IN THE HEARINGS AND MEDIATION DEPARTMENT OF THE INTELLECTUAL PROPERTY OFFICE OF SINGAPORE

[2026] SGIPOS 7

Trade Mark No. 40202402211W

IN THE MATTER OF A TRADE MARK APPLICATION
IN THE NAME OF

PFIZER INC

… *Applicant*

AND

AN OPPOSITION BY

MERCK KGAA

… *Opponent*

GROUNDS OF DECISION

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Merck KGaA
v
Pfizer Inc

[2026] SGIPOS 7

Trade Mark No. 40202402211W
Principal Assistant Registrar Tan Mei Lin
26 February 2026

18 May 2026

Principal Assistant Registrar Tan Mei Lin:

Introduction

1 This is a dispute between two leading pharmaceutical companies, Merck KGaA (the "Opponent") and Pfizer Inc (the "Applicant").

2 The Applicant applied to register the following trade mark (the "Application Mark") in Singapore.

Trade Mark	ABRYSVO
TM No.	40202402211W
Filing Date:	1 February 2024
Goods in Class 5	Vaccines for human use.

3 The Application Mark was opposed by the Opponent, the registered proprietor of the following trade mark in Singapore (the "Opponent's Mark"):

Trade Mark	MAVENCLAD
TM No.	40201715471P

Filing Date:	19 May 2017
Goods in Class 5	Pharmaceutical products; medical and veterinary preparations; hygiene preparations and articles for medical purposes; dietetic preparations and dietetic food supplements.

Background of parties

4 The Opponent, incorporated under the laws of Germany has its roots dating back more than 350 years to 1668, when Friedrich Jacob Merck received a privilege for a pharmacy in Darmstadt. At present the Opponent's Mark is used only on prescription medicine for the treatment of multiple sclerosis.

5 The Applicant was established in 1849 in the United States. The Application Mark was first adopted by the Applicant in 2023, in the United States, in relation to vaccines against a virus that causes a respiratory disease (known as the respiratory syncytial virus), which are administered through injection by medical professionals (the "Applicant's Products"). The Applicant's Products were sold in Singapore in or around January 2025.

Grounds of opposition

6 The Opponent relies on s 8(2)(b), s 8(4)(b)(i), and s 8(7) of the Trade Marks Act 1998 (the "Act") in this opposition.

Opponent's evidence

7 The Opponent's evidence comprises the following:

(a) the re-executed statutory declaration of Diana Schmerler and Alena Eckert, authorised representatives and legal counsel of the Opponent dated 27 May 2025;

(b) the statutory declaration in reply of Diana Schmerler and Jessica Schmidt, authorised representatives and legal counsel of the Opponent dated 21 October 2025; and

(c) the supplementary statutory declaration in reply of Diana Schmerler and Ulrike Tobler, authorised representatives and legal counsel of the Opponent dated 18 November 2025.

Applicant's evidence

8 The Applicant's evidence comprises the statutory declaration of Heather A. McDonald, Assistant General Counsel – Intellectual Property of the Applicant, dated 30 July 2025.

Applicable law and burden of proof

9 The applicable law is the Act. There is no overall onus on the Applicant before the Registrar during examination or in opposition proceedings. The undisputed burden of proof in the present case falls on the Opponent.

Ground of opposition under s 8(2)(b)

10 Section 8(2)(b) of the Act reads:

> (2) A trade mark shall not be registered if because —
>
> …
>
> (b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,
>
> there exists a likelihood of confusion on the part of the public.

11 To succeed in an opposition under this ground, the Opponent must establish that:

(a) the competing marks are similar;

(b) the goods and services of the competing marks are identical or similar; and

(c) there exists a likelihood of confusion arising from the similarities in (a) and (b) above.

12 Each of these conditions must be established, and they are assessed "step-by-step." As stated by the Court of Appeal in the landmark decision of *Staywell Hospitality Group Pty Ltd v Starwood Hotels & Resorts Worldwide, Inc and another and another appeal* [2014] 1 SLR 911 ("*Staywell*") at [15]:

> Under the step-by-step approach, the three requirements of similarity of marks, similarity of goods or services, and likelihood of confusion arising from the two similarities, are assessed systematically. The first two elements are assessed individually before the final element which is assessed in the round.

Step 1: Marks-similarity

13 The key principles relating to the evaluation for marks-similarity have been set out in a number of decisions of the Court of Appeal and the High Court, including *Staywell*, *Hai Tong Co (Pte) Ltd v Ventree Singapore Pte Ltd* [2013] 2 SLR 941 ("*Hai Tong*") and *V V Technology Pte Ltd v Twitter, Inc* [2023] 5 SLR 513 ("*Twitter HC*"). These can be summarised as follows:

(a) The assessment of marks-similarity is "mark-for-mark without consideration of any external matter" (*Staywell* at [20]).

(b) The relevant marks must be viewed and compared as a whole and not dissected into their individual elements.

(c) There are three aspects of similarity to be considered, namely, visual, aural and conceptual similarities. There is no requirement that all three aspects need to be made out before the marks or signs being compared may be found to be similar. The relative importance of each aspect of similarity will depend on the circumstances, including the nature of the goods or services and the types of marks involved, and a trade-off can be made between the three aspects of similarity (*Hai Tong* at [40]).

(d) Integrated into the analysis of visual, aural and conceptual similarity is a consideration of whether the earlier mark is distinctive (*Staywell* at [30]). It is "relevant to examine the distinctiveness of the [opponent's] registered mark in order to determine the extent of the latitude that will be allowed to a user of features that appear in that mark" (*Hai Tong* at [27]).

(e) Evidence of acquired technical distinctiveness should not be considered at the marks-similarity inquiry but at the likelihood of confusion stage of the inquiry (*Twitter HC* at [119]) and non-technical distinctiveness can only be inherent (*Twitter HC* at [63]).

(f) When assessing two contesting marks or signs, the court does so with the "imperfect recollection" of the average consumer. The two marks or signs should not be compared side by side or examined in detail because "the person who is confused often makes comparison from memory removed in time and space from the marks" (*Hai Tong* at [40]).

14 To facilitate discussion and for ease of reference, I reproduce the marks to be compared below.

Application Mark	Opponent's Mark
	

Visual similarity

15 The parties do not dispute that the Opponent's Mark – comprising the invented word "MAVENCLAD" together with a circle logo (the "Opponent's Circle Logo") – possesses a high degree of inherent technical distinctiveness as a whole. This is correct. In *Han's (F & B) Pte Ltd v Gusttimo World Pte Ltd* [2015] 2 SLR 825, the High Court observed at [61] that:

> 61 Returning to the meaning of distinctiveness, the trade mark must necessarily, either inherently or as a result of use, perform the most basic function of distinguishing the goods of the trader from those of his competitors in the marketplace. Some trade marks carry a high level of "inherent distinctiveness" in the sense that these marks will be understood by the public as bearing a trade mark meaning, even if they have not yet been used or promoted to the public. Invented words are classic examples of such trade marks. Take, for example, a manufacturer of sailing boats who decides to market the boats under a new trade mark which he has invented. The mark is "ADOGSTY". It has no meaning at all. Such an invented word mark has a high level of inherent distinctiveness and ability to serve as a trade mark. After all, what else could the word "ADOGSTY" mean when used in relation to the sailing boats?

16 The parties diverge, however, on the issue of non-technical distinctiveness and, in particular, on which is the dominant and distinctive component of the Opponent's Mark.

17 The Opponent contends that the circle logo is the outstanding and memorable component. It reasoned that "MAVENCLAD", being an invented word

composed of two uncommon English words – "MAVEN" (meaning "an expert or connoisseur"), and "CLAD" (as "past participle of clothe)" – would be unfamiliar to consumers and therefore difficult to recall. Consumers, the Opponent argues, will gravitate towards the familiar and recognisable, which in this case is the circle logo.

18 The Applicant takes the contrary position. It submits that the word component is the dominant and distinctive element for three reasons. First, the word component occupies at least as much, if not more, visual space than the logo. Second, as an invented word conveying no meaning, "MAVENCLAD" possesses a high degree of technical distinctiveness, which in turn bears on whether it is the dominant element in the non-technical sense (citing *Staywell* at [28]). Third, the circle logo is a simple stylised device that the average consumer is more likely to perceive as a decorative element rather than as an indicator of commercial origin.

19 I do not accept the Opponent's submission. There is no general rule that invented words, by virtue of being unfamiliar, are difficult for consumers to recall. Moreover, even where a word is difficult, consumers will not simply disregard it – particularly where, as here, the word is not negligible and is highly distinctive.

20 I also do not agree that the circle logo is the dominant and distinctive component of the Opponent's Mark. In *Caesar SpA v Caesarstone Sdot-Yam Ltd* [2017] SGCA 30 ("*Caesarstone CA*"), the Court of Appeal at [37]-[38] made the following comments about the device in the mark caesarstone (the "Caesarstone Mark"):

> 37 In our judgment, the device is a somewhat insignificant component of the Respondent's CAESARSTONE Mark. Having

> regard to the (relevant) factors set out in *Hai Tong* (at [62(e)]) (see [34] above), the device is, firstly, not significant and large. We accept the Judge's observation that the device appears just at the beginning of the textual component, and also the Respondent's submission that the former is larger (albeit only very slightly) than the font of the latter. On balance, however, we agree with the PAR that the device only constitutes a small part of the Respondent's CAESARSTONE Mark when the mark is viewed *as a whole*.
>
> 38 Secondly, we think that the device is not of a complicated nature, but is simple and will not evoke any particular concept for the average consumer. The Appellant submits that the device comprises two swirls surrounding the letter "c", which is the first letter of the word "caesarstone". On the other hand, the Respondent submits that the device "consists of a complex amalgamation of coloured and stylised strokes". In our view, however, the device appears to be made up of a series of three crescents. It is simple and does not evoke any particular concept in the eyes of the average consumer. For the same reason, we think that it is more likely to be perceived as a decorative element rather than as an element indicating commercial origin.
>
> [emphasis in original]

21 While I accept that the Opponent's Circle Logo is larger than the device in the Caesarstone Mark and occupies a decent proportion relative to the word "MAVENCLAD", the Opponent's Circle Logo, nonetheless, remains a simple device that evokes no particular concept for the average consumer (*Hai Tong* at [62(e)(iv)]) and is more likely to be perceived as a decorative element rather than as an element indicating commercial origin (*Hai Tong* at [62(e)(vi)]).

22 In my view, the textual component is the dominant and distinctive component of the Opponent's Mark. The word "MAVENCLAD" is long, the font used is large and clear, and the word has a high degree of technical distinctiveness.

23 This conclusion is consistent with *Hai Tong,* where the Court of Appeal found the textual component of the composite mark, 

, to be dominant. Among other reasons, the Court of Appeal said at [65]:

> (a) … the textual component of the Composite Mark was distinctive as the words "Lady Rose" conveyed no meaning and had no notional or allusive quality. The device component, which was a simple stylised rose, if anything, underscored the textual component by emphasising the "Rose" portion of "Lady Rose" …
>
> (b) the simple stylised rose in the Composite Mark was not a feature that drew any significant attention away from the words.
>
> (c) A customer trying to recollect the Composite Mark would be far more likely to recall the textual component rather than the device.
>
> …

24 The same reasoning applies here. "MAVENCLAD" conveys no meaning and is distinctive. The simple circle logo, being likely to be perceived as decorative, does not draw significant attention away from the word, and a customer trying to recollect the Opponent's Mark is far more likely to recall "MAVENCLAD" than the circle device.

25 Having found the word "MAVENCLAD" to be the dominant and distinctive component of the Opponent's Mark, I turn to compare the competing marks visually.

26 The Application Mark comprises a circle logo (the "Applicant's Circle Logo") and the word "ABRYSVO". For the same reasons given above for finding the textual component to be the dominant and distinctive component of

the Opponent's Mark, I find that the textual component is also the dominant and distinctive component of the Application Mark.

27 The Opponent submits that the marks are visually similar on the basis that there is a striking visual similarity between the Applicant's Circle Logo and the Opponent's Circle logo – the circle logos are identical in concept (consisting of a series of arcs set in a concentric circle) and very similar in size.

28 I disagree. The test for visual similarity is not one of substantial reproduction. Rather, visual similarity is to be assessed by examining each of the marks in question as a whole, bearing in mind their dominant and distinctive components and by reference to the overall impressions created by the mark or signs. In this regard, it should be made clear that identifying the dominant and distinctive component of a complex trade mark does not mean that the comparison is conducted by reference to that component alone. On the contrary, the comparison must be made by examining each mark in its entirety; the dominant and distinctive component simply informs the overall impression that the mark as a whole is likely to leave on the average consumer.

29 Having found that the dominant and distinctive components of the competing marks lie in their respective word elements, "ABRYSVO" and "MAVENCLAD", the Opponent's case that the marks are visually similar on account of the circle logos, must necessarily fail. In my view, the competing marks are visually dissimilar.

30 The Opponent asserted in its Notice of Opposition at [3(c)] that the word components are visually similar as they are both invented words containing the letters "A" and "V". However, in the Opponent's statutory declaration in reply at [6], the Opponent also claims that it "has no objection to the use word element

[sic] of the Applicant's Mark without the Applicant's Circle Logo". In any event, the presence of the common letters "A" and "V" alone is insufficient to render the competing marks similar, for the following reasons.

31 First, the letters "A" and V" comprise only two out of seven letters in "ABRYSVO" and nine letters in "MAVENCLAD". The non-coinciding letters far outnumber the coinciding ones. Second, the letters "A" and "V" appear at entirely different positions in each word: in "ABRYSVO", they are far apart, whereas in "MAVENCLAD", they appear consecutively. Third, "MAVENCLAD" is longer than "ABRYSVO". Fourth, the words begin and end with completely different letters.

32 The competing marks are visually dissimilar.

Aural similarity

33 The parties agree that the marks are aurally dissimilar.

Conceptual Similarity

34 The analysis for conceptual similarity "seeks to uncover the ideas that lie behind and inform the understanding of the mark as a whole" (*Staywell* at [35]).

35 I have earlier found that the circle logos in both the Opponent's Mark and the Application Mark are simple devices that evoke no particular concept for the average consumer. Their contribution to the conceptual character of each mark as a whole is therefore negligible.

36 The conceptual analysis thus turns on the word components. Both "ABRYSVO" and "MAVENCLAD", are invented words that carry no meaning

and convey no ideas or association. Where the dominant and distinctive components of competing marks are meaningless invented words, there is neither conceptual similarity nor conceptual dissimilarity between them – the marks are conceptually neutral. (*Caesarstone* at [52].)

37 Accordingly, the marks are conceptually neutral.

Conclusion on marks-similarity

38 Having found the competing marks to be visually and aurally dissimilar and conceptually neutral, I conclude that the marks are, overall, dissimilar.

39 The similarity of competing marks is a threshold requirement that must be satisfied before the confusion inquiry is undertaken (*Staywell* at [15]). Since that threshold has not been met, it is unnecessary to embark on the remaining two steps of the *Staywell* test. The opposition under s 8(2)(b) therefore fails.

Conclusion on opposition under s 8(2)(b)

40 The Opponent has not established that the competing marks are more similar than dissimilar. The ground of opposition under s 8(2)(b) therefore fails.

Grounds of opposition under s 8(4)(b)(i)

41 Section 8(4)(i) of the Act reads:

> (4) Subject to subsection (5), where an application for registration of a trade mark is made on or after 1st July 2004, if the whole or an essential part of the trade mark is identical with or similar to an earlier trade mark, the later trade mark shall not be registered if –
>
> > (a) the earlier trade mark is well known in Singapore; and

> (b) use of the later trade mark in relation to the goods or services for which the later trade mark is sought to be registered –
>
> > (i) would indicate a connection between those goods or services and the proprietor of the earlier trade mark, and is likely to damage the interests of the proprietor of the earlier trade mark;

Application of s 8(4)(b)(i) to the facts

42 Sections 8(2)(b) and 8(4)(b)(i) have in common the need for marks-similarity. *Bytedance Ltd v Dol Technology Pte Ltd* [2024] SGIPOS 5 at [31] summarises as follows:

> (c) However, in all cases, there is a threshold requirement that the Application Mark must be similar to the earlier trade mark relied on by the Opponent (see [28(b)] above): see *Sarika Connoisseur Cafe Pte Ltd v Ferrero SpA* [2013] 1 SLR 531 ("*Sarika*") at [70]–[71].

43 The condition relating to marks-similarity in s 8(4)(i) is worded as "the whole or an essential part of the trade mark is identical with or similar to an earlier trade mark".

Conclusion on opposition under s 8(4)(b)(i)

44 The requisite element of marks-similarity is not established. The grounds of opposition under s 8(4)(b)(i) therefore fails.

Ground of Opposition under s 8(7)(a)

45 Section 8(7)(a) of the Act reads:

> (7) A trade mark shall not be registered if, or to the extent that, its use in Singapore is liable to be prevented —
>
> (a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade;

…

46 The Court of Appeal in *Singsung Pte Ltd v LG 26 Electronics Pte Ltd* [2016] 4 SLR 86 summarised, at [28], that:

> … the main elements of the tort of passing off are encapsulated in the classical trinity of goodwill, misrepresentation and damage (see for example, Novelty at [37] and Nation Fittings (M) Sdn Bhd v Oystertec plc [2006] 1 SLR(R) 712 ("Nation Fittings") at [148]).

47 It is clear from the above that misrepresentation is an essential element of the tort of passing off.

Application of s 8(7)(a) to the facts

48 Under s 8(2)(b), I have found that the competing marks are not similar. Neither would there be a likelihood of confusion among the relevant consumers. Accordingly, because of these findings, the Opponent would also not establish the element of misrepresentation under s 8(7)(a).

Conclusion on opposition under s 8(7)(a)

49 The ground of opposition under s 8(7)(a) necessarily fails.

Overall conclusion

50 Having considered all the pleadings and evidence filed and the submissions made in writing and orally, I find that the opposition fails under all grounds. The Application Mark may proceed to registration.

51 I have considered the parties' submissions on costs and, having regard to all the circumstances, I award the Applicant the sum of S$10,682.70 (inclusive of disbursements).

Tan Mei Lin
Principal Assistant Registrar

Toh Jia Yi and Justin Tay (Allen & Gledhill LLP) for the Applicant;
Ang Su-Lin and Neil Ang (KLTAN LLC) for the Opponent.
