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

[2026] SGIPOS 6

Trade Mark No. 40202126843W

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

SAUDI ROCK WOOL FACTORY

… *Applicant*

AND

AN OPPOSITION BY

ROCKWOOL A/S (ROCKWOOL INTERNATIONAL A/S)

… *Opponent*

GROUNDS OF DECISION

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Rockwool A/S (Rockwool International A/S)
v
Saudi Rock Wool Factory

[2026] SGIPOS 6

Trade Mark No. 40202126843W
Principal Assistant Registrar Mark Lim Fung Chian

7 May 2026

Principal Assistant Registrar Mark Lim Fung Chian:

Introduction

1 In these proceedings, Rockwool A/S (Rockwool International A/S) (the "Opponent") relies on its prior trade mark registrations for "ROCKWOOL" to oppose an application by Saudi Rock Wool Factory (the "Applicant") to register

as a series of two trade marks in Singapore.

2 The Applicant says that "rockwool" (or "rock wool") is a generic name for a type of insulation material. The Opponent denies this. It asserts that the generic name for such material is "mineral wool" and/or "stone wool", whereas "ROCKWOOL" is the trade mark and proprietary term of the Opponent. The outcome of these proceedings hinges on who is correct.

3 Initially, the Applicant was represented by an agent when it filed its Counter-Statement to defend the opposition and later statutory declarations in support of the application. However, the Applicant's agent subsequently discharged itself. Thereafter, the Applicant did not file any Written Submissions and did not participate in the hearing.

4 The Applicant had also filed invalidation actions against the Opponent's Singapore registrations for "ROCKWOOL". However, these actions have since been deemed to be withdrawn.

5 It is in these circumstances that I have to decide whether or not the opposition succeeds.

Chronology of Proceedings

6 On 8 November 2021, the Applicant applied to register the following series of two trade marks in Singapore (the "Application Mark"):

Application Mark	
TM No.	40202126843W
Filing Date	8 November 2021
Goods	Class 17: Expansion joint fillers; fillers for expansion joints; Insulating materials; insulating felt; mineral wool (insulator); non-conducting materials for retaining heat; slag wool (insulator); soundproofing materials; all the aforesaid goods originating from Saudi Arabia.

7 The Application Mark was accepted by the Registry of Trade Marks, and advertised for opposition purposes on 27 April 2022.

8 On 22 August 2022, the Opponent filed its Notice of Opposition, relying on its prior registrations for "ROCKWOOL" (the "Opponent's Earlier Mark"), details of which are set out below:

Trade Mark	Trade Mark No.	Goods	Registration Date
ROCKWOOL	T0319338F	Class 17: Insulants of mineral wool against heat, cold, fire and sound including for acoustic regulation.	15 March 1976
	T0319339D	Class 19: Building materials of mineral wool.	

9 On 20 October 2022, the Applicant filed its Counter-Statement setting out its grounds in support of the Application Mark.

10 On 22 June 2023, the Opponent filed a joint statutory declaration of Jens Birgersson and Kim Junge Andersen, Chief Operating Officer and Chief Financial Officer respectively of the Opponent, in support of the opposition. The same deponents filed a re-executed statutory declaration to rectify certain deficiencies on 24 August 2023. This statutory declaration was re-filed on 28 August 2023 to resolve a clerical error (the "Opponent's SD").

11 On 2 November 2023, the Applicant filed invalidation actions against the Opponent's Earlier Mark.[1] The Applicant relied on various grounds, including that the Opponent's Earlier Mark is devoid of any distinctive character; consists exclusively of signs or indications which may serve, in trade, to designate the kind of goods for which it is registered; and/or has become

[1] Case Numbers C0101T0319338F and C0101T0319339D.

customary in the current language or in the bona fide and established practices of trade.

12 On 28 December 2023, the Applicant filed a statutory declaration of Abdulla Al Zamil, Chairman of the Applicant, in support of the Application Mark (the "Applicant's SD"). The Applicant subsequently filed a supplementary statutory declaration of Abdulla Al Zamil on 19 January 2024 to rectify certain deficiencies in the Applicant's SD. A clearer version of this supplementary statutory declaration was re-filed on 30 January 2024.

13 On 27 June 2024, the Opponent filed a joint statutory declaration of Jens Birgersson and Kim Junge Andersen in reply to the Applicant's SD (the "Opponent's SD in Reply").

14 On 31 July 2025, the Applicant's agent informed the Registrar that it was discharging itself from acting in these opposition proceedings and the related invalidation proceedings on the basis that it was unable to obtain instructions from the Applicant. On 1 August 2025, the Applicant's agent formally discharged itself from acting for the Applicant.

15 On 17 November 2025, the Applicant's invalidation actions (referred to at [11] above) were treated as withdrawn.

16 On 22 December 2025, the Opponent requested for the opposition to be heard "on paper" only without oral submissions.

17 On 5 January 2026, the hearing was scheduled on 2 March 2026 for the purpose of setting deadlines.

18 On 2 February 2026, the Opponent filed its Written Submissions (the

"Opponent's WS") and Bundle of Authorities.

Background of parties

19 The Opponent is a global manufacturer of mineral wool or stone wool products for the construction industry. It was founded in 1909 in Denmark, and is currently the world's largest maker of stone wool insulation.[2]

20 The Opponent has been using and promoting the Opponent's Earlier Mark in Singapore since around 2006 through its subsidiary, Rockwool Building Materials (Singapore) Pte Ltd and various local distributors.[3]

21 The Applicant is a member of the Gulf Insulation Group, which was established in 1992. It is the largest producer of stone wool in the Middle East and Asia Region.[4]

22 The Applicant has sold its products in Singapore since 2017, mainly for use in projects, through its local distributor, Traverse International Pte. Ltd.[5]

23 Stone wool is an insulation material made from natural or recycled rock materials along with recycled steel mill slag. The raw materials are melted at extremely high temperatures and then spun into fine fibres. Stone wool provides excellent thermal and sound insulation properties. It is also exceptionally fire resistant, durable and stable.[6]

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2 Opponent's SD at [6].

3 Opponent's SD at [12].

4 Applicant's SD at [4] & [5].

5 Applicant's SD at [7].

6 See, generally, Exhibits B, I and M to the Opponent's SD.

Grounds of opposition and other issues for discussion

24 The Opponent relies on ss 8(2)(*b*), 8(4)(*b*)(i), 8(4)(*b*)(ii)(A) and (B), 8(7)(*a*) and 7(6) of the Trade Marks Act 1998 ("TMA") in this opposition.

25 As mentioned in the Introduction (at [2] above), the outcome of these proceedings hinges on whether "rockwool" (or "rock wool") is a generic name for a type of insulation material or whether it is the trade mark and proprietary term of the Opponent. I will therefore examine this issue before reviewing the specific grounds of opposition.

26 Before doing so, it is also necessary for me to consider the role of the Registrar where, as in the present case, the Applicant does not file any Written Submissions and does not participate in the hearing.

Role of Registrar where Applicant does not appear at hearing

27 To briefly recapitulate, the Applicant filed its Counter-Statement in response to the Notice of Opposition. It also filed evidence in support of the Application Mark. In addition, it commenced proceedings to revoke the Opponent's Earlier Mark.

28 Subsequently, however, the Applicant did not file any written submissions or participate further in the opposition proceedings. It also did not pursue its invalidation proceedings against the Opponent's Earlier Mark, and (as mentioned at [15] above) the invalidations were consequently deemed to be withdrawn pursuant to the Trade Marks Rules (Revised Edition 2008) ("TMR").

29 Before discussing the respective merits of each party's position, it is necessary for me to first consider the Registrar's role in the current situation

where the Applicant has not filed written submissions or participated in the hearing.

30 I first examine the relevant provisions in the TMR.

31 Rule 31(3) TMR provides that if an applicant does not file a counter-statement and serve a copy on the opponent, it shall be treated as having withdrawn its trade mark application.

32 Rule 31A(9) TMR provides that if an applicant does not file a statutory declaration setting out the evidence it wishes to adduce in support of the application and serve a copy on the opponent, it shall be treated as having withdrawn its trade mark application.

33 In contrast, where an applicant does not file its written submissions or appear at the hearing, there is no provision in the TMR which provides that the applicant shall be treated as having withdrawn its trade mark application. Instead, Rule 37(4) & (5) TMR provides that the Registrar may: (a) proceed with the hearing in the absence of the applicant; (b) without proceeding with the hearing, give his decision or dismiss the proceedings; or (c) make such other order as he thinks fit. IPOS Hearings & Mediation Department ("HMD") Circular[7] 5.2 at E further provides that the Registrar will, under ordinary circumstances, proceed with the hearing in the absence of the applicant.

34 In addition to the relevant legislation, I have also looked at the decisions of the Registrar in the last five (5) years. While certainly not the norm, there

[7] HMD Circulars supplement the legislation by regulating and providing guidance on salient facets of practice and procedure.

have been several cases where one party has not been represented at the hearing of the relevant matter: see *Shenzhen Meixixi Catering Management Co., Ltd. v Heetea Pte. Ltd.* [2021] SGIPOS 12 (application for declaration of invalidity; proprietor did not appear); *Monster Energy Company v Health and Happiness (H&H) Hong Kong Limited* [2021] SGIPOS 14 ("*Monster Energy*") (trade mark opposition; applicant did not appear); *Aramara Beauty LLC (dba Glow Recipe) v Sinchen Group Pte. Ltd.* [2022] SGIPOS 18 (application for declaration of invalidity; proprietor did not appear); *Soon Ailing v Chen & Partners (S) Pte. Ltd.* [2023] SGIPOS 3 (application to revoke a registered design; proprietor did not appear); *HMV Brand Pte Ltd v Yongfeng Trade Co Ltd* [2023] SGIPOS 7 (application for declaration of invalidity; proprietor did not appear); *Coinbase, Inc. v bitFlyer Inc.* [2023] SGIPOS 9 (application for declaration of invalidity; proprietor did not appear); *Hangzhou Pingpong Intelligent Technology Co. Ltd v Speedy Trade Finance Limited* [2025] SGIPOS 4 ("*Hangzhou Pingpong*") (trade mark opposition; applicant did not appear).

35 Apart from *Monster Energy*, in all the other cases, the party which did not appear at the hearing lost the case.

36 In *Monster Energy*, the opponent relied on its prior registrations for "UNLEASH THE BEAST!" and "REHAB THE BEAST!" to oppose the application to register " 

" as a trade mark.

37 The opponent's marks were both registered in class 5 (nutritional supplements) and class 32 (beverages). "REHAB THE BEAST!" was also registered in class 30 (food products such as coffee, tea and sugar). The

applicant sought to register “ 

” in class 42 (sales promotion, marketing and advertising services).

38 The applicant, which did not appear at the hearing, explained in a letter that it was unable to allocate further financial resources to the dispute (*Monster Energy* at [2]). The Principal Assistant Registrar also observed that “[a]lthough the [a]pplicant did not have the benefit of submissions put forward on its behalf, its position on the key issues is sufficiently clear from the pleadings and evidence filed.” (*Monster Energy* at [3].)

39 In addition, the Principal Assistant Registrar highlighted (*Monster Energy* at [6]):

> The Opponent is no stranger to this tribunal. From late-2012 to the hearing date (1 September 2021), MEC[8] filed more than forty actions to oppose trade mark applications in Singapore. It won more than half of these actions by default because no counter-statement was filed in defence. A number of the remaining cases were settled with the opposed mark withdrawn as a result. In certain cases, MEC withdrew the opposition and the application eventually proceeded to registration. Others remain pending. To date, only five MEC cases (prior to this one) reached a full hearing on the merits, and MEC was unsuccessful in all of them. Although MEC filed appeals to the High Court in three of these cases, in each instance the court upheld this tribunal’s decision with finality. All of this information is a matter of public record.[9]

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8 “MEC” as defined in *Monster Energy* is an abbreviation for “Monster Energy Company”, i.e. the opponent in that case.

9 Citations in quoted text omitted. Since the date of this decision, there have been several other IPOS decisions where Monster Energy Company failed in opposition proceedings: see *Monster Energy Company v IICOMBINED Co., Ltd.* [2023] SGIPOS 13; *Monster Energy Company v YG Entertainment Inc* [2023] SGIPOS 14; and *Monster Energy Company v Artisan Boulangerie Compagnie Pte Ltd* [2024] SGIPOS 8. No appeal to the High Court was filed in any of these cases.

40 The Principal Assistant Registrar found that it is "eminently clear that there is no similarity at all between the goods and services in issue" (*Monster Energy* at [21]) and that "the goods covered under the Opponent's Earlier Marks cannot by any stretch of the imagination be regarded as similar to the services for which registration is sought under the Application Mark" (*Monster Energy* at [43]). He consequently dismissed the opposition.

41 In contrast to *Monster Energy*, the Applicant in the present case is well-resourced. On its own evidence, it is the largest producer of stone wool in the Middle East and Asia Region (see [21] above).

42 Further. as discussed below, the evidence on the key issue of whether "rockwool" is the Opponent's proprietary trade mark or whether it is generic is also far from clear.

43 It can therefore be seen that the present case is easily distinguishable from *Monster Energy*, which is itself the only case in the last five (5) years where a party which did not participate in the hearing was successful.

44 Given that it is not uncommon for one party to be absent at the hearing, it would be useful to consider more generally how the hearing should be conducted in such circumstances.

45 To start with, it must be remembered that opposition proceedings are adversarial in nature. In Michael Edenborough KC, *Contentious Trade Mark Registry Proceedings* (Second Edition 2023, the Chartered Institute of Trade Mark Attorneys), pages 4-11 (Adversarial vs inquisitional approach), the author discusses the implications of proceedings being adversarial in nature. Pertinently for the purposes of the present case, the Registrar "will usually only

decide those matters that have been selected by the parties for a decision." It must remain "independent and impartial throughout, and that extends to not assisting any unrepresented party."

46 As noted in Adrenaline Trade Mark *BL* O/440/99 per Simon Thorley QC sitting as the Appointed Person (as he then was) at [11], "[i]t is the Registrar's duty to adjudicate upon the issues raised. It is not his duty and, indeed, it would be wrong for him, when exercising this function, to enter into a debate with either party as to the validity or otherwise of the contentions put forward on any of the issues raised in the proceedings."

47 It follows that, apart from straightforward cases like *Monster Energy*, a party which does not appear at a hearing is likely to lose the case. As succinctly stated by the Principal Assistant Registrar in *Hangzhou Pingpong* (at [26]), "it is not this tribunal's job to formulate and run arguments on behalf of an absent party."

48 At the same time, findings made in the absence of one party must necessarily be tentative; they should not in any way constrain the Registrar in future proceedings, where the same issues may be vigorously contested.

Whether "ROCKWOOL" is proprietary to the Opponent or generic

49 As mentioned in the Introduction to this decision, the outcome of these proceedings hinges on whether "ROCKWOOL" is the trade mark and proprietary term of the Opponent, or is a generic name for a type of insulation material.

50 Both parties have put forward voluminous evidence in support of their respective positions.[10] Taken separately, each party's evidence is persuasive. To decide whose position to accept, it will be necessary to carefully assess and evaluate each piece of evidence and weigh its persuasive value against all the other evidence before me. As discussed in the preceding section, I should not be arguing the Applicant's case on its behalf. I will therefore proceed to assess the grounds of opposition on the basis that "ROCKWOOL" is the trade mark and proprietary term of the Opponent.

51 I note three (3) points before proceeding with this assessment.

52 First, s 101(*c*)(i) TMA provides that "the registration of a person as proprietor of a registered trade mark is prima facie evidence of… the validity of the original registration." In order for the Opponent's Earlier Mark (which consists solely of the word "ROCKWOOL" in plain block letters) to be valid, among other things, it must not be "devoid of any distinctive character" (s 7(1)(*b*) TMA) and also must not "consist exclusively of signs or indications which may serve, in trade, to designate the kind… of goods… or other characteristics of goods" (s 7(1)(*c*) TMA).

53 Secondly, most of the evidence put forward by both parties pertained to circumstances in other jurisdictions. However, trade mark law is territorial. As noted in *Abbott Laboratories v Societe des Produits Nestle* [2019] SGIPOS 11 at [86], "the only average consumers that matter for

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[10] For the Opponent's position, see the Opponent's SD at [11]-[16] & [24], and accompanying Exhibits "F" to "O" and "Q" to "T" (pp. 73-164, 172-210); and the Opponent's SD in Reply at [5]-[8] & [11]-[18], and accompanying Exhibits "A" to "I" (pp. 9-112). For the Applicant's position, see the Applicant's SD at [9]-[18], and accompanying Exhibits "AAZ-4" to "AAZ-10" (pp. 106-218).

the purposes of the descriptive/distinctiveness analysis are those in this country", referring to Singapore.

54 In the present case, I agree with the Opponent that the average consumer of the relevant goods (i.e. "expansion joint fillers; fillers for expansion joints; insulating materials; insulating felt; mineral wool (insulator); non-conducting materials for retaining heat; slag wool (insulator); soundproofing materials") would be actual or potential customers in Singapore who import, purchase and/or use building and construction materials. These would typically encompass contractors and builders that engage or are involved in building and construction projects, as well as suppliers of such building and construction materials.[11]

55 Neither party has adduced any statutory declarations from representatives of the relevant trade in Singapore to evidence how these representatives would perceive the word "ROCKWOOL". I note, however, that none of the numerous invoices from either party to their customers in Singapore contain any reference (e.g. in the list and description of products sold) to "ROCKWOOL" as a type of insulating material. For the Opponent, "ROCKWOOL" appears at the top left hand side of each invoice with the accompanying "®" symbol indicating that it is the Opponent's registered trade mark.[12] For the Applicant, "ROCK WOOL" appears as part of the colour version of the Application Mark (i.e. " 

") at the top right hand corner of each invoice.[13]

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11 Opponent's WS at [53].

12 See the Opponent's SD at [13] and accompanying Exhibits "J" and "K" (pp. 96-128).

13 See the Applicant's SD at [7] and accompanying Exhibit "AAZ-3" (pp. 69-105).

56 Thirdly, as I have mentioned above (at [48]), in any future proceedings where this issue may be vigorously contested, the Registrar will not be precluded from finding that "rockwool" is a generic name for a type of insulation material.

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

57 Section 8(2)(*b*) TMA reads:

> (2) A trade mark shall not be registered if because —
>
> (a) [*omitted*]
>
> (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.

58 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.

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

Step 1: Marks-similarity

60 The key principles relating to the evaluation for marks-similarity are well-established. I reproduce a summary of these principles from the recent decision of the Principal Assistant Registrar in *Puma SE v Sunday Red, LLC* [2026] SGIPOS 4 at [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]).

61 For ease of reference and to facilitate discussion, I reproduce the marks to be compared below.

Application Mark	Opponent's Earlier Mark
	**ROCKWOOL**

Visual similarity

62 I start with a consideration of the distinctiveness of the Opponent's Earlier Mark.

63 In the absence of the Applicant at this hearing, and for the reasons discussed above, I proceed on the basis that the Opponent's Earlier Mark (i.e. "ROCKWOOL") is distinctive.

64 The Application Mark is a composite mark consisting of:

(a) a dual-toned shape device comprised of a dark curved wedge fitting into a lighter coloured tear drop;

(b) the bolded words "Rock" and "wool" in a stacked configuration to the right of the device; and

(c) the word "Saudi" in a smaller font size above the letters "o" and "c" in the word "Rock".

65 Being a geographical indicator, the word "Saudi" merely indicates the origin of the goods provided by the Applicant (see *East Coast Podiatry Centre Pte Ltd v Family Podiatry Centre Pte Ltd* [2025] SGCA 28 at [94]). Indeed, this

is implicitly conceded by the Applicant as its goods of interest are expressly confined to goods which originate from Saudi Arabia (see [6] above). Further, this word is in a much smaller font size than the words "ROCK" and "WOOL" which are additionally in a bold font.

66 The shape device is relatively simple. I agree with the Opponent that it would not be particularly memorable to the average consumer.[14]

67 Given the imperfect recollection of the average consumer, the general impression left by the Application Mark would be the words "ROCK" and "WOOL".

68 Comparing the Application Mark with the Opponent's Earlier Mark ("ROCKWOOL"), I find that the competing marks have a high degree of visual similarity.

Aural similarity

69 I again proceed on the basis that the Opponent's Earlier Mark is distinctive.

70 The device element in the Application Mark would not be taken into account in a comparison of the marks based on their aural similarity.

71 There are two possible approaches that can be adopted in approaching aural similarity (see *Staywell* at [31] – [32]): the first is to consider the dominant components of both marks, and the second is to undertake a quantitative

[14] Opponent's WS at [28].

assessment as to whether the competing marks have more similar syllables than not.

72 As discussed in the context of the discussion on visual similarity (at [65] above), the word "Saudi" merely indicates the origin of the goods provided by the Applicant.

73 In these circumstances, I agree with the Opponent[15] that the dominant component approach would be more appropriate.

74 Applying this approach, the marks are clearly highly similar from an aural perspective.

Conceptual similarity

75 The analysis for conceptual similarity "seeks to uncover the ideas that lie behind and inform the understanding of the mark as a whole… the idea connoted by each component [of a mark] might be very different from the sum of its parts." (*Staywell* at [35]). These ideas must be evident in the look and feel of the mark, and not in something that is known only to the creator of the mark (*Twitter HC* at [160]).

76 The Opponent submits that the competing marks are conceptually similar, as both marks convey the concept of woollen materials made of mineral or stone, for insulation products and building materials. Additionally, it argues that the additional word, "Saudi", in the Application Mark only refers to the

[15] Opponent's WS at [36].

same materials being produced in Saudi Arabia, and does not change the concept.[16]

77 I agree with the Opponent on these two points, and find that the marks are conceptually similar.

Conclusion on marks-similarity

78 As I have found that the marks are visually, aurally and conceptually similar, it follows that they are similar overall.

Step 2: Goods-similarity

79 The parties' goods of interest are as follows:

Application Mark	**Opponent's Earlier Mark**
Class 17: Expansion joint fillers; fillers for expansion joints; Insulating materials; insulating felt; mineral wool (insulator); non-conducting materials for retaining heat; slag wool (insulator); soundproofing materials; all the aforesaid goods originating from Saudi Arabia.	Class 17: Insulants of mineral wool against heat, cold, fire and sound including for acoustic regulation. Class 19: Building materials of mineral wool.

80 It is clear that there are overlapping goods in the respective specification of goods. As such, this element is also satisfied.

[16] Opponent's WS at [39] & [40].

Step 3: Likelihood of confusion

81 This element is satisfied where the average consumer mistakes goods bearing the Application Mark as originating from the Opponent, or perceives that goods bearing the Application Mark or the Opponent's Earlier Mark emanate from sources that are economically linked or associated (*Hai Tong* at [74]).

82 Given the similarity of the respective marks and the overlap in the parties' goods of interest, I agree with the Opponent that it is likely the average consumer of the relevant goods may think the Applicant's goods are derived from or associated with the Opponent. For example, the average consumer may be confused into thinking that the Applicant's goods are provided by a Saudi Arabian subsidiary of the Opponent or provided by the Opponent with the materials in the products sourced from Saudi Arabia.[17]

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

83 I have found: (a) the respective marks to be similar, (b) that there is an overlap in the goods of interest, and (c) there is consequently a likelihood of confusion on the part of the relevant public. The ground of opposition under s 8(2)(*b*) TMA therefore succeeds.

Other grounds of opposition

84 As mentioned at [24] above, the Opponent also relies on ss 8(4)(*b*)(i), 8(4)(*b*)(ii)(A) and (B), 8(7)(*a*) and 7(6) TMA in these proceedings.

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17 Opponent's WS at [59] & [60].

85 As I have found that the Opponent succeeds in its ground of opposition under s 8(2)(*b*) TMA, it is immaterial to the outcome of the present proceedings whether it also succeeds on the other grounds of opposition raised. Given that the Applicant has decided not to participate in the hearing, I do not think it is necessary to discuss these other grounds of opposition.

Overall conclusion

86 Having considered all the pleadings and evidence filed and the Opponent's WS and Bundle of Authorities, I allow the opposition under s 8(2)(*b*) TMA and consequently refuse registration of the Application Mark.

87 I have considered the Opponent's submissions on costs[18] with reference to the Scale of Costs in the Fourth Schedule of the TMR. I award costs of $10,000 (inclusive of disbursements) to the Opponent.

Mark Lim Fung Chian
Principal Assistant Registrar

Amy Chan Fong Lyn (Spruson & Ferguson (Asia) Pte Ltd) for the Opponent.

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[18] Opponent's WS at [124] – [126].