

O/0225/26

TRADE MARKS ACT 1994

**IN THE MATTER OF THE FOLLOWING TRADE MARK REGISTRATION NO.
UK00003222930:**

FENIX

IN THE NAME OF SILVER LION EUROPE LTD

IN CLASS 34

AND

**APPLICATION NO. 84972 TO RECTIFY THE REGISTER
BY SHENZHEN JIANAN TECHNOLOGY CO., LIMITED**

Background and pleadings

1. The mark shown on the cover page of this decision was registered in the name of Silver Lion Europe Ltd (“**SLE**”). It was applied for on 4 April 2017 and was registered on 28 July 2017. It is registered in respect of the following goods:

Class 34 “Dry herb vaporisers; tobacco vaporisers; vaporiser screens; vaporiser mouthpieces; all relating to electronic cigarettes; parts and fittings for all the aforesaid; smokeless cigarette vaporizer pipes”

2. On 14 October 2020 SHENZHEN JIANAN TECHNOLOGY CO., LIMITED (“**SJT**”) filed a Form TM16 to assign the trade mark registration number UK3222930 from SLE to SJT. On 29 April 2024 a Form TM16 was filed to assign the mark from SJT back to SLE. On 29 November 2024, SJT filed a Form TM26R stating that they are one of the owners of trade mark registration number UK3222930 and that they had no knowledge of the mark being assigned to SLE on 30 April 2024. SJT did not authorise this transfer and it contended that this operation is illegitimate. SJT requested the Office to reverse the transfer. The Form TM26R also contains SJT’s business license showing the company was incorporated on 1 March 2018.
3. As the application for rectification was made by a person other than the registered proprietor, it was necessary to serve the application on the proprietor in accordance with rule 44(2) of the Trade Marks Rules 2008 (“**the Rules**”). Accordingly, on 6 May 2025 the Registry served the Form TM26R and its statement of grounds on SLE, setting a deadline of 7 July 2025 to file a counterstatement and evidence or submissions.
4. As no counterstatement was filed, with official letter of 27 August 2025, the Office informed the parties of its preliminary view to treat the application for rectification as undefended and its intention to rectify the registration. The parties were given until 10 September 2025 to ask for a hearing on the matter.
5. In the assessment by the Office on whether to proceed with the rectification, further clarification and evidence was deemed necessary. On 2 December 2025 an official letter in the following terms was issued to the parties:

“Following the official letter dated 27 August 2025, the Tribunal will treat the application for rectification as undefended. The Tribunal will now assess whether the rectification is acceptable and can be processed. In order to do so, further evidence and clarification is needed.

- The trade mark was originally filed and registered in the name of Silver Lion Europe Ltd. With the form TM16, dated 14 October 2020, the mark was transferred to SHENZHEN JIANAN TECHNOLOGY CO., LIMITED. In the form TM16, both parties are signed under the name Robert Szilveszter. Evidence and further clarification are needed to show that this first assignment was legitimate. Further evidence is also needed to clarify the identity of Robert Szilveszter and his relationship with the parties.
- Further evidence is required concerning the relationship Jianhua Niu has with the company Shenzhen Jianan Technology Co. Evidence has already been provided showing that Jianhua Niu is the legal representative, however, additional evidence is required to determine who the other owners of the trade mark are and what is their relationship with Shenzhen Jianan Technology Co.”

6. With email of 12 February 2026, SJT submitted that they could not obtain from SLE the required material. SJT clarified that Robert Szilveszter is the manager of SLE. No further evidence or submissions were provided.

Decision

7. The power to rectify the register is set out in section 64 of the Trade Marks Act (“*the Act*”):

“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) The registrar may, on request made in the prescribed manner by the proprietor of a registered trade mark, or a licensee, enter any change in his name or address as recorded in the register.

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

8. That section of the Act must be interpreted and applied with reference to Section 63, which provides as follows:

“(1) The Register shall maintain a register of trade marks:

References in this Act to “the register” are to that register; and references to registration (in particular, in the expression “registered trade mark”) are, unless the context otherwise requires, to registration in that register.

(2) There shall be entered in the register in accordance with this Act –

(a) registered trade marks,

(b) such particulars as may be prescribed of registrable transactions affecting a registered trade mark, and

(c) such other matters relating to registered trade marks as may be prescribed.

(3) The register shall be kept in such manner as may be prescribed, and provision shall in particular be made for –

(a) public inspection of the register, and

(b) the supply of certified or uncertified copies, or extracts, of entries in the register.”

Sufficient Interest

9. The rectification applicant must have sufficient interest to apply for a rectification. With Form TM16 dated 14 October 2020, SLE recorded the change of ownership of the mark at hand to SJT before the mark was assigned back to SLE with the Form TM16 of 29 April 2024. The rectification applicant (namely, SJT) was therefore the former proprietor of the trade mark before the transfer of ownership was recorded. As such, I am prepared to accept SJT has sufficient interest to bring these proceedings.

Are the claimed errors capable of correction?

10. The reference in section 64(1) to errors or omissions in the register is to be interpreted more broadly than the putting right of simple clerical errors and can extend to questions of ownership.

11. This approach of rectifying errors or omissions over and above those that are clerical in nature has been adopted and maintained in a number of Tribunal decisions.¹

12. There are questions in this case as to the validity of the transfer of ownership. It has been raised that the transfer of ownership following the filing of Form TM16

¹ In the Bendy Toys Limited case (BL O-336-01), paras 17-22, the Hearing Officer analysed the question of jurisdiction in the context of section 64(1) and found it should be broadly interpreted, particularly in cases where there is no other means of redress (such as via section 46 or section 47 of the Act). The Tribunal continued to take the approach of correcting errors or omissions over and above clerical mistakes in subsequent cases, for example BL O/283/02, BL O/284/02, BL O/040/05 and BL O/408/11.

dated 29 April 2024 had not been authorised by the trade mark owner and it took place without the trade mark owner's knowledge. As such, the matter at hand is not simply a question of pure clerical error, but I am content that the errors in question would be capable of correction through the rectification process if, upon review of the evidence, I were to accept SJT's position.

Key actions

13. On 28 July 2017 SLE applied to register the trade mark number UK3222930. The certificate of filing of the trade mark application shows Robert Szilveszter as the declarant. SJT has also confirmed that Mr Szilveszter is SLE's manager.
14. On 14 October 2020 with Form TM16, the trade mark at hand was assigned from SLE to SJT. The Form TM16 was signed by Mr Szilveszter. SJT did not provide further information (or evidence) regarding this assignment. However, since Mr Szilveszter filed for the trade mark registration in the first place and he is SLE's manager, it is reasonable to believe that the ownership transfer of 14 October 2020 was legitimate, and Mr Szilveszter had the legal capacity to assign the mark's ownership.
15. On 29 April 2024, SJT assigned back the trade mark to SLE with a Form TM16. Also in this case there is no additional documentation regarding the trade mark's transfer. I note that on the Form TM16 Mr Szilveszter appears as both the old owner's recorded representative and the new owner as well as being the person authorising the transfer.
16. Following the initial (legitimate) transfer of trade mark UK3222930 from SLE to SJT, Mr Szilveszter was no longer the owner of the trade mark at hand therefore he did not have the right to file for the subsequent Form TM16 of 29 April 2024 to transfer the trade mark back to SLE.
17. Where an application is filed to record the assignment, the information provided on the Form TM16 is taken at face value. The Registrar does not investigate or otherwise seek to establish the legality of the claim to change of ownership unless the recordal of change of ownership is challenged. When the ownership is challenged, it is incumbent on the proprietor to show that the mark was transferred to the proprietor under a valid assignment. Section 24(3) of the Act is as follows:

“An assignment of a registered trade mark, or an assent relating to a registered trade mark, is not effective unless it is in writing signed by or on behalf of the assignor or, as the case may be, a personal representative.”

18. When Mr Szilveszter filed the second Form TM16 of 29 April 2024, he ticked the box that indicated that an assignment had taken place. Therefore, on this basis, for the assignment to be effective, it must be in writing and signed by the assignor (or their representative).

19. The Form TM16 is not a deed of assignment and the form itself carries a warning to parties completing it that it is not a substitute for a deed of assignment. Put simply, the Form TM16 is the notification to the Registry that an assignment has already taken place so that the register may be updated. As I have been given no evidence that a proper assignment has taken place, I find that the trade mark cannot have properly changed ownership to the proprietor.

20. The rectification is undefended and absent further clarification regarding the circumstances concerning the latest transfer such as, for example, the relationship between Mr Szilveszter and SJT to justify the ownership transfer, I agree with SJT that the recording of the assignment filed on 29 April 2024 is illegitimate.

21. In view of the foregoing, I am prepared to accept that the register does stand in error and that it is right that the error be corrected, particularly as I acknowledge that SLE does not appear to challenge this position.

Conclusion

22. The application for rectification has succeeded.

23. The register will be rectified to record SHENZHEN JIANAN TECHNOLOGY CO., LIMITED as the proprietor for the trade mark UK3222930 as was the position prior to the filing of the contested Form TM16.

Costs

24. No request for costs has been made and I make no order in this regard.

Dated this 17th day of March 2026

Andrea Rossi

For the Registrar