

O/0813/25

TRADE MARKS ACT 1994

**IN THE MATTER OF A JOINT HEARING IN RELATION TO
TRADE MARK APPLICATION NO. UK4076172
IN THE NAME OF O2 WORLDWIDE LIMITED
TO REGISTER AS A TRADE MARK**

THE DROP

IN CLASSES 9, 35, 36, 38 41 AND 42

**THE OPPOSITION THERETO
UNDER NUMBER OP451251
BY EDWARD TWENEBOA-KODUA**

BACKGROUND

1. On 16 July 2024, O2 Worldwide Limited (“**the applicant**”) applied to register trade mark number UK4076172, for the mark shown on the cover page of this decision, in the United Kingdom. The application was accepted and published for opposition purposes on 11 October 2024, in respect of goods and services in classes 9, 35, 36, 38, 41 and 42.

2. On 9 December 2024, Edward Tweneboa-Kodua (“**the opponent**”) filed a Form TM7 to oppose the application.

3. A timeline of the subsequent events is as follows:

19 December 2024- The Tribunal wrote to the opponent requesting more information as the Form TM7 was inadmissible. It was unclear what goods and services the opponent wished to rely upon and what goods and services in the application were being opposed. The opponent was asked to file an amended TM7 on or before 9 January 2025. The letter contained the wording, “If you choose not to amend the statement of grounds the registry may decide to strike out any grounds which are not adequately explained.”

31 January 2025- The opponent did not file an amended TM7 by the deadline, so the Tribunal sent a follow-up letter allowing the opponent until 14 February 2025 to file an amended form. The letter contained the wording, “If you choose not to amend the statement of grounds the registry may decide to strike out any grounds which are not adequately explained.”

13 February 2025- The opponent filed an amended TM7.

26 February 2025- The Tribunal wrote to the opponent requesting an amended TM7 as the form was still inadmissible. Again, it was unclear what goods and services the opponent wished to rely upon and what goods and services in the application were being opposed. The opponent was asked to file an amended TM7 on or before 12 March 2025. The letter contained the wording, “If the objections in your letter are not met, the Registry will take steps to strike out the opposition.”

12 March 2025- The opponent filed an amended TM7.

26 March 2025- The Tribunal wrote to the opponent requesting an amended TM7 as the form was still inadmissible. The opponent had addressed the goods and services relied upon however, it was still unclear which goods and services were being opposed. Further, the opponent had made additional claims under Section 5(3) of the Trade Marks Act 1994 which would require the filing of a Form TM7G, to request to add this as an additional claim. The opponent was asked to file an amended TM7 on or before 9 April 2025. The letter contained the wording, “If you choose not to amend the statement of grounds the registry may decide to strike out any grounds which are not adequately explained.”

9 April 2025- The opponent filed an amended TM7.

13 May 2025- The Tribunal wrote to the opponent requesting an amended TM7 as the form was still inadmissible. It was unclear what goods and services the opponent wished to rely upon and what goods and services in the application were being opposed. Further, the opponent had not removed their comments relating to additional claims under Section 5(3) nor had they filed a Form TM7G to request to add this additional claim. The opponent was asked to file an amended TM7 on or before 27 May 2025. The letter contained the wording, “Failure to address the Registry’s concerns adequately may result in adverse costs and the Section 5(2)(a) & (b) ground, or part of it, being struck out.”

4. The opponent did not file an amended TM7, so the Tribunal wrote to the parties on 17 June 2025 issuing a preliminary view to strike out the opposition in its entirety. The letter contained the following pertinent paragraphs:

“The Registry notes that you have not filed an amended Form TM7 which addresses the issues raised in the previous correspondence. Based upon the number of previous opportunities and the absence of an amended form in response to our most recent official letter of 13 May 2025, your opposition

against trademark UK00004076172 will shortly be deemed withdrawn.

If either party disagrees with the preliminary view, they should request a hearing within 14 days from the date of this letter that is on or before 01 July 2025.

If no response is received within the time allowed, the preliminary view will automatically be confirmed.”

5. On 1 July 2025, the opponent responded by email requesting a hearing.

6. A hearing was scheduled for 13 August 2025, the details of which were sent by the Tribunal to both parties in an official letter dated 29 July 2025.

7. The representatives of both parties confirmed attendance at the scheduled hearing. Both parties filed skeleton arguments prior to the hearing.

THE JOINT HEARING

8. The hearing took place before me, via a Microsoft Teams telephone conference, on Wednesday 13 August 2025. Ms Benedicte Dosunmu of BD Legal Services represented the opponent and Mr Blake Robinson of Stobbs represented the applicant.

9. At the beginning of the hearing, I confirmed to the parties that I had read all the pertinent documents on the case file including the parties’ skeleton arguments. I also explained that the purpose of the hearing was to consider whether the preliminary view to strike out the opposition should be upheld and not to discuss the substantive merits of the case. I explained that should the decision be that the opposition may proceed, then there would be an opportunity for this later in the proceedings.

10. Ms Dosunmu began by highlighting that the opponent was seeking to protect their rights due to the overlap of the respective marks and their goods and services. She acknowledged that the opponent had been given several attempts to file an amended TM7 and submitted that the opponent had been responsive to the Tribunal’s letters and therefore she disagreed with the preliminary view to strike out the opposition. Ms

Dosunmu further added that should another opportunity be given to the opponent to file an amended TM7, they would be open to exploring settlement negotiations with the applicant.

11. I asked Ms Dosunmu why the opponent had not filed an amended TM7 as per the Tribunal's request in their letter dated 13 May 2025. Ms Dosunmu apologised and stated that an amended form had been drafted but it had not been sent to the Tribunal due to an oversight.

12. I turned to Mr Robinson for his submissions. He began by highlighting that the opponent had been given five attempts to file an admissible TM7 and while he appreciated that the opponent had drafted an amended TM7 in response to the Tribunal's letter of 13th May 2025, the opponent did not file the amended form, nor did they provide any real justification for this oversight. Mr Robinson then confirmed that he had read the letters sent from the Tribunal to the opponent and believed that they were sufficiently highlighted the deficiencies on the TM7 and explained clearly to the opponent what amendments were needed. He acknowledged that it is standard practice for the Tribunal to raise any deficiencies on the TM7 and to allow the opponent an opportunity to correct them, however he believed that in this case, the Tribunal had afforded the opponent enough opportunities. As such, he believed that the Tribunal's preliminary view to strike out the opposition should be upheld.

13. In summing up, I stated that I am mindful that the Tribunal has a duty to ensure that the system is fair to both parties and that the delays caused by the opponent's numerous attempts to file an admissible TM7 will have an impact on the applicant. In fairness to the applicant, given the opponent's failure to respond to the most recent deadline without any real justification, I considered that I was left with little choice but to uphold the preliminary view to strike out the opposition.

14. As neither party had anything further to add, I drew the hearing to a close, confirming my direction that the preliminary view be upheld. The reasons for my decision are set out below.

DECISION

15. As outlined at 1.8 of the Manual of trade marks practice (“the Manual”), the Tribunal adheres to the same overriding objective as the court for dealing with cases justly. This is set out in rule 1.1 of the Civil Procedure Rules 1998 (as amended) and includes, so far as is practicable:

“(2) (a) Ensuring that the parties are on an equal footing

(b) Saving expense

(c) Dealing with the case in ways which are proportionate –

(i) to the amount of money involved (ii) to the importance of the case (iii) to the complexity of the issues and (iv) to the financial position of each party

(d) Ensuring that it is dealt with expeditiously and fairly and

(e) Allotting to it an appropriate share of the court’s resources, while taking into account the need to allot resources to other cases.”

16. Rule 17(5) of the Trade Mark Rules 2008 states:

“(5) Where the opposition is based on a trade mark which has been registered, there shall be included in the statement of the grounds of opposition a representation of that mark and—

...

(c) the goods and services in respect of which-

(i) that mark is registered, and

(ii) the opposition is based...”

17. Tribunal Practice Notice (“TPN”) 1/2018 states:

“Examination of pleadings based on earlier marks

1. The purpose of pleadings is to set out the party’s legal case with sufficient clarity so that the other side can make an informed decision about whether to defend their trade mark, and in which respects. The pleadings filed in trade mark oppositions and invalidation proceedings do not always meet this standard.
2. The registrar has a duty to ensure that the system is fair to both parties and that, so far as is reasonably practical, those without legal representation and/or of limited means, are given equal access to justice.
3. From 1 January 2019, where the pleadings in trade mark opposition/invalidation proceedings under s.5(1) -s.5(3) of the Act are not sufficiently clear, the registrar’s casework examiners may require further information...

...

Failure to follow directions

11. Failure to comply with directions under Rule 62 may have the following consequences:
 - (i) an increase in costs awarded against the offending party, if it is unsuccessful, or a reduction in costs to that party, if it is successful;
 - (ii) the registrar selecting the earlier marks which appear to represent the party’s best case and directing under Rule 62 that the evidence

and arguments be limited to those marks;

- (iii) where the basis of the claimed similarity between the respective goods/services remains non-apparent, and has not been explained, the decision maker is likely to find dissimilarity;
- (iv) where there is a serious risk of unfairness to, or oppression of, the other party, ***directions will be made subject to the condition (per Rule 62(3)) that failure to comply with them will result in the opposition/application being struck out in whole or in part.***
(My emphasis)

18. I begin by noting the guidance set out in TPN 1/2018, which states that pleadings should be set out with sufficient clarity in order to allow the other side to make an informed decision about whether to defend its case. Having reviewed the Form TM7s filed to date, it is my view that none are admissible in the current format. In the five months that passed between the filing of the TM7 and the preliminary view to strike out the opposition, in spite of the direction given on multiple occasions by the Tribunal to the opponent in relation to the outstanding requirements, a TM7 which is considered sufficiently pleaded and able to be served on the applicant has not been forthcoming.

19. I am conscious that the Tribunal has a duty to ensure that proceedings are dealt with efficiently and fairly, and that it will use its discretion to set time periods as it sees necessary, which may be less than the further time which the party has requested. In my view, the opponent has been given ample opportunity and guidance by way of the respective correspondences on the correct manner of filing form TM7 by the given deadlines. The official letters from the Tribunal set out the outstanding requirements to enable the opponent to submit an admissible form. I acknowledge that opposition proceedings may be somewhat confusing to those unfamiliar with the process. However, the filing of form TM7 is a relatively straightforward task, and I note in this case that the opponent is professionally represented.

20. The Tribunal has a duty to ensure that the system is fair to both parties. I am conscious that during the time between the first (inadmissible) TM7 being filed in December 2024 and the preliminary view given in June 2025 that the opposition be struck out in its entirety, the applicant has suffered a great deal of inconvenience, as well as uncertainty on the outcome of its application, leading to incurred costs from such long delays, in addition to those costs incurred in relation to representation at the hearing itself.

21. I carefully considered the factors outlined above and it was my view that, by the time it came before me, the opponent had exhausted its opportunities to file an amended TM7. It was not satisfactory to come before me and state that an amended form had been drafted but it had not been sent to the Tribunal due to an oversight. Given the length of time that had passed since the proceedings were first initiated, with consideration to the lack of certainty that proceedings would indeed move forward swiftly should a further period of time be allowed, while keeping in mind the necessity of equality between the parties, the public interest in resolving disputes efficiently, and allowing that the Tribunal has a duty to allocate its resources fairly, I considered that the preliminary view to strike out the opposition should be upheld and the opposition struck out in its entirety.

OUTCOME

22. Subject to any successful appeal against this decision, the opposition will be struck out in its entirety.

23. The application is subject to two other oppositions¹ and as such, whether the application will proceed to registration or not will be dependent on the outcome of those oppositions.

COSTS

24. Given that the outcome of this decision has terminated the proceedings, the

¹ Opposition numbers 451866 and 451772

applicant is entitled to a contribution towards its costs, based on the scale published in TPN 1/2023. In the circumstances, I find it appropriate to issue the applicant with a contributory cost award of £400 for preparing for and attending the hearing.

25. I therefore order Edward Tweneboa-Kodua to pay O2 Worldwide Limited the sum of £400. This sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 3rd day of September 2025

Catrin Williams
For the Registrar