

Intellectual Property Office of Singapore Case Summary: Audi AG v Lim Ching Kwang [2017] SGIPOS 2

Source: <https://www.ipos.gov.sg/resources/hearing-mediation>

Published: 17 January 2017

This case concerns T0911230B, a registration for the following trade mark:



("the Mark"). The Mark was registered on 5 October 2009 in respect of Classes 7 and 12 and currently stands in the name of Lim Ching Kwang ("the Proprietor"). These proceedings concern only Class 12.

The specification in Class 12 reproduces the entire list of goods contained in the Alphabetical List of the Nice Classification ("the Goods") for that class. Essentially the scope for Class 12 covers vehicles, apparatus for locomotion by land, air or water, motors and engines for land vehicles as well as parts and fittings for vehicles.

Audi AG ("the Applicants"), applied on 31 March 2015 for the registration in Class 12:

- (a) to be revoked on the ground that it had not been used in Singapore for a continuous period of 5 years; and
- (b) to be declared invalid on the basis that it was applied for in bad faith.

On the non-use ground, the Registrar found that there was use of the Mark but only in respect of the goods, torque rod bushes. The registration in Class 12 was therefore revoked with effect from 19 January 2015, save for the following goods:

Torque rod bushes

In relation to the bad faith claim, it was alleged by the Applicants that having regard to the overwhelmingly wide width of the specification for which the Mark is registered, it is patently obvious that there cannot be any realistic or bona fide intention on the Proprietor's part to use the Mark for all the Goods and consequently, the conclusion must be that the Mark was registered in bad faith.

The Registrar held that the mere registration of a large variety of goods and services is a rather common practice of companies trying to obtain a trade mark registration. It does not involve conduct that departs from accepted principles of ethical behaviour or honest commercial and business practices. It is legitimate for businesses to seek registration of a mark, not only for the categories of goods and services which it markets at the time of filing the application, but also for other categories of goods and services which it intends to market in the future. There is therefore no bad faith in applying for a broader specification than one which a trader currently trades in. A possible or contingent intention to use the mark at some future date may suffice.

It was also held that applying for a trade mark without the intention to use the mark on all the goods specified can amount to bad faith, especially given that the application form for the registration of a trade mark requires a declaration by or on behalf of the applicant agreeing that:

"The trade mark is being used by the applicant or with his consent, in relation to the goods or services stated, or there is a bona fide intention that it will be so used."

However on the facts of the case, the Registrar found that the Applicants have not met the high standard of proof that is required to establish bad faith and the application for a declaration of invalidity was refused.

Disclaimer: The above is provided to assist in the understanding of the Registrar's grounds of decision. It is not intended to be a substitute for the reasons of the Registrar. The full grounds of decision can be found at <https://www.ipos.gov.sg/resources/hearing-mediation>.