**BL O/0983/26**

TRADE MARKS ACT 1994

TRADE MARK REGISTRATION
NO. 3972852




IN THE NAME OF
NIRAIMATHY ILANGOVAN

Appellant

AND

CANCELLATION NO. CA000509103
BY
ANJAPPAN KANDASAMY AND ANJAPPAN MARUTHUPANDIAN

Respondents

AND

IN THE MATTER OF AN APPEAL TO THE APPOINTED PERSON
BY
NIRAIMATHY ILANGOVAN
AGAINST A DECISION OF
HEARING OFFICER CAITLIN WILLIAMS DATED 11th AUGUST 2026

AND IN THE MATTER OF AN APPLICATION BY NIRAIMATHY ILANGOVAN
TO TRANSFER THE APPEAL TO THE HIGH COURT

*Mr Ramachandran Saravanan of Ram &Co Solicitors Limited Appeared for the Appellant*
*Mr Sam Carter of Counsel (instructed by Westbrook Law Ltd) appeared for the Respondents*

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DECISION

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**Introduction & Background**

1. This is the determination of an application by the Appellant, Niraimathy Ilangovan, to transfer her own appeal made to the Appointed Person, to the High Court. The underlying appeal is in respect of a Decision of Caitin Williams, the Registrar's Hearing Officer, dated 11 August 2026, by which the application of the Respondents to invalidate the Appellant's registration No. 3972852 succeeded in full by reason of the Appellant's failure to file a timely Form TM8 Defence and Counterstatement.

2. The Appellant's appeal to the Appointed Person was filed on 8 September 2026. On 7 October 2026, however, the Appellant requested that the appeal be transferred to the High Court "due to the general legal Importance Involved" (*sic*). The application was accompanied by a detailed Statement of Grounds,

the gravamen of which was that there had been a failure to comply with a case management direction dated 5 June 2026 relating to the consolidation of proceedings and that the proper interpretation and effect of that order required the High Court's attention. The Respondents, perhaps not surprisingly, objected.

3. As is usual in such matters, I sought the view of the Registrar. The Registrar responded to me on 21 October 2026 as follows:

> "Dear Mr Harris
> Thank you for requesting the Registrar's view in relation to the appeal against the decision relating to CA509103 dated 11 August 2026.
>
> On behalf of the Registrar, I confirm that he has no particular or strong view as to whether the Appointed Person should exercise discretion by transferring this case to the High Court.
>
> Having said this, the Registrar does not consider there to be a public interest, policy reason or novel point of law to be considered by the Court.
>
> Therefore, there is no obvious or particular reason why referring this decision to the Court would be necessary to achieve an efficient resolution."

**Applicable Principles**

4. Dr Brian Whitehead, Appointed Person, recently reiterated the applicable principles in BL O/0743/25 *DIEGO MARADONA***:**

> "5. Section 76 of the Trade Marks Act 1994 provides:
> "(1) An appeal lies from any decision of the registrar under this Act, except as otherwise expressly provided by rules. For this purpose "decision" includes any act of the registrar in exercise of a discretion vested in him by or under this Act.
> (2) Any such appeal may be brought either to an appointed person or to the court.
> (3) Where an appeal is made to an appointed person, he may refer the appeal to the court if--
> (a) it appears to him that a point of general legal importance is involved,
> (b) the registrar requests that it be so referred, or
> (c) such a request is made by any party to the proceedings before the registrar in which the decision appealed against was made.
> Before doing so the appointed person shall give the appellant and any other party to the appeal an opportunity to make representations as to whether the appeal should be referred to the court.
> (4) Where an appeal is made to an appointed person and he does not refer it to the court, he shall hear and determine the appeal and his decision shall be final."
> 6. The principles applicable to a decision to transfer have been considered a number of times by the Appointed Person. In *Parkair Trade Mark* O/065/09, Amanda Michaels acting

as the Appointed Person reviewed the earlier decisions including *A.J. AND M.A. LEVY's trade mark (No. 2)* [1999] R.P.C. 358, *Academy trade mark* [2000] R.P.C. 35, *Royal Enfield trade mark* O/273/01, *EBC trade mark* O/132/03, and *Elizabeth Emanuel Trade Mark* [2004] RPC 15. Ms Michaels summarised the applicable principles as follows:

• The Appointed Person has an unfettered discretion under s. 76(3);

• Any consensus reached between the parties about referring the appeal to the court is not determinative;

• The power to refer appeals to the court should be used sparingly, otherwise the clear object of the legislation to provide a relatively inexpensive, quick and final resolution of appeals by a specialist tribunal would be defeated;

• It will be very rare to make a reference in circumstances where a point of general legal importance cannot be identified;

• The cost and expense to the party not seeking to refer should be taken into account; this is a matter which may be of particular significance in a case where the party in question is an individual or small company or partnership"

**Discussion**

5. As in *DIEGO MARADONA* it is the Appellant who makes the application despite having originally chosen of its own volition to appeal to the Appointed Person. However (and despite the urgings of Mr Carter for the Respondents), nothing turns on that as such[1].

6. I agree with Dr Whitehead's observation in [9] in *DIEGO MARADONA* that in an application of this kind the primary point to consider is whether or not a point of general legal importance can be identified in the appeal.

7. The Appellant's case on appeal is, *inter alia,* that following the filing of CA000509103, these proceedings should have been consolidated with three other earlier cases pending between the parties and that this should have been factored in to the Decision under appeal. Two of those were cancellation actions, CA000506869 and CA000507722. The third was an opposition brought by the Respondent to the mark in suit in this appeal, OP446742. The Appellant cites the outcome of a case management conference held on 5 June 2025 (i.e. before the instant case was commenced) relating to those proceedings. As a result of that CMC, that opposition was itself deemed withdrawn but the Respondent had indicated to the Hearing Officer (Al Skilton) that a replacement cancellation action would likely be filed. The relevant paragraph of the CMC report, and the ensuing Direction, are as follows:

"28. The cases concern the same marks, between the same two parties. Mr Carter confirmed that AK and AM's evidence is the same in both cancellations. In my view, there is no reason not to consolidate cases 507722 and 506869 in the interests of reducing costs and ensuring procedural economy.

[1] See BL O/0743/25 at [7-8] by analogy

29. Mr Carter submitted that in the event that I refuse to reinstate opposition 446742, AK and AM are likely to file a cancellation application against the registered trade mark 3972852. Should this happen, then this too will be consolidated with the other two cases.

Conclusion

30. For the reasons given above, I direct the following:
    - Opposition 446742 remains withdrawn
    - Cancellations 507722 and 506869 will be consolidated"

8. In the event, when CA509103 was filed, it was not consolidated. This was no doubt because, in default of the Appellant's Form TM8 Defence and counterstatement, the procedural point at which consolidation would be considered by the Tribunal had not been reached. As the Tribunal's Manual of Trade Mark Practice says:

> **4.4 Consolidation of proceedings**
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> Consolidation is an administrative procedure which aims to reduce costs and the work involved in dealing with two or more sets of related proceedings. It means the proceedings are combined, with each side in the dispute filing one set of evidence headed for, and covering, all of the consolidated proceedings.
>
> Consolidation can be requested by any party; but in most cases will be raised by the Tribunal.
>
> **Opposition and Invalidation proceedings**
>
> In opposition and invalidity proceedings consolidation will not be allowed until after the defence (TM8) is filed

9. The Appellant says that, nevertheless, the CMC of 5 June 2025 effectively directed consolidation of CA509103 from the outset, notwithstanding its filing was, at that time, just a possibility. It is further said by the Appellant that this gives rise to a unique set of circumstances requiring the attention of the High Court. Whilst I heard lengthy oral submissions from Mr. Saravanan for the Appellant, drawing on his skeleton (and exercising some judicial editing for economy and clarity) I understand the Appellant's position to be:

> 1 There is no decision by any court so far as to whether cancellation proceedings can be proceed without "consolidation as previously ordered"
>
> 2 There is no decision by any court as to whether the Registrar's practice on consolidation (i.e. only after the close of leadings) is correct
>
> 3 There is no order by any court as to whether a Cancellation Action can be deemed undefended when a prior "consolidation order" is in force.

4 Whether the registry properly exercised discretion without considering the "consolidation order"

5 The supposed "consolidation order" should have taken precedence over the Tribunal's practice on consolidation.

6 Whether consolidation can be ordered in respect of future but as yet unfiled proceedings is a point of general legal importance.

7 The discretion to extend the time considering the merging/Consolidation order and not applying the order at all stages, is not in accordance with common law fairness.

10. For his part, Mr. Carter for the Respondent submitted that this was simply not a point of general legal importance at all and that it did not meet the standard set out in *DIEGO MARADONA* et al to be transferred.

11. On this issue, having heard the parties at some length and after considering the papers before me, I am wholly in agreement with the Respondent. Leaving aside, for now, the question of whether there was such an order at all or whether the point has any merit in the appeal at large, it is clearly a straightforward procedural issue which this Tribunal is more than capable of resolving. It certainly does not raise any issue of general legal importance that would justify referring it to the High Court, with the delay and additional expense that would be incurred as a result.

12. In the circumstances I can discern no argument whatsoever in favour of transferring this matter to the High Court. The appeal shall continue before the Appointed Person.

**Conclusion**

13. The Appellant's application to transfer the appeal to the High Court is dismissed.

**Costs**

14. For the Appellant, Mr. Saravanan indicated that the usual scale of costs should apply. Mr Carter argued for off-scale costs based on the Appellant's conduct in bringing and prosecuting the application.

15. I reserve the costs of this application to the Appeal. I shall consider any issue of off scale costs in this application then, if it is appropriate to do so.

16. I will make a separate formal order only if asked to do so.

Philip Harris
Appointed Person
5 November 2026