

O/0560/26

TRADE MARKS ACT 1994

**IN THE MATTER OF THE FOLLOWING TRADE MARK NO
UK00003167144**

Cloven Hoof

IN CLASS 33

IN THE NAME OF PAUL EDMUND CHARLES STANLEY

AND

APPLICATION FOR RECTIFICATION OF THE REGISTER UNDER NO.

84944

**BY NIGEL TRUPHET SHAREHOLDER OF GUILTY
LIBATIONS LIMITED**

Background and pleadings

1. The mark shown on the cover page of this decision was originally registered in the name Paul Edmund Charles Stanley. It was applied for on 31 May 2016 and was registered on 26 August 2016. It is registered in respect of the following goods:

Class 33: Rum; Rum-based beverages; Alcoholic beverages (except beers).

2. On 1 April 2020 Paul Edmund Charles Stanley filed a Form TM16 to assign the trade mark registration number UK00003167144 from himself to Guilty Libations Limited, where he was a shareholder and director. Following this, the Registry confirmed change of ownership on 29 April 2020. The effective date for assignment was 30 March 2020.
3. However more pertinent to this decision, on 26 September 2023 Paul Edmund Charles Stanley acting in his capacity as sole director of Guilty Libations Limited filed a Form TM16 to assign the mark from Guilty Libations Limited back to Paul Edmund Charles Stanley. Following this, the Registry confirmed change of ownership on 4 October 2023. The effective date for assignment was 26 September 2023.
4. On 16 April 2024, Nigel Truphet (the Applicant) filed a Form TM26R in his claimed capacity as shareholder of Guilty Libations Limited. This was filed along with reasons for rectification in which it was stated the following:
 - a) It recently came to Mr Truphet's attention that a request to record an assignment of a trade mark was filed by Paul Stanley, director of Guilty Libations Limited on 26 September 2023 to record Mr Stanley as the owner of the trade mark.
 - b) Mr Truphet was not aware of any assignment and did not provide his consent (as shareholder) to any transfer. Further, to the best of his

knowledge, no other shareholder was made aware of, or gave consent to, the transfer.

c) Any such assignment would be contrary to the shareholders agreement and UK company law.

d) A request for the Office to reverse the transfer.

5. Following this, the Tribunal wrote to the Applicant (copying in the registered proprietor) to request supporting evidence on or before 8 August 2024.
6. On 6 August 2024 the Applicant provided an amended Form TM26R alongside a draft shareholders agreement dated 2017. However, upon review it was observed that Mr Truphet was not named as an original shareholder listed in the shareholders agreement.
7. As a result, the Tribunal wrote to the Applicant again on 16 October 2024. The Tribunal outlined that based on the evidence provided to date, the Registry was not satisfied that there was enough information to bring an application for rectification under section 64 of the Trade Mark Act 1994 ("the Act") as from the evidence the Tribunal was unable to establish that Mr Truphet was a person with sufficient interest in the mark to bring an application for rectification. This was because from the evidence provided Mr Truphet was not named as a shareholder of Guilty Libations Limited. The Tribunal afforded the Applicant a further 28 days to provide further evidence that Nigel Truphet was a shareholder of the company.
8. On 25 November 2024, the Applicant provided further evidence by way of a witness statement of Mr Nigel Truphet alongside Exhibits NT1 - NT3. This included a share certificate confirming Mr Truphet was a shareholder as of 1 May 2019, and a deed of adherence dated 29 April 2019, signed by Mr Truphet in accordance with the shareholders agreement provided alongside the Form TM26R.

9. As a result of this evidence filed, the Tribunal was satisfied that Mr Truphet did indeed have standing to bring a claim for rectification and subject to a correction regarding some formatting issues with the evidence, the Form TM26R along with the supporting evidence was admitted into proceedings.
10. 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 27 March 2025 the Tribunal served the Form TM26R, its statement of grounds and all supporting evidence on the registered proprietor Mr Paul Stanley, setting a deadline of 27 May 2025 to file a counterstatement and evidence or submissions.
11. No counterstatement was filed by the registered proprietor.
12. In an official letter dated 26 November 2025, the Office informed the parties that the evidence rounds had ended and set a deadline for requesting a hearing, or in the event that no hearing was requested setting a deadline of 24 December 2025 to provide written submissions in order for a decision to be made on the papers.

DECISION

13. The power to rectify the register is set out in section 64 of the Trade Mark Act 1994 ("the Act"):

 “(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.”

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

“(1) The Registrar 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

15. The Applicant must have sufficient interest to apply for a rectification. Mr Truphet has provided evidence to prove that he is a shareholder of Guilty Libations Limited. Prior to the most recent Form TM16 to assign the trade mark back to Mr Paul Edmund Charles Stanley, Guilty Libations Limited was the former owner of the trade mark at issue. As such, I am prepared to accept Mr Truphet as a shareholder of the former owner has sufficient interest to bring these proceedings.

Are the claimed errors capable of correction?

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

17. 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

18. 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 dated 26 September 2023 was an assignment contrary to the

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.

shareholders agreement and UK company law and that Mr Truphet as a shareholder was not informed of, nor gave consent to the assignment.

19. 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 Mr Truphet's position.

Key points in determining the case

20. When Mr Stanley filed a Form TM16 to assign the trade mark in question from Guilty Libations Limited to himself on 26 September 2023 he was purporting to act in his capacity as sole director of the limited company. 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.”

21. When Mr Stanley filed the Form TM16 of 26 September 2023, 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).

22. 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.

23. Furthermore, I note from the shareholders agreement provided, which is unchallenged by the registered proprietor, that under clause 3(1)(c) it states:

“3. MATTERS REQUIRING CONSENT OF THE SHAREHOLDERS

3.1 Each Shareholder shall, for as long as he holds any shares in the capital of the Company, procure that the Company shall not, without the prior consent of shareholders holding a 75% majority of shares issued:

[...]

(c) sell or otherwise dispose of the whole or any part of its undertaking, property, investments, assets, or any interest in them or contract to do so whether or not for valuable consideration; [...]”. (My emphasis added)

24. I consider intellectual property such as the trade mark in question to fall under property or assets referred to under clause 3(1)(c) above which cannot be sold or disposed of without the prior consent of shareholders holding a 75% majority of shares issued. Therefore, Mr Stanley would need to prove that he had the consent of shareholders holding a 75% majority of shares in order for the assignment to be legitimate.

25. Moreover, I note under the heading ‘background’ in the shareholders agreement under part (C) that Mr Stanley owns 73.4% of the company shares which does not meet the necessary threshold for consent required under clause 3(1)(c) of the company’s shareholders agreement. Therefore, he must show that he had the prior consent of other shareholders that together held the required majority of shares needed in order for the assignment to be legitimate.

26. The rectification is undefended and absent further information/clarification regarding the circumstances concerning the latest transfer such as, for example, confirmation of the shareholders' prior consent for the trade mark to be disposed of, in order to justify the transfer of ownership,² I agree with Mr Truphet as shareholder that the recording of the assignment filed on 26 September 2023 is illegitimate.

27. 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 the registered proprietor does not appear to challenge this position.

CONCLUSION

28. The application for rectification has succeeded.

29. The register will be rectified to record Guilty Libations Limited as the proprietor for the UK trade mark UK00003167144 as was the position prior to the filing of the illegitimate Form TM16 filed on 26 September 2023.

COSTS

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

Dated this 30th day of June 2026

Sarah Wallace
For the Registrar

² As either property of, or an asset of the company.