**SUMMARY OF THE CASE**

**PRINCIPLE(S) DEVELOPED/UPHELD:**

Two trademarks of different proprietors that are identical or similar and at the same time, are used or intended to be used for the same or closely related goods or the same line of business, cannot co-exist in the Trade and Service Marks Register.

**CASE:**

**Re: Trademark Application No. TZ/T/2010/2009 SINGSUNG (word) in Class 11 in the name of See Lan Huat, and Opposition thereto by Samsung Electronics Co., Ltd**

**FACTS:**

This is a ruling in respect of opposition proceedings between Samsung Electronics Co., Ltd., the Opponent, and See Lan Huat, the Applicant. The gist of the opposition is that, the Applicant filed with the Registrar of Trade and Services Marks, for registration of trademark number TZ/T/2010/2009 **“SINGSUNG”** (word)in Class 11 of the Nice International Classification of Goods and Services in respect of ***“Apparatus and Installations for lighting, heating, cooking, refrigerating, and freezing and drying; combined refrigerators and freezers; air conditioners; ovens; cookers; microwave ovens; cooking hobs; cooker noods; gas stoves; hotplates; grills, table top grills and rings; electric food warmers; toaster oven; toasters; electric kettles; coffee makers; coffee machines; rice cookers; electric pressure cookers; barbecues; hair dryers; fans; light bulbs; fluorescent tubes; electric coffee filters, toaster; domestics pressure cookers; electric apparatus for making hot drinks; parts, fittings and components for all the aforesaid goods, all included in Class 11”*** where the application was accepted and advertised in the Trade and Service Marks Journal.

The Opponent (Samsung Electronics Co. Ltd.), being in disagreement with registration of the said Mark, filed a Notice of Opposition objecting the registration of the Mark “***Singsung”*** on the ground that, the impugned trademark is similar visually and phonetically to the Opponent’s trademark **SAMSUNG**, which is registered in Tanzania under registration number TZ/T/2010/740 in Class 11 of the Nice Classification, thus, likely to deceive and/or cause confusion between the Opponent’s goodwill on the one hand, and the goods of the Applicant on the other hand, and/or would cause members of the public to infer some connection between the two trademarks. The opponent further contended that the move for registration of the Applicant’s mark is made in bad faith and is contrary to Sections 19 and 20 of the Trade and Service Marks Act, Cap 326 [R.E. 2002].

**ISSUES:**

1. Whether the applicant’s trademark “**Singsung**” is similar to the Opponent’s trademark "**Samsung**" and thus, likely to cause confusion or deceive the general public.
2. Whether the Opponent’s trademark is well-known and capable of being protected under Section 19(d) of the Trade and Service Marks Act.
3. Whether trademarks SINGSUNG and SAMSUNG can co-exist in the Register, both under the same Class, namely Class 11 of the Nice Classification.

**HOLDING**:

1. In determining the similarity and dissimilarity of marks where the principle of the first syllable rule may be applied, the two trademarks “SINGSUNG” and "SAMSUNG,” even though both start with a prefix "S," and both end with a suffix “SUNG,” if the Opposed trademark is allowed to registration, is likely to cause confusion and/or deceive the general public.
2. In testing similarity of two marks in dispute, a court or quasi-judicial body usually meticulously investigates the essential features of the trademarks in question rather than only one syllable or more syllables.
3. The two trademarks “SINGSUNG” and “SAMSUNG” cannot co-exist in the register of Trade and Service Marks, registration of trademark “SINGSUNG” would be contrary to Section 19 (d) and Section 20 of the Trade and Service Marks Act, Cap 326 [2002].
4. The two marks are likely to deceive and cause confusion to customers and members of the public at large if allowed to co-exist in the register of Trade and Service Marks in respect of goods falling under Class 11.

**ORDERS:**

1. The opposition proceedings were determined in favor of the Opponent (Samsung Electronics Co. Ltd.), and the trademark “SINGSUNG” was refused. It was further ordered that, trademark application number TZ/T/2010/2009 “SINGSUNG” should not proceed to registration based on the ground of similarity with trademark number TZ/T/2010/740 SAMSUNG.
2. Costs of the Opposition proceedings to follow the event.

**CITED CASES:**

* Glaxo Group Limited v. J.B Chemical & Pharmaceutical Ltd, Misc. Case No. 3 of 2007 High Court Commercial Division
* Tanzania Distilleries Ltd v. Vitamin Foods (1989) Ltd [2002] TLR 15

**LAWS:**

* The Trade and Service Marks Act, Cap 326 [R.E. 2002]