O/0997/26

TRADE MARKS ACT 1994

IN THE MATTER OF TRADE MARK REGISTRATIONS
NOS. UK0002238172A AND UK0002238172B
IN THE NAME OF ZDZISLAW JOSEPH OLENSKI

AND

APPLICATION NO. 84948 TO RECTIFY THE REGISTER
BY DINESH BHIMRAJ MANDOT

BACKGROUND AND PLEADINGS

1. These proceedings concern two trade marks (UKTM nos. 2238172A and 2238172B) ("the contested marks").[1] The contested marks are shown below:

OHM/ 

UKTM no. 2238172A
(Series of 2)



UKTM no. 2238172B

2. The contested marks were filed on 4 July 2000 and registered on 29 August 2003 for the following goods:

Class 9 Electrical and electronic sound reproducing and sound recording apparatus and instruments; loudspeakers, electric amplifiers; public address systems; parts and fittings included in Class 9 for all the aforesaid goods.

3. The contested marks were originally owned by Zdzislaw Joseph Olenski. However, on 11 July 2016, a Form TM16 was filed requesting that a change of ownership be recorded. This request was made to reflect an assignment entered into on 13 May 2016, transferring ownership to Mr Olenski and Dinesh Bhimraj Mandot jointly. This assignment was recorded on the register on 21 July 2016.

[1] These marks were originally one application for a series of marks, which has since been divided.

4. On 26 April 2024, a second Form TM16 was filed requesting that a change of ownership be recorded. This time, the contested marks were said to have been transferred out of the joint ownership of Mr Olenski and Mr Mandot, to Mr Olenski only, by way of assignment dated 2 April 2024. This assignment was recorded on the register on 30 April 2024.

5. On 31 May 2024, Mr Mandot applied to rectify the register pursuant to section 64 of the Trade Marks Act 1994 ("the Act"). Mr Mandot's position is that he and Mr Olenski had entered into an agreement regarding joint ownership of the trade marks, and that Mr Olenski had unilaterally applied to change the ownership of the contested marks without Mr Mandot's consent.

6. Mr Olenski filed a witness statement in response to the Registry's service of the Form TM26R. No formal counterstatement was filed. There is no requirement in the Act or the Trade Marks Rules 2008 for a counterstatement to be filed in any particular form. As Mr Olenski's evidence answered all of the points made in the application for rectification, the Registry deemed it an acceptable defence. I will return to the content of the defence below.

7. Neither party requested a hearing and only Mr Mandot filed written submissions in lieu. This decision is taken following a careful consideration of the papers on file.

REPRESENTATION

8. Mr Mandot is represented by Needle Partners Limited.

9. Mr Olenski is represented by The Trademark Helpline.

EVIDENCE AND SUBMISSIONS

10. Mr Olenski gave evidence in the form of a witness statement dated 2 September 2024, which is accompanied by 9 exhibits (ZJO1 to ZJO9).

11. Mr Mandot gave evidence in the form of a witness statement dated 20 January 2025, which is accompanied by 6 exhibits (DBM1 to DBM6).

12. Mr Olenski gave evidence in reply in the form of his second witness statement dated 12 May 2025, which is accompanied by 4 exhibits (ZJO11 to ZJO14). He also filed evidence in the form of two witness statements from Bo Olenski dated 24 February 2025 and 10 March 2025. Ms Olenski was the bookkeeper for a company of which Mr Olenski was previously a director, which operated the business under the contested marks (presumably under licence from the relevant owner(s)).

13. Mr Mandot gave evidence in reply in the form of his second witness statement dated 14 July 2025, which is accompanied by 5 exhibits (DBM7 to DBM11).

14. Mr Mandot filed written submissions in lieu of a hearing dated 4 October 2025.

DECISION

15. Rectification is provided for at section 64 of the Act, which reads, so far as relevant:

> "64. - (1) Any person having a sufficient interest may apply for the rectification of an error or omission in the register: Provided that an application for rectification may not be made in respect of a matter affecting the validity of the registration of a trade mark.
>
> (2) An application for rectification may be made either to the registrar or to the court, except that-
>
> (a) if proceedings concerning the trade mark in question are pending in the court, the application must be made to the court; and
>
> (b) if in any other case the application is made to the registrar, he may at any stage of the proceedings refer the application to the court.

(3) Except where the registrar or the court directs otherwise, the effect of rectification of the register is that the error or omission in question shall be deemed never to have been made.

(4) […]

(5) The registrar may remove from the register matter appearing to him to have ceased to have effect."

16. Section 72 is also relevant. It states:

"In all legal proceedings relating to a registered trade mark (including proceedings for rectification of the register) the registration of a person as proprietor of a trade mark shall be prima facie evidence of the validity of the original registration and of any subsequent assignment or other transmission of it."

17. The effect of this is that the burden of persuading the registrar that there is an error on the register which should be rectified is on an applicant for rectification. This means that the burden is not on Mr Olenski; rather, it is for Mr Mandot to prove that he is the proper owner of the contested marks and if a prima facie case is established, the burden then shifts to Mr Olenski to establish his defence.

18. It is necessary for an applicant for rectification to have sufficient interest to make the application. Mr Mandot states that he is a joint owner of the contested marks and has previously been registered as such and, consequently, this requirement is plainly satisfied.

Preliminary Matters

19. A great number of the points raised (and responded to) by the parties relate to grievances that they have with each other that are entirely unrelated to the ownership of the contested marks. Unless directly relevant to the proceedings, I will not comment upon these grievances any further.

The Business

20. It does not appear to be in dispute that the contested marks have been in use in relation to a commercial audio installation business. The only relevance of the activities of the business for the purposes of these proceedings is that it was operated by a company called Aural Ltd ("the Company") between 2015 and 2023. The Company was dissolved in 2023. However, the parties are not in dispute that the Company has never owned the contested marks which have remained in the name of either Mr Olenski, or Mr Olenski and Mr Mandot, jointly. I will return to the relevance of this below.

Mr Mandot's arguments in favour of rectification

21. The parties are not in dispute that they entered into an assignment in 2016 regarding joint ownership of the contested marks ("the 2016 Assignment"). A copy of the 2016 Assignment is in evidence.[2] The key parts of that document read as follows:

> "3. Assignment
> Pursuant to the agreement between the Assignor [Mr Olenski] and the Assignees [Mr Olenski and Mr Mandot] and in consideration of the sum of £1.00 now paid by the Assignees to the Assignor (the receipt of which the Assignor hereby acknowledges) the Assignor with full title guarantee assigns to the Assignees absolutely together with all the Assignor's rights and interests in respect of them:-
> 3.1. The Marks
> 3.2. The exclusive right to the Trade Name
>
> 4. Assignor's Obligations
> 4.1 The Assignor agrees with the Assignees at the direction and expense of the Assignees to execute any further document that the Assignees may reasonably require to enable the Assignees to become registered by the Registrar of Trade Marks as the proprietor of the Marks.

[2] Exhibit DBM4

5. Assignor's Warranties

The Assignor warrants that:-

5.1 The Assignor is the proprietor of the Marks and has full power to enter into this Assignment

5.2 The Assignor has not granted any assignments by way of security, charges or licences to use the Marks

6. Share in the Marks

The parties agree that the rights to the Marks and all royalties, fees or other receipts from the use of the Marks and any liabilities that may accrue shall be received and borne as to 25% to the Assignor and 75% to Mr Mandot."

22. The assignment defines the "Marks" as the contested marks and defines the "Trade Name" as "OHM".

23. The effect of this assignment is plainly to transfer ownership of the contested marks from Mr Olenski individually to Mr Olenski and Mr Mandot jointly. There does not appear to be any dispute in that regard. There is nothing in the 2016 Assignment that makes the transfer of ownership conditional upon any act of Mr Mandot (other than paying consideration).

24. Mr Mandot's position is that this agreement is reflective of the correct ownership position i.e. that it should be in joint names. That is plainly the position on the face of the 2016 Assignment. In my view, a prima facie case is made out.

The Shareholders Agreement and Mr Mandot's Conduct

25. The burden now shifts on to Mr Olenski to prove his defence. Mr Olenski's evidence identifies two bases upon which he states that he was entitled to transfer ownership of the contested marks to himself solely:

1. The parties entered into a Shareholders Agreement in 2016. He states that Mr Mandot is in breach of the terms of that agreement and, consequently, Mr

Olenski was entitled to return ownership of the contested marks to his own name.

2. Mr Mandot has acted in bad faith by applying to register equivalent trade marks in India in his own name. Despite agreement to transfer ownership of those marks into joint names upon registration, Mr Mandot has failed to do so. It is also alleged that Mr Mandot's conduct has brought the Company into disrepute with its customers. Mr Olenski points to these as being examples of Mr Mandot breaching the terms of the agreement between them.

26. Mr Olenski initially relied upon two documents which are only partial copies of agreements. The first of these, which can be found at Exhibit ZJO5 is between Mr Mandot and the Company. Only the first two pages are in evidence, but it essentially relates to the payment by Mr Mandot of consideration in exchange for shares in the Company. As the final pages of the document are not in evidence, I have no way of knowing whether it was executed (or when). What is clear is that the parts of that document that are in evidence make no reference to the contested marks and are, therefore, not relevant to their ownership. The second document relied upon by Mr Olenski can be found at Exhibit ZJO9. Only pages 14 and 18 were originally filed. The absence of the other pages means that it is almost impossible to make any sense of the document or to identify whether (or when) it was executed. Mr Olenski subsequently filed a full copy of what appears to be the same agreement at Exhibit ZJO11 (pages 14 and 18 appear to correspond with Exhibit ZJO9). This also corresponds with Exhibit DBM1 filed by Mr Mandot. These exhibits make no reference to the contested marks; they relate only to the governance of the shareholding of the Company (which the parties agree has never owned the contested marks in any event). Consequently, the Shareholders Agreement is irrelevant to the question of ownership of the contested marks.

27. With regard to Mr Olenski's allegations about Mr Mandot's conduct, there is nothing in the 2016 Assignment document which makes ownership contingent upon Mr Mandot's actions (other than paying consideration). If that was ever the intention between the parties, it is not the position on the face of the agreement entered into.

Consequently, the evidence filed regarding these allegations (which are denied by Mr Mandot) is not relevant to the question of ownership of the contested marks.

28. Finally, although not referenced in the evidence filed by the parties, I will touch upon the information contained in the Form TM16 filed by Mr Olenski. That form stated that an assignment took place on 2 April 2024. No document has been filed to evidence that assignment. An assignment will only be effective if it is in writing,[3] so the absence of a document to support this claim is a significant failing in Mr Olenski's defence of these proceedings. Taking all of this into account, it is my view that Mr Olenski has failed to make out a defence.

CONCLUSION

29. The application for rectification is successful and the register shall be rectified to record Zdzislaw Joseph Olenski and Dinesh Bhimraj Mandot as joint owners of UKTM nos. 2238172A and 2238172B.

COSTS

30. Mr Mandot has been successful and is entitled to a contribution towards his costs based upon the scale published in Tribunal Practice Notice 1/2023. In the circumstances, I award Mr Mandot the sum of **£1,500**, calculated as follows:

Preparing Form TM26R	£250
Preparing evidence and considering the evidence filed by Mr Olenski	£900
Written submissions in lieu of a hearing	£350
Total	**£1,500**

[3] See section 24(3) of the Act.

31. I therefore order Zdzislaw Joseph Olenski to pay Dinesh Bhimraj Mandot the sum of **£1,500**. This sum is to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 10th day of November 2026

S WILSON
For the Registrar