



Canadian Intellectual Property Office

THE REGISTRAR OF TRADEMARKS

Citation: 2025 TMOB 193

Date of Decision: 2025-09-25

INTERLOCUTORY RULING

Opponent: The Land of Legends Pte. Ltd

Applicant: Diwan Emiri

Application: 2,181,395 for ARABIAN LAND OF LEGENDS

INTRODUCTION

[1] The Land of Legends Pte. Ltd (the Opponent) has opposed registration of the trademark ARABIAN LAND OF LEGENDS (the Mark), which is the subject of application No. 2,181,395 in the name of Diwan Emiri (the Applicant).

[2] On August 26, 2025, the Applicant requested an interlocutory ruling to strike the grounds of opposition based on sections 38(2)(c) & 16(1)(a), sections 38(2)(c) & 16(1)(c), section 38(2)(d), and section 38(2)(f) of the Act, as well as an extension of time to submit and serve its counter statement. On September 9, 2025, the Opponent responded to the Applicant's request to strike arguing that the statement of opposition was sufficiently pleaded.

SCOPE OF INTERLOCUTORY RULINGS

[3] The sufficiency of a statement of opposition is governed by section 38 of the Act. Section 38(2) of the Act details the grounds upon which an opposition may be based, and section 38(3) of the Act requires the grounds in a statement of opposition be set out in sufficient detail to enable an applicant to reply. Pursuant to section 38(6) of the Act, the Registrar may strike all or part of a statement of opposition if it does not raise a valid ground of opposition within the scope of section 38(2) of the Act, or does not set out a ground in sufficient detail to enable an applicant to reply to it.

[4] A proper pleading alleges the material facts but not the evidence which an opponent intends to submit to establish those facts [*Pepsico Inc v Registrar of Trade-marks* (1976), 22 CPR (2d) 62 (FCTD)]. The purpose of an interlocutory ruling is to determine whether sufficient material facts are alleged to support a valid ground, and not whether a valid ground of opposition has a chance of succeeding [*Manufacturers Life Insurance Company v British American Tobacco (Brands) Limited*, 2017 FC 436 at paras 57-64]. In this regard, grounds of opposition should be read in the context of the statement of opposition as a whole [*Blaze Pizza, LLC v Carbone Restaurant Group Ltd*, 2024 FC 1770 at para 86; *General Motors LLC v Bolt Support KE Limited*, 2024 TMOB 193 at para 16].

RULING

Section 38(2)(c)/16(1)(a) ground of opposition

[5] In paragraph 2.1 of the statement of opposition, the Opponent alleges that:

2.1 At the date of filing of the opposed application or at the date at which the TRADEMARK was used for the first time in Canada, and at any relevant date, the TRADEMARK was confusing with a trademark that had been previously used or made known in Canada by the Opponent or its predecessors in title (or for their benefit, by licensees), namely THE LAND OF LEGENDS

- for goods and/or services belonging to international classes 16, 28, 41, 43 and 44,
- for the goods and/or services mentioned in the opposed application, of the same nature or similar thereto, and/or

and, accordingly, the opposed application should be refused pursuant to paragraphs 38(2)(c) and 16(1)(a) of the Act;

[6] The Applicant submits that this ground does not clearly identify the goods and/or services in association with which the Opponent has used or made known its trade mark, such that it cannot effectively respond. The Applicant therefore requests that this ground be struck in its entirety.

[7] The Opponent responds that this ground clearly identifies the goods and services, “namely those referred to in the opposed application and that are more exhaustively described in paragraphs A and B of the statement of opposition, including the corresponding international classes”.

[8] To be sufficiently pleaded, this ground of opposition must set out the specific goods and services in association with which prior use or making known of the Opponent’s trade mark is claimed, either directly or by reference to registrations or applications which include such a list of goods and/or services.

[9] I agree with the Opponent that the portion of the ground which states “for the goods and/or services mentioned in the opposed application”, provides such a specified list.

[10] That being said, I also agree with the Applicant that this ground of opposition is unclear as it alleges use of the Opponent’s trade mark “for goods and/or services belonging to international classes 16, 28, 41, 43 and 44”, and for good and/or services that are “of the same nature or similar” to those in the opposed application. These pleadings include unspecified goods and services, which on fair reading of the statement of opposition as a

whole, are not otherwise specified or circumscribed. These pleadings are therefore not set out in sufficient detail to allow the Applicant to reply. As such, the wording “for the goods and/or services mentioned in the opposed application” in paragraph 2.1 will be maintained, but the wording “for goods and/or services belonging to international classes 16, 28, 41, 43 and 44” and “of the same nature or similar thereto” will be struck, as *per* Schedule A.

Section 38(2)(c)/16(1)(c) ground of opposition

[11] In paragraph 2.2 of the statement of opposition, the Opponent alleges that:

2.2 At the date of filing of the opposed application or at the date at which the TRADEMARK was used for the first time in Canada, and at any relevant date, the TRADEMARK was confusing with a trade name that had been previously used in Canada by the Opponent or its predecessors in title (or for their benefit, by licensees), namely The Land of Legends [or encompassing this term such as The Land of Legends Pte. Ltd],

- for goods and/or services belonging to international classes 16, 28, 41, 43 and 44,
- for the goods and/or services mentioned in the opposed application, of the same nature or similar thereto,

and, accordingly, the opposed application should be refused pursuant to paragraphs 38(2)(c) and 16(1)(c) of the Act.

[12] The parties make the same submissions regarding the specificity of the goods and services alleged in this paragraph as for paragraph 2.1. For the reasons above, the wording “for goods and/or services belonging to international classes 16, 28, 41, 43 and 44” and “of the same nature or similar thereto” in paragraph 2.2 will also be struck as *per* Schedule A.

[13] The Applicant also submits that in addition to the question of goods and services, this ground of opposition lacks the necessary specificity for it to reply in that the Opponent has not specifically identified the trade names it alleges having used. I agree. An opponent seeking to rely on prior use of one or more trade names must identify them. This is not the case here given

the use of the open-ended wording “encompassing this term such as”, which wording will therefore be struck as *per* Schedule A.

Section 38(2)(d) and section 38(2)(f) grounds of opposition

[14] The Applicant submits that these grounds of opposition are insufficiently pleaded essentially as the goods and services are not specifically identified. I consider the above striking of open-ended wording in paragraphs 2.1 and 2.2 to be dispositive of this issue.

[15] I am therefore satisfied that these grounds of opposition, when read in the context of the statement of opposition as a whole, provide sufficient material facts to allow the Applicant to reply to them. These grounds of opposition will therefore not be struck.

APPLICANT’S DEADLINE TO FILE ITS COUNTER STATEMENT

[16] In accordance with the Applicant’s request, it has **one month** from the date of this ruling to file and serve its counter statement.

Emilie Dubreuil
Member
Trademarks Opposition Board
Canadian Intellectual Property Office

SCHEDULE A

Grounds of Opposition as amended

[...]

2.1 At the date of filing of the opposed application or at the date at which the TRADEMARK was used for the first time in Canada, and at any relevant date, the TRADEMARK was confusing with a trademark that had been previously used or made known in Canada by the Opponent or its predecessors in title (or for their benefit, by licensees), namely THE LAND OF LEGENDS

- ~~for goods and/or services belonging to international classes 16, 28, 41, 43 and 44,~~
- for the goods and/or services mentioned in the opposed application, ~~of the same nature or similar thereto, and/or~~

and, accordingly, the opposed application should be refused pursuant to paragraphs 38(2)(c) and 16(1)(a) of the Act;

2.2 At the date of filing of the opposed application or at the date at which the TRADEMARK was used for the first time in Canada, and at any relevant date, the TRADEMARK was confusing with a trade name that had been previously used in Canada by the Opponent or its predecessors in title (or for their benefit, by licensees), namely The Land of Legends [or ~~encompassing this term such as~~ The Land of Legends Pte. Ltd],

- ~~for goods and/or services belonging to international classes 16, 28, 41, 43 and 44~~
- for the goods and/or services mentioned in the opposed application, ~~of the same nature or similar thereto, and,~~

accordingly, the opposed application should be refused pursuant to paragraphs 38(2)(c) and 16(1)(c) of the Act.

Agents of Record

For the Opponent: Robic Agence PI S.E.C./ Robic IP Agency LP

For the Applicant: Lavery, De Billy, LLP