

IN THE MATTER OF THE TRADE MARKS ACT 1994

**IN THE MATTER OF TRADE MARK NUMBER 3,694,874 IN THE NAME OF
PARABOLICA LTD (A DISSOLVED COMPANY)**

**AND IN THE MATTER OF OPPOSITION NUMBER 432,487 IN THE NAME OF
TESLA, INC**

**AND IN THE MATTER OF AN APPEAL FROM THE DECISION OF LEISA DAVIES
(O/106/26) DATED 11 FEBRUARY 2026**

DECISION

1. On 12 March 2026, Parabolica Ltd appealed the decision of Leisa Davies (O/106/26) to refuse its trade mark application (No 3,694,874) on the grounds that it was applied for in bad faith contrary to section 3(6) of the Trade Marks Act 1994. A few weeks later, on 7 April 2026, Parabolica Ltd was subject to a compulsory strike off (and so it dissolved and from that point it ceased to exist).
2. The Respondent (and I) only became aware of the dissolution of the Appellant shortly before the hearing was due to take place on 23 September 2026. The question then became how I should proceed. A similar issue arose before Tom Mitcheson KC, sitting as the Appointed Person, in *Enerjo* (O/1191/25), but it was not necessary for him to resolve it.
3. It is clear that any assets held by Parabolica Ltd at the point it dissolved became *bona vacantia* (Companies Act 2006, s 1012). This would include any trade mark applications it held at that time.
4. The question before me is how an appeal before the Appointed Person concerning an application in the name of dissolved company should be dealt with (there may be a different answer where a natural person dies: see CPR 19.2). Does the appeal become a nullity on the dissolution of the Appellant? Or do the proceedings continue to exist and need to be concluded in some other way?
5. It is apparent that an appeal cannot be started by a company which does not exist, in the same way that proceedings cannot be brought by a deceased person: *In re NP Engineering and Security Products* [1998] 1 BCLC 208, 213-4; *Lazard Bros & Co Midland Bank Ltd* [1933] AC 289, 296.
6. It is also the case that where a company dissolves during the pendency of civil proceedings this amounts to an irregularity, but it does not make those proceedings a nullity. Further, the absence of a litigant is an irregularity than can be cured by the relevant application: *In re NP Engineering*, 214. However, the dissolved company cannot make such an application itself as it does not exist and, for the same reason, it cannot instruct anyone else to do so on its behalf: see Lord Parker in *Daimler Co Ltd v Continental Tyre & Rubber Co (Great Britain) Ltd* [1916] 2 AC 307, 337.

7. I need not consider when, if at all, the Appointed Person should cure such an irregularity as it does not arise in this case. There is still nobody trying to stand in the place of Parabolica Ltd (although I note that the dissolution could be undone retrospectively by applying to restore the company to the register: Companies Act 2006, Pt 31, Ch 3).
8. Where the irregularity is not remedied before I have to hear and determine the appeal, I cannot go on to make any finding that a dissolved company (who remains the nominal appellant) owns any rights or that it can continue to prosecute the application because in law that is an impossibility. It was put thus by Lord Ellenborough, “How can a valid act be done in the name of a dead man”: *Maxwell v King* (1815) 4 Camp 272 (171 ER 87) cited with approval in *Kimathi v Foreign and Commonwealth Office* [2016] EWHC 3005 (QB), [2017] 1 WLR 1081, [5].
9. A trade mark application, as moveable property, exists independently of the original applicant. Thus, there might be instances where an appeal should be continued in the public interest even if one of the parties to the opposition ceases to exist. This might arise, for instance, where a trade mark would otherwise be registered in breach of the absolute grounds of refusal in section 3 of the 1994 Act: see by analogy *MOSOTECH* (O/211/25), [13]. This does not apply in reverse, however. There is no public interest engaged where an otherwise valid mark is kept off the register.
10. The Respondent now seeks to have the appeal dismissed and Mr Norris KC, who appeared for the Respondent, directed me to *Leave.EU Group Limited v The Information Commissioner* [2022] EWCA Civ 109, [2022] 1 WLR 1909. In that case the Master of the Rolls stated at [18]:

...I am satisfied that the Court of Appeal has an inherent jurisdiction either to hear an appeal in the absence of one party or to dismiss an appeal when the appellant fails to appear for a substantive hearing. It would make the operation of the Court of Appeal impossible if no such jurisdiction existed, and the Court must be in control of its own procedures in order to give effect to the overriding objective of enabling the court to deal with cases justly and at proportionate cost (CPR Part 1.1). Rule 8(3)(b) is in point here, because Leave.EU has failed to cooperate with the Court of Appeal to such an extent that it cannot deal with the proceedings fairly and justly. That rule is applied to the Court of Appeal, as I have said, by CPR Part 52.20(1)...
11. The Appointed Person, like all tribunals, has the inherent power to regulate its own procedure where it creates no new jurisdiction and not it is not contrary to any rule of procedure: *Pharmedica GmbH's TM Application* [2000] RPC 536; *Langley v North West Water Authority* [1991] 3 All ER 610. It is my view, therefore, that I have the power to hear an appeal in the absence of a party and likewise I have the power to dismiss an appeal where a party does not participate in proceedings.
12. I should make one thing clear. It is not uncommon for one party to proceedings before the registrar or the Appointed Person to attend the hearing in person and the other party to file written submissions only. This approach can make it more difficult for both the attending party and the tribunal, but I do not think that a party relying on written submissions alone is a ground to dismiss that party's case (whereas this might be so in the Court of Appeal as in *Leave.EU*).

13. Bringing this all together, Parabolica Ltd is no longer a party to this appeal because it no longer exists. There is no public interest in my continuing to determine the appeal. Therefore, the only appropriate course of action is for me to dismiss it. Indeed, this is something I could have done at any time following the Appellant's dissolution on 7 April 2026 upon an application being made.

14. As there is no person against whom a costs order can be made, I make no such order.

PHILLIP JOHNSON
THE APPOINTED PERSON
26 September 2026

Representation

There is no Appellant

For the Respondent: Mr Andrew Norris KC (instructed by Bird & Bird LLP)