

**In The Matter Of Application Nos. 2181/93 & 5119/96  
By United States Polo Association  
To Register A Trade Mark In Classes 18 & 25**

**And**

**In The Matter Of Opposition Thereto  
By The Polo/Lauren Company, L.P.**

*Before Assistant Registrar Chua Ser Ching  
6 June 2001*

**Trade Mark** - applications for registration - opposition - composite mark - similar device - whether confusingly similar - Trade Marks Act (1992 Revised Edition) ss 12, 15 & 23(1).

The Applicant applied for the registration of a device of a mounted polo player and the letters "USPA" ("the subject mark") in Classes 18 and 25 ("the subject applications"). The Opponent is the registered proprietor of a mounted polo player device in a number of classes including Classes 18 and 25. It is not disputed that the goods of interest to both parties are the same.

**The Opponent argued that:**

- the subject mark espouses the same idea as its polo player device and is therefore confusingly similar.
- the subject mark has taken the essential feature of its mark.
- the Opponent owns a series of polo player device marks hence the public may think that the subject mark belongs to it.
- the Opponent has obtained a judgement against the Applicant in respect of a similar mark in the US.
- the subject applications are not bona fide.

**The Applicant argued that:**

- there is no confusion as the polo players are represented differently.
- the presence of the letters USPA helps to distinguish the subject mark.
- the US judgement expressly allows the Applicant to use a device of a polo player which is distinguishable from the Opponent's.
- the subject mark was independently created by the Applicant so the subject applications are bona fide.
- there is in any event honest concurrent use of the subject by the Applicant.

**Held, dismissing the opposition:**

- Although both marks share the same idea of a polo player, any confusion is unlikely due to the presence of the letters USPA in the subject mark. Marks have to be judged in their entirety.
- The polo player device in the subject mark is not the essential feature of the Opponent's mark since the devices are not identical.
- There is no evidence that the Opponent owns a series of polo player device marks.
- The US judgement is not relevant as it was decided on facts which are not before this tribunal and US laws are in any event not *in pari materia* to ours.
- In view of the finding that the marks are not confusingly similar, there is no need to go into the question of whether the subject applications are bona fide or whether the Applicant has honest concurrent use of the mark in Singapore.

**Provisions of legislation discussed:**

- Trade Marks Act (Cap. 332, 1992 Revised Edition), Sections 12,15 and 23(1).

**Cases referred to:**

- Pianotist Co's Application (1906) RPC 774
- Curries (1896) 13 RPC 681

- Danish Bacon (1934) 51 RPC 148
- The "Cat and Barrel" cases (1904) 21 RPC 149 and (1907) 24 RPC 697
- Taw v Notek (1951) 68 RPC 271
- Aristoc v Rysta (1943) 60 RPC 87
- Smith Hayden (1946) RPC 101
- Bali [1969] RPC 472
- Clark v Sharp (1898) 15 RPC 141
- Tiffany & Co v Fabriques de Tabac Reunies SA [1999] 3 SLR 147
- Kellogg Co v Pacific Food Products Sdn Bhd [1999] 2 SLR 651
- Dalic [1998] 2 SLR 231
- Harrods (1935) 52 RPC 65

**Representation:**

- Mr Chow Kin Wah with Ms Paulne Loh (M/s Alban Tay Mahtani & De Silva) for the Applicant;
- Mr Sukumar Karupiah (M/s Ella Cheong & G Mirandah) for the Opponent.

**Note:**

The Opponents, The Polo / Lauren Co. L.P. lodged an appeal in the High Court against the decision of the Assistant Registrar Ms Chua Ser Ching. The appeal is dismissed.