BIN SHABIB DISTRIBUTIO N	AMERICAN TOURISTER	Samsonite IP Holdings S.a r.l.	UK0091246357 6
	UK0000406258 3	18	ABDULWAHE D BIN SHABIB DISTRIBUTIO N	AMERICAN TOURISTER	Samsonite IP Holdings S.a r.l.	UK0091246357 6

	UK0000407346 5	18, 25	ABDULWAHE D BIN SHABIB DISTRIBUTIO N	AMERICAN TOURISTER	Samsonite IP Holdings S.a r.l.	UK0091246357 6
	UK0000408688 7	03, 18, 25	ABDULWAHE D BIN SHABIB DISTRIBUTIO N	ARMANI	GIORGIO ARMANI S.P.A.	UK0090050428 2

The above sets out a clear pattern of behaviour regarding other marks and signs. Considered in the round, they help build a picture that the Contested Application was filed in bad faith as the Applicant's conduct is dishonest or otherwise falls short of the standards of acceptable commercial behaviour as judged by ordinary standards of honest people."

3. The applicant filed a defence and counterstatement, denying the grounds of opposition as follows:

"1. The applicant denies the application was filed in bad faith. An allegation of bad faith is a serious allegation which must be distinctly proved. The opponent has not advanced any explanation on why it considers the application to be in bad faith other than pointing to other applications filed by the applicant. The opponent's claim of bad faith is not adequately pleaded as it does not explain why it considers the Applicant's behaviour in filing the current application to be dishonest.

2. The mere fact that a trade mark bears some similarity to another trade mark is not in itself a marker of bad faith. Indeed, many of the marks listed in Section D of the opposition could be construed as parodies. The right to publish parodies is an important aspect of free speech (Human Rights Act s12) and is not sufficient to amount to bad faith. It is not an inherently dishonest business practice to use a sign which brings another trader to the mind of some consumers in an amusing but inoffensive way (*Swatch AG v Apple Inc* [2021])

EWHC 719 (Ch)). There is nothing about the current application that is offensive, malicious or intended to denigrate but instead it amounts at most to gentle and affectionate teasing. In any event the Opponent has not pleaded that the mark is offensive.

3. Parody in itself is not an inherently dishonest business practice. There is nothing intrinsically wrong with the applicant filing the current application. The applicant has a bone [sic] fide intention to use the mark on the goods in question. The mark in question is equally capable of having a parodic character whilst at the same time functioning as a trade mark. The mark applied for will not divert trade from the Opponent or any other party, nor will it deceive the public, nor has the Opponent advanced any pleading that it will.”

4. Only the opponent filed evidence. The applicant filed written submissions during the evidence rounds. A hearing was held on 21 May 2026 by video conference at which Ms Ashton Chantrielle, of counsel, appeared for the opponent, instructed by HGF Limited, and Ms Gail Nicol, of Lincoln IP, appeared for the applicant. I make this decision after careful consideration of all the admissible papers on file and the submissions made, referring to them as necessary.

Evidence

5. The opponent’s evidence comes from Richard Lamb, a director of the opponent.¹ His evidence is aimed at providing information about other trade mark applications and proceedings involving the applicant. Mr Lamb’s second witness statement replied to the applicant’s written submissions.

6. In his first witness statement, Mr Lamb provides a further table of UK applications made by the applicant which he states incorporate features which are highly similar to other well-known brands:

¹ Witness statements dated 10 June 2025 and 29 September 2025, and exhibits

Applicant's Trade Mark Application No.	Third Party Brand	Brand Owner	Example UK Trade Mark No. owned by Brand Owner
 (No. UK00004062562 and UK00004073404)	TOM CRUISE	Mr Tom Cruise	Unregistered Right
		The Chapel Hair & Spa Limited	UK00002635458
	 Calvin Klein	Tumi, Inc.	UK00903578143
 (No. UK00004062584)		Calvin Klein Trademark Trust	UK00002130032
 (No. UK00004073523)		C. & J. CLARK INTERNATIONAL LIMITED	UK00900167916

 (No. UK00004086885)	 	The North Face Apparel Corp.	UK00917919022
 (No. UK00004073464)	 	Under Armour, Inc.	UK00906469266 and UK00904703799
 (No. UK00004073362)	TOMMY HILFIGER	Tommy Hilfiger Licensing, LLC	UK00801225683
 (No. UK00004062583)	AMERICAN TOURISTER	Samsonite IP Holdings S.a r.l.	UK00912463576
 (No. UK00004073465)	AMERICAN TOURISTER	Samsonite IP Holdings S.a r.l.	UK00912463576
 (No. UK00004086887)	ARMANI	GIORGIO ARMANI S.P.A.	UK00900504282
 (No. UK00004101886)	 and 	Samsonite IP Holdings S.a r.l.	UK00001006589 and UK00913610233
 (No. UK00004014271)	 and AMERICAN TOURISTER	Samsonite IP Holdings S.a r.l.	UK00912463535 and UK00912463576

 (No. UK00004014275)	AMERICAN TOURISTER and the Swiss National flag (protected under Article 6ter of the Paris Convention) and British Red Cross symbol (protected under the Geneva Conventions Act of 1957)	Samsonite IP Holdings S.a r.l. The Swiss Confederation The British Red Cross	UK00912463576 Unregistered Right Unregistered Right
 (No. UK00004014566)		General Tools & Instruments Company LLC	Unregistered Right
 (No. UK00004014558)		McLane Company, Inc.	Unregistered Right
 (No. UK00004073407)		JNTL Consumer Health I (Switzerland) GmbH	UK00004034144
 (No. UK00004073513)	Carla Fracchi	Carla Fracchi	Unregistered Right
 (No. UK00004073510)	Carla Fracchi	Carla Fracchi	Unregistered Right
 (No. UK00004091318)	 and CLARA CLARK	J&E Brothers Holdings, LLC	UK00003363683 and UK00918005089

 (No. UK00004101889)	EMIRATES and 	Emirates	UK00912333209 and UK00914230163
EMIRATES PERFUME (No. UK00004101892)	EMIRATES And 	Emirates	UK00912333209 and UK00914230163
Unisonic (No. UK00004129025)	Panasonic	Panasonic Holdings Corporation	UK00917789504

7. Mr Lamb also provides details of other applications made elsewhere in the world. However, these are less relevant to the position in the UK, trade marks being territorial, and it is unnecessary to document them here.

8. The applicant submits that other applications filed by the applicant have no relevance to these proceedings and that to the extent that any of them contain a feature which is similar to another mark that this would amount to nothing more than a parody at best, permissible as free speech. The applicant submits that some of the applications in the table have been registered without issue (citing McLanee). It says that the opponent has not filed evidence to indicate that the applicant has acted in bad faith and that the applicant has a bona fide intention to use its mark. It repeats what it said in its counterstatement: that, at best, the application amounts to nothing more than a play on words or a gentle and affectionate teasing. As mentioned above, the applicant only filed submissions, not evidence.

Section 3(6)

9. Section 3(6) of the Act states:

“A trade mark shall not be registered if or to the extent that the application is made in bad faith.”

10. In *SkyKick UK Ltd & Anor v Sky Ltd & Ors (Rev1)* [2024] UKSC 36, Lord Kitchen summarised the general principles applicable to bad faith at [240], as follows:

“(i) [...]

(ii) The date for assessing whether an application to register [a] trade mark was made in bad faith is the date the application for registration was made (*Lindt*, para 35).

(iii) Bad faith in this context is an autonomous concept of EU law which must be given a uniform interpretation [...], and must be interpreted in the context of Directive 89/104 in the same manner as in the context of Regulation 40/94 ([*Malaysia Dairy Industries Pte Ltd v Ankenaevenet for Patenter og Varemaerker* (C-320/12) EU:C:2013:435 (“*Malaysia Dairy*”), para 29; [*Sky plc v SkyKick UK Ltd* (C-371/18) EU:C:2020:45 (“*Sky CJEU*”), para 73).

(iv) While, in accordance with its usual meaning in everyday language, the concept of bad faith presupposes the presence of a dishonest state of mind or intention, the concept must also be understood in the context of trade mark law, which involves the use of marks in the course of trade. Further, it must have regard to the objectives of the [...] law of trade marks, namely the establishment and functioning of [...] a system of undistorted competition in which each undertaking must, in order to attract and retain customers by the quality of its goods or services, be able to have registered as trade marks signs which enable consumers, without any possibility of confusion, to distinguish those goods or services from those which have a different origin (*Lindt*, para 45; [*Koton Mağazacılık Tekstil Sanayi ve Ticaret AS v European Union Intellectual Property Office (EUIPO)* (C-104/18) EU:C:2019:724 (“*Koton*”), para 45).

(v) Consequently, the objection will be made out where the proprietor made the application for registration, not with the aim of engaging fairly in competition but either (a) with the intention of undermining, in a manner inconsistent with honest practices, the interests of third parties; or (b) with the intention of obtaining, without even targeting a specific third party, an exclusive right for purposes other than those falling within the functions of a trade mark, and in particular the essential function of indicating origin (*Koton*, para 46; *Sky CJEU*, para 75).

(vi) The intention of the applicant is a subjective matter, but it must be capable of being established objectively by the competent administrative or judicial authorities having regard to the objective circumstances of the case ([*Hasbro Inc v EUIPO, Kreativni Dogaaji d.o.o. (intervening)* (Case T-663/19) EU:T:2021:211 (“*Hasbro*”)], paras 39 and 40; *Koton*, para 47).

(vii) The burden of proving that an application for a registered mark was made in bad faith lies on the party making the allegation. But where the circumstances of the case may lead to a rebuttal of the presumption of good faith, it is for the proprietor of the mark to explain and provide a plausible explanation of the objectives and commercial logic pursued by the application for registration (*Hasbro*, paras 42 and 43).

(viii) Whether the applicant was acting in bad faith must be the subject of an overall assessment, taking into account all of the factors relevant to the particular case (*Lindt*, para 37).

(ix) The applicant for a trade mark is not required to indicate or to know precisely when the application is filed or examined, the use that will be made of it (*Sky CJEU*, para 76; [*AS v Deutsches Patent-und Markenamt* (C-541/18) EU:C:2019:725], para 22).

(x) Nevertheless, the registration by an applicant of a mark without any intention to use it in relation to the goods and services covered by the registration may constitute bad faith where there is no rationale for the application in the light of the aims referred to in Regulation 40/94 and Directive 89/104 (*Sky CJEU*, para 77).

(xi) Such bad faith may, however, be established only where there are objective, relevant and consistent indicia tending to show that, when the application was filed, the applicant for registration had the intention either of undermining, in a manner inconsistent with honest practices, the interests of third parties, or of obtaining, without targeting a specific third party, an exclusive right for purposes other than those falling within the functions of a trade mark (*Sky CJEU*, para 77).

(xii) It follows that the bad faith of the applicant cannot be presumed on the basis of a mere finding that, at the time of filing the application, the applicant had no economic activity corresponding to the goods and services referred to in the application (*Sky CJEU*, para 78).

(xiii) When the absence of an intention to use the mark in accordance with the essential functions of a trade mark concerns only certain goods or services referred to in the application for registration, that constitutes making the application in bad faith only in so far as it relates to those goods or services (*Sky CJEU*, para 81).

(xiv) If, at the end of the day, the court concludes that, despite formal observance of the relevant rules and conditions for obtaining registration, the purpose of the rules has not been achieved, and that there was an intention to take advantage of the rules by creating artificially the conditions laid down for obtaining the registration, this may amount to an abuse sufficient to find that the application was made in bad faith (see, for example, *Hasbro*, para 72).

(xv) Directive 89/104 does not preclude a provision of national law under which an applicant for registration must state that the mark is being used in relation to the goods or services in relation to which it is sought to register the mark, or that the applicant has a *bona fide* intention that it should be used, provided that infringement of such an obligation cannot constitute a ground for invalidity. It may, however, constitute evidence for the purposes of establishing possible bad faith on the part of the applicant when the application was filed (*Sky CJEU*, paras 86 and 87)."

11. An allegation of bad faith is a serious one which must be distinctly proved, but in deciding whether it has been proved, the usual civil evidence standard applies (i.e. balance of probability). This means that it is not enough to establish facts which are as consistent with good faith as bad faith: *Red Bull GmbH v Sun Mark Limited and Sea Air & Land Forwarding Limited* [2012] EWHC 1929 (Ch).

12. The applicant is correct in submitting that the fact that a trade mark bears some similarity to another trade mark is not, per se, a marker of bad faith. However, the opponent's statement of grounds and evidence about the applicant's other applications show that the contested mark is not the first or only of the applicant's marks to bear more than a passing resemblance to third parties' trade marks. It is a notorious fact that at least some of the marks highlighted by the opponent have a reputation in the UK, such as Armani, The North Face and Under Armour (for clothing). The Calvin Bags mark has the same font as Calvin Klein, as does the 'Clark' element of the applicant's Clark & Mark application compared to the well-known mark Clarks, for shoes. Such evidence can show a pattern of behaviour which may lead to a conclusion that a mark has been applied for in bad faith.

13. The applicant says that the contested application, at most, amounts to nothing more than a play on words or gentle and affectionate teasing. This seems to me to be an admission that there is some similarity with a third-party mark or brand. The applicant states in its defence that many of the marks listed in the opponent's table "could be construed as parodies". It relies upon *Swatch AG v Apple Inc* [2021] EWHC 719 (Ch) for its proposition that it is not bad faith to apply for parodies as trade marks. In that case, Apple had objected to Swatch's application for ONE MORE THING, which was a phrase associated with Apple's CEOs when making announcements at industry events, to the point that compilations of ONE MORE THING moments had been made by Apple 'fans' on YouTube. Parody was one of the legs to Apple's bad faith ground. The present case can be distinguished from the *Swatch AG v Apple Inc* case. Two of the considerations of Mr Iain Purvis QC, sitting as a Deputy judge of the High Court, were that there was "no evidence that Swatch had made a practice of parodic advertising in the past, against any party, let alone Apple" and that it was "not clear how the suggested parodic use of the mark would be effective when, on the Hearing

Officer's findings, it was only associated with Apple by only a small number of people.”²
In the present case, there is a pattern of previous filings of marks which are similar to those of third parties, and at least some of those third-party marks have a reputation amongst the general public in the UK.

14. The applicant characterises parodical marks as signs which bring another trader to the mind of some consumers in an amusing and inoffensive way, which is taken from *Swatch AG v Apple Inc*:

“52. 'Poking fun' and 'parody' cover a multitude of possibilities from gentle and affectionate teasing to full-frontal attacks. I do not consider that it is an inherently dishonest business practice to use a sign which brings another trader to the mind of some consumers in an amusing but inoffensive way. Such an activity would not necessarily undermine the interests of the third party in any material way. The point at which parodic or humorous activity of that kind would transgress the boundaries of honest business practices must depend on the nature of the humour, the intensity of its use and its consequent impact on the business interests of the recipient.

[...]

54. (i) [...]

(ii) He [the Hearing Officer] then makes the point that using a mark as part of a parody of another trader is difficult to reconcile with the use of the marks in accordance with their essential function, of indicating the commercial source of the goods. But, again, this must depend on the actual use in question. Using a phrase in a humorous parodic skit may well not be trade mark use. However, I do not see why a mark may not have parodic character whilst at the same time being perfectly capable of functioning as a trade mark. For example DUNK DIFFERENT could be a perfectly good trade mark for biscuits, whilst no doubt conjuring up

² Paragraph 44, points (iii) and (iv).

for some people a wry or even amusing allusion to Apple's famous slogan.”

15. It is undeniable that the table reveals that the applicant has filed other applications which are similar to or strongly reminiscent of famous third-party brands. The applicant does not deny it: in fact, it states that “many of the marks listed in Section D of the opposition could be construed as parodies.” Similar fact evidence was considered in *Trump International Ltd v DTTM Operations LLC* [2019] EWHC 769 (Ch). The controlling mind behind the applicant in that case was shown to have a history of applying for trade marks without any intention to use them, including famous third-party marks, and of being involved in numerous trade mark proceedings in the UK and elsewhere. The application for the trade mark TRUMP TV was found to have been made in bad faith. Carr J said:

“In relation to allegations of copyright infringement, it is necessary to decide, as a matter of fact, whether copying has occurred. As with claims of bad faith, direct evidence of copying is rarely available. In this context, it is well established that similar fact evidence may be admissible.” The case law is considered in *Copinger and Skone James on Copyright*, Vol 1, 17th Edition at [21-393]:³

“...where the issue in a copyright case is whether the similarity between the claimant's work and the defendant's work is due to copying or is a coincidence, it is relevant to know that the defendant has produced works which bear a close resemblance to works other than the work in question which are the subject of copyright. Whereas similarity between two works might be mere coincidence in one case, it is unlikely that there could be coincidental similarity in, say, four cases. The probative force of several resemblances together is much better than one alone

This reasoning may well apply, depending on the facts, to an allegation that a third-party trade mark has been applied for in bad faith. The probative force of several instances of such applications, by the same or a connected party who

³ At [42].

has applied to register a third-party trade mark, is obvious. Such instances, if based on solid grounds, are likely to require evidence from the applicant to refute the inference of bad faith that may otherwise be drawn from them.”

16. Turning back to the submission that the applicant’s mark is, at best, a play on words or gentle and affectionate teasing, as an isolated instance, there may be no bad faith. However, there is a pattern of behaviour, as in the *TRUMP TV* case, and I consider that the wording of the counterstatement implicitly acknowledges that there has been a pattern of behaviour of applying for marks similar to those of third parties. If they were not similar to the marks of third parties, the applicant’s other applications could not be parodies. There must be similarities for the parody to work. So, this must be an acceptance by the applicant that it has made several applications for marks which are similar to those of third parties (whether or not they actually are parodies). The present case not only includes a dominant element which is highly similar to a mark belonging to Tumi, Inc. for class 18 goods but also includes a ‘TC’ logo which is highly similar to another party’s trade mark (as set out in the opponent’s tables).⁴ This cannot be a coincidence.

17. *Paper Stacked Ltd v CK Holdings NV* (“*Alexander Trade Mark*”) was a case involving the same controlling mind as in the *Trump TV* case. Mr Geoffrey Hobbs QC, sitting as the Appointed Person, upheld the Hearing Officer’s finding of bad faith.⁵ At paragraph 35 of his decision (quoted at paragraph 25 of Mr Hobbs’ decision), the Hearing Officer said:

“Taken together with the opponent’s evidence that (1) none of the marks applied for in the UK (or US) appear to have been used, (2) the absence of any apparent commercial logic for the filing pattern of the applicant and/or Mr Gleissner’s other companies, and (3) the evidence that companies controlled by Mr Gleissner have been found to have abused legal systems, I find that

⁴ *Paper Stacked Ltd v CK Holdings NV* (“*Alexander Trade Mark*”), Case BL O/036/18, Mr Geoffrey Hobbs QC, sitting as the Appointed Person, regarding the absolute nature of section 3(6), at [19]: “Since there is no requirement for the objector to be personally aggrieved by the filing of the application in question, it is possible for an objection to be upheld upon the basis of improper behaviour by the applicant towards persons who are not parties to the proceedings provided that their position is established with enough clarity to show that the objection is well-founded.”

⁵ Ibid

opponent has also made out a prima facie case that, at the time of filing the application, the applicant had no intention of using the mark in accordance with its essential function. That is to say using the mark to distinguish the goods/services of the applicant from those of other traders.”

18. In the present case, the applicant has implicitly admitted that it has applied for several trade marks which are similar to those of third parties. It is the nature of those applications which is key: they mimic the marks of third parties. It cannot be a coincidence that the mark contains the TC logo of a third party and a dominant element which is extremely similar to TUMI, Inc.’s earlier mark when viewed alongside the applicant’s other applications which ape the trade marks of third parties. The applicant has given no indication that any of them have been used because it has not filed evidence. A submission from its legal representatives that it has a bona fide to use its mark is not evidence and has no weight; the same is true of this assertion in the counterstatement, signed by the firm of legal representatives. Finally, the submission in its skeleton argument that it had “made genuine use of the TOM CRUISER mark in relation to the goods for which protection was sought” and the submissions about use made at the hearing also have no evidential weight. In the *Alexander* case, Mr Hobbs said this:

“7. CKL’s [the applicant’s] case as presented in these submissions was that the evidence tendered by the opponent established no basis sufficient in point of fact or in point of law to justify rejection of the contested application for registration on the ground of bad faith. Having chosen to file no evidence directed to the specifics of the facts and matters relied on by the opponent, CKL was, in essence, asking the Registrar to say that it had no case to answer.”

19. The applicant in the present case has chosen the same course of action. In *Accessible Labs Ltd v Rui Qu (Shanghai) Enterprise Management Consulting Company Limited*, Mr Daniel Alexander KC, sitting as the Appointed Person, said:⁶

⁶ Case BL O/0534/25.

“43. Third, *SkyKick* notes that the application of the law presents evidential difficulties. It is rare that an opponent to a trade mark application mark will have direct evidence that the applicant intended to do so for reasons which do not accord with the proper objects of securing trade mark registration. Lord Kitchen said in *SkyKick* at [154]:

“It may be very difficult for a claimant seeking a declaration of invalidity of a registered trade mark to prove the subjective intention or motive of the applicant in filing the application to register that mark in respect of particular goods and services. Accordingly, from the earliest consideration of this issue by the CJEU, it has been recognised that this subjective aspect of the objection will generally have to be established by reference to what have been described as relevant, consistent and objective criteria.”

20. In *Skykick*, the Supreme Court stated at paragraph 240 that:

“(vii) The burden of proving that an application for a registered mark was made in bad faith lies on the party making the allegation. But where the circumstances of the case may lead to a rebuttal of the presumption of good faith, it is for the proprietor of the mark to explain and provide a plausible explanation of the objectives and commercial logic pursued by the application for registration (*Hasbro*, paras 42 and 43).”

21. I consider that there is a prima facie case to answer. The opponent has pointed out the applicant’s pattern of filing marks which ape those of third parties. This combination of factors is sufficient to raise a prima facie case. In *Maya Appliances Pvt. Ltd v Prapaharan Sivaratnam*, Mr Iain Purvis KC, sitting as the Appointed Person, said:⁷

“27. It is obviously wrong to expect a party to Cancellation proceedings to be able to give direct evidence of the motivation of someone who has adopted their mark. All they can reasonably be expected to do in the vast majority of cases

⁷ Case BL O/0052/25: the decision concerned cancellation proceedings, but the law is no different in relation to an opposition under section 3(6)

is to make inferences from the objective facts and invite the other party to respond to this. If they establish a prima facie case consistent with bad faith, then in the absence of a response from the other party the Cancellation should succeed.

22. In the present case, the opponent has done all that it was able to do, in the circumstances of the case. As the opponent has met the burden of raising a prima facie case, it has rebutted the presumption of good faith. It is incumbent on the applicant to explain and provide a plausible explanation for the contested application. It has made no attempt to do so in evidence. In *Accessible Labs Ltd*, Mr Alexander said:

“45. ... as Lord Kitchin said in *SkyKick* at [235] and [252]:

“235. I recognise that an inference that an application to register a trade mark was made in bad faith may be displaced by an explanation of an appropriate commercial rationale for making it. In my opinion, however, a failure to provide any satisfactory explanation may reinforce the inference and provide further support for a finding of bad faith.

...

252. I recognise that such an applicant, when given an appropriate opportunity, may provide a reasonable explanation and justification for its actions and in that way answer and dispel any inference that it made the application in bad faith. If, however, it fails to do so, it is in my view open to the tribunal to find that the application was indeed made in bad faith in respect of those goods and services.”

46. *SkyKick* therefore reinforced the importance of a satisfactory explanation for making a UK trade mark application in circumstances where an inference that the mark was applied for in bad faith appeared justified, prima facie. Key questions are therefore (a) whether an explanation was provided at all and (b) whether the hearing officer had sufficient basis to find that the explanation provided was unconvincing with respect to motivation in applying for the mark and in particular intention to use it in the UK, taking the evidential picture as a whole.

47. As to that, the case law from the Court of Appeal prior to *SkyKick* suggests that where, in principle, evidence from those with knowledge of intention is available, it is reasonable to expect it to be adduced to rebut a prima facie case of bad faith. That proposition is supported by *Lidl Great Britain Ltd & Anor v Tesco Stores Ltd & Anor (Rev1)* [2024] EWCA Civ 262, where Arnold LJ said at [180] of one of the grounds of appeal (namely that it was not realistic for the judge to expect that either witness testimony or documentary evidence would be available to explain Lidl's intentions) that despite the passage of time, the applicants for registration were best placed to explain their intentions. The court expected a proper explanation.

48. In the light of these authorities, where there is evidence from which it is proper to infer that an application for registration has been made in bad faith (on the basis that it was not applied for to protect one or more of the legitimate functions of a trade mark) an applicant can reasonably be expected to provide a sufficiently coherent explanation for the application specifically in the UK including as to its scope. An applicant may be able to justify the application (including its scope) on the basis of credible evidence as to its purposes in making it, for example by reference to the width of the underlying business, actual or reasonably contemplated, which the trade mark is intended to protect. If no adequate or sufficiently credible explanation is provided or one which justifies the UK application, there may be a proper basis for a finding of bad faith in whole or in part.”

23 . The objective, relevant and consistent indicia point towards a conclusion that the application was made in bad faith, and the applicant has not rebutted that conclusion. There is no evidence from the applicant as to how it arrived at a mark which includes elements so similar to those of third parties, especially in the context of its other applications, and no evidence of its commercial plans for the mark. At the hearing, Ms Nicol referred to the mark being an amusing take on the Hollywood actor, Tom Cruise. However, if that is true, there is no evidence about why the applicant felt it necessary to make the dominant element of its mark so similar to Tumi Inc.'s mark, for the same goods.

24. In paragraph 240 of its *Skykick* judgment, the Supreme Court said:

“(xiv) If, at the end of the day, the court concludes that, despite formal observance of the relevant rules and conditions for obtaining registration, the purpose of the rules has not been achieved, and that there was an intention to take advantage of the rules by creating artificially the conditions laid down for obtaining the registration, this may amount to an abuse sufficient to find that the application was made in bad faith (see, for example, *Hasbro*, para 72).”

25. The applicant has failed to rebut the prima facie case. The application constitutes an intention to take advantage of the trade mark registration system. The application was filed with the intention of undermining, in a manner inconsistent with honest practices, the interests of third parties. This behaviour is an abuse of the trade mark system. It is contrary to the objective of a trade mark registration, as set out in *Skykick* at paragraph 240 (iv):

“... the establishment and functioning of [...] a system of undistorted competition in which each undertaking must, in order to attract and retain customers by the quality of its goods or services, be able to have registered as trade marks signs which enable consumers, without any possibility of confusion, to distinguish those goods or services from those which have a different origin ...”.

26. I have not taken into account Ms Chantrielle’s submission at the hearing that the application is an attempt by the applicant to register a mark which is similar or close enough to allow it to ride on the coat tails of any reputation of similar earlier marks because that was not pleaded.

27. Even if the contested mark has been filed as a parody, it is not a one-off like the *Swatch* case. The number of trade mark applications which ape marks of third parties means that the applicant cannot avail itself of a defence of parody, when it is abusing the trade mark registration system. I do not, therefore, need to consider the applicant’s references to freedom of speech.

28. The section 3(6) ground succeeds.

Overall outcome

29. The opposition succeeds. The application is refused.

Costs

30. The opponent has been successful and is entitled to an award of costs, based on the scale published in Tribunal Practice Notice 1/2023. I have reduced the award to take into account that the opponent was unsuccessful at a case management conference (“CMC”) at which it sought suspension of these proceedings pending the outcome of another case. The applicant successfully resisted suspension. I award costs in favour of the opponent as follows:

Fee for Form TM7	£200
Preparing the notice of opposition and considering the counterstatement	£250
Preparing evidence	£600
Attendance at the hearing	£800
Minus the CMC	-£200
Total	£1650

31. I order Abdulwahed Bin Shabib Distribution to pay to Samsonite IP Holdings S.a.r.l. the sum of £1650. This sum is to be paid within twenty-one days of the expiry of the appeal period or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 29th day of July 2026

Judi Pike

For the Registrar