

7

**DECISION OF THE REGISTRAR OF TRADE MARKS IN THE
MATTER OF TRADE MARK OPPOSITION No's 53-54/2007 STAR
SEARCH LOGOS IN CLASS 16 PURSUANT TO THE TRADE
MARKS ACT CAP 401 OF THE LAWS OF ZAMBIA AND
REGULATIONS THEREUNDER**

Between

CELTEL ZAMBIA PLC

APPLICANT



And

STAR SEARCH AGENCY LTD

OPPONENT

Before Mrs. A.M. Banda-Bobo, Registrar of Trade Marks

For the Applicant : Mrs. Dimple Ranchhod of Messrs Ranchhod
Chungu Advocates

For the Opponent : Mr. Kangwa Chileshe, Director and Company
Secretary, Star Search Agency Ltd

Cases and Authorities referred to:

Trade Marks Act Cap 401 of the Laws of Zambia

Inquires Act Cap 41 of the Laws of Zambia

D H Brothers Industries (PTY) Ltd v Olivine Industries Ltd 2009/HPC/0239
(unreported)

WIPO Intellectual Property Handbook (2004, reprinted in 2006), 2nd Edition

Canon Kabushiki Kaisha v Metro Goldwyn Mayer C – 39/97(ECJ)

Dristan Trademark (1986) RPC 161 (India)
Holtershoff v Freiesleben Case C- 2/1000 (ECJ)

This matter should have long been concluded but for the developments I will allude to in the course of this decision. For the foregoing reasons, I will not confine myself to purely legal matters but will touch on some administrative matters to which the application was subjected.

This is a matter in which registration of trademarks 53-54/2007 STAR SEARCH Logos by Celtel Zambia Plc ('the Applicant') is being contested by Star Search Agency Ltd ('the Opponent'). The applications were lodged on 9th February 2007 and certificates of lodgment issued on 1st March, 2007. The grounds of opposition as stated in the notice of opposition of 5th September 2007 are that the contested marks lack distinctiveness and are confusingly similar with the opponent company's name, which company is incorporated under the Companies Act Cap. 388 of the Laws of Zambia. The Opponent thus contends that registration of the marks would *inter alia* violate section 16 of the Trade Marks Act Cap 401 of the Laws of Zambia.

When responding, however, instead of using Form TM No. 7, the applicant erroneously used Form TM 38, a counterstatement for oppositions to registration of certification marks. The said counterstatement was lodged on 19th November, 2007. We drew the Applicant's attention to the anomaly in a letter dated 8th February 2008 and advised that the correct procedure be followed. The correct counterstatement, dated 25th February 2008, was subsequently lodged.

The grounds and facts advanced in support of application in the counterstatement were that the applicant conducted talent identification shows and other entertainment activities under the label 'STAR SEARCH' which it had allegedly advertised heavily in the print and electronic media since 2006. It was argued that contrary to the Opponent's interpretation, section 14 of the Trade

Marks Act, sub-section (e) in particular, does not make capability to distinguish goods produced by one enterprise from those of others, a pre-condition for trademark registration and that section 14(2) defines what is distinctive. Further, that in any case, the Opponent had not adduced any evidence in support of the allegation.

The Applicant further contended that the opponent had not demonstrated how registration of STAR SEARCH as a trademark was similar to registration of a limited liability company and that section 37(2) of the Companies Act Cap 388 only precluded registration, as a company, a name which in the opinion of the Registrar, is likely to cause confusion with the name of another company. Like wise, it was argued, section 31 of the Trade Marks Act requires the Registrar to cause a search to be made only amongst 'registered marks and pending applications'.

The Applicant's position was also that as Star Search Agency is a limited company, it would be identified by the word 'limited' as required by the Companies Act and that registration of STAR SEARCH as a trademark could not in anyway interfere with the opponent's ability to operate as a limited liability company. It was argued that, in fact, section 13 of the Trade Marks Act takes care of this eventuality as it stipulates that registration of a trademark is not to interfere with any *bonafide* use by a person of his own name or of the name of his place of business. The Applicant also argued that the admission by the opponent that it intended to apply for registration of STAR SEARCH Logo as a trademark, demonstrated bad faith on its part as it had existed since 2002 without doing so. It was further argued that section 7 of the Trade Marks Act precluded an action to prevent or recover damages in respect of unregistered trademarks.

We transmitted the counterstatement to the opponent under cover of a letter dated 3rd March, 2008, to which we however seem not to have received a

response. Unfortunately, the record of the transmission was later misplaced from the file. In the premises, we re-transmitted the counterstatement to the Opponent on 22nd May, 2009, with a copy to the applicant. On 15th June 2009, the applicant wrote, expressing surprise that we had re-transmitted the counterstatement when our letter of 3rd March 2008, which had gone missing, a copy of which was attached, confirmed the earlier transmission. We responded in a letter of 22nd June, 2009, acknowledging our predicament regarding the missing copy of the letter and advised that, under the circumstances, the matter was to be treated as having been revived.

The Opponent subsequently filed an affidavit in support of opposition in which Mr. Kangwa Chileshe, the Opponent Company's secretary, deposed that contrary to the applicant's assertions, the opponent company's intention to register STAR SEARCH as a trademark was not solely on the strength of its name but rather its reputation arising primarily from talent shows it had conducted among youth artists. He further contended that the applicant did not dispute that the opponent was the first to conduct talent identification under the STAR SEARCH label and had conceded that it could not prevent the Opponent from carrying out talent identification, thus, according to Mr. Chileshe, in effect admitting that parallel usage of the STAR SEARCH logo by the Opponent could result in confusing the public in violation of section 16.

He deposed that the applicant had not refuted claims that the Opponent Company was incorporated before the contested applications were lodged nor had it demonstrated that its usage of these marks was any different from the opponent's registered objectives. Mr. Chileshe further argued that contrary to the applicant's interpretation of the statute, distinctiveness is a pre-condition for registration and the word 'adapted,' under section 14(2), is in relation to the goods and the nature of usage in comparison with other existing brands in the same line of business. He added that whereas the Companies Act and the Trade Marks Act were independent, regard should be had of each other's provisions

when interpreting them. According to Mr. Chileshe, section 13 of the Trade Marks Act acknowledges that there may be some business concerns whose goodwill or reputation, if not protected under that Act, might be infringed.

We transmitted the affidavit in support of opposition to the applicant under cover of a letter dated 27th July, 2009. On 20th October 2009, the Opponent wrote to inquire whether the applicant had lodged the affidavit in support of application and, if not, whether its application had been deemed to have been abandoned. The letter was only received much later, however. Our records nonetheless showed that whereas the deadline fell on 27th September, 2009, the Applicant had not done so by the 20th of October. Given, however, the peculiar circumstances of this matter and just in case the affidavit had been lodged but misplaced or had not been lodged for whatever justified reason, we found it prudent, before treating the application as having been abandoned, to first hear from the applicant.

We consequently wrote the applicant on 27th January, 2010. The Applicant in turn replied on 28th January, 2010, claiming that it had only received the affidavit on 7th October, 2009 but claimed to have lodged the affidavit on 4th December, 2009. In view of the history of this matter, as aforesaid, we decided to also afford the Applicant the benefit of the doubt and reluctantly accepted the affidavit that had been lodged on 5th December 2009 and transmitted the same to the opponent. The deponent, Mr. Mwenya Andrew Mukupa, an advocate in the Applicant's employ, generally repeated what was contained in the counterstatement. He deposed, *inter alia*, that the applicant had been conducting talent shows and entertainment activities under the name STAR SEARCH since 2006 and that neither the Trade Marks Act nor the Companies Act prohibited registration of a trademark similar to a company name or vice-versa. His evidence was also that the applicant's logo was distinctive.

The opponent opted not to file an affidavit in reply.

Having gathered the necessary affidavit evidence, I convened a hearing on 15th July 2010 to hear submissions and oral arguments in accordance with Regulation 54 of the Trade Marks Regulations. Mrs. Dimple Ranchhod of Messrs Ranchhod Chungu Advocates, appeared for the Applicant while Mr. Kangwa Chileshe, a director and company secretary for the Opponent Company, represented the Opponent. He was accompanied by Ms. Fenny Walubita and Ms. Kabuswe Chikoti. Despite being a lawyer, the said Ms. Chikoti did not attend in her capacity as a lawyer but as Mr. Chileshe's sister.

Mr. Chileshe reaffirmed that the Opponent's contention was that the Applicant's STAR SEARCH logos were confusingly similar with the Opponent Company's name in both pronunciation and what he termed 'alphabetical presentation'. He submitted that registration of the opposed marks would violate section 16 of the Trade Marks Act. His interpretation of the provision was that it prohibits the registration of marks that are confusingly similar or likely to deceive the general public. He further argued that the marks were disentitled to protection in view of the fact that their use was similar to the Opponent Company's objects, which company he claimed was the first to undertake talent identification under the label STAR SEARCH.

He submitted that Star Search Agency Ltd was incorporated as a private company in 2002 with the sole purpose of identifying, managing and exposing Zambian talent in the area of music, drama and the arts in general. He argued that he had used the label even before the Opponent Company was incorporated and long before the Applicant filed the applications in issue. Mr. Chileshe contended that the first activity undertaken by Star Search Agency under the label was the promotion for Kabanana soap opera actors, namely himself, who was playing Jason Kabanana, Fenny Walubita who played Dyness, Pakeni Makowani who featured as Matongo and Malwa Shinka. Kitwe, on the copperbelt, was allegedly among the towns in which the shows were first

conducted. He added that Mr. Lawrence Thompson, allegedly a former proprietor, director and producer of Kabanana soap opera, is a shareholder and director in the Opponent Company.

According to Mr. Chileshe, in 2004, he left the country to pursue some studies in the United States of America. While there, he was alerted via an electronic mail from a colleague, allegedly a former employee of the Applicant Company until 2000 and director of Comlink, one Pakeni Makowani, that the applicant had embarked upon talent identification searches under an identical logo. In support of allegations of the opponent company's use of the marks prior to the instant application, Mr. Chileshe led me through computer recordings of some of the shows that the company allegedly conducted. One depicted girls and boys surrounded by a sizeable crowd dancing with the Star Search Agency Logo in the background, which caption Mr. Chileshe said was captured during a show conducted at the arcades shopping mall in Lusaka. One of the visible personalities in the video was Ms. Fenny Walubita. Mr. Chileshe contended that Star Search Agency Ltd had dealt with over 500 artists.

Mrs. Ranchhod nonetheless objected to the admission of the evidence relating to the e-mail from Mr. Makowani. I sustained the objection but accepted the video footage into evidence. Ordinarily, I would have equally excluded it on account of failure to lay sufficient foundation for its admission. Among others, no foundation was laid as to its authenticity and custody. Applicant's counsel nevertheless conceded that the opponent was engaged in talent identification. Her only bone of contention was its relevance.

Over and above the foregoing, further to section 48(2) of the Trade Marks Act as read with section 13(1) of the Inquiries Act, I am not bound in opposition proceedings by strict rules of evidence or procedure of any court or tribunal, but I am allowed to conduct proceedings in such manner as I think proper and admit any evidence, written or oral, whether or not such evidence would be admissible

in civil or criminal proceedings. I took the view that as the evidence in issue was not contested as to its authenticity, no injustice would be suffered by the applicant by reason of its admission. I have also had occasion to visit section 50 of the Trade Marks Act which applicant's counsel referred me to and I found nothing at variance with the course I have taken.

On her part, Mrs. Ranchhod relied on affidavits sworn by Mr. Mwenya Andrew Mukupa and the counterstatement. She disputed allegations that registration of the mark was likely to mislead the public and thus contravene section 16. She argued that section 16 was not concerned with confusingly similar marks or marks likely to confuse the public. Her view was that the provision instead relates to matter the use of which would be disentitled to protection in a court of law, is contrary to law or morality or is a scandalous design. In her view, it was obvious that section 16 concerned matters that could offend the sense of morality and not phonetic confusion as alleged by the Opponent. She added that section 16 made no reference whatsoever to usage as alleged by the opponent.

At the close of the hearing, I enquired whether either of the parties was willing to have the marks co-exist. Applicant's counsel indicated that she needed to consult her principle while Mr. Chileshe was reluctant to have the marks co-exist. I am indebted to learned counsel and Mr. Chileshe for their valuable submissions.

It is incontrovertible that the Opponent is a private company incorporated under the laws of Zambia as Star Search Agency Limited. The certificate of registration issued by the Patents and Companies Registration Office shows that the company was incorporated as of 20th November, 2002, under company registration number 51132. A search on the companies' database revealed that the company's registered nature of business is 'entertainment' and the shareholders are Messrs Kangwa Chileshe and Thomson Rolecy Joseph who own 70% and 30% of the shares, respectively. The two are also the sole

directors of the company while Mr. Kangwa Chileshe is also the company secretary. The company is registered with a nominal capital of 2000, 000 shares.

It is also common cause that the issue concerns use of the STAR SEARCH logo in entertainment activities. The Opponent's challenge is essentially that, in view of their similarity with its name, the applicant's marks lack distinctiveness or are incapable of distinguishing the products and thus disqualified from registration. Further, the marks are alleged to be disqualified under section 16 for being confusingly similar with the opponent company's name.

I wish to clarify, from the outset, that under the current Trade Marks Act, under no circumstances can either of the parties claim exclusive rights to the use of the mark in relation to entertainment *per se* as entertainment is not a good but rather a 'service'. It in fact falls under class 41 of the International (Nice) Classification of Goods and Services, which class relates to services. Service marks, however, are not protected under the current Act. It then follows that the parties can only claim protection in relation to goods associated with entertainment activities. Thus, even if registered, the applicant could only claim rights in relation to goods covered under class 16. These include promotional material such as paper boards, cardboards and such other products made from such material.

I propose to deal with issues of distinctiveness before considering questions around confusing similarity. Distinctiveness of a mark is provided for in section 14 of the Trade Marks Act. In my view, however, to fully appreciate the question of distinctiveness of a mark, due regard should be had to the essence of a trade mark. According to the Second Edition of the World Intellectual Property Organization (WIPO) Intellectual Property Handbook of 2004, reprinted in 2006, a trademark is a sign that individualizes the goods of an enterprise and distinguishes them from those of competitors.

The European Court of Justice took a similar view in **Canon Kabushiki Kaisha v Metro Goldwyn Mayer C – 39/97** in which it held that the essential function of a trademark is to guarantee the identity of the origin of the marked products to the consumer or end user by enabling him, without any possibility of confusion, to distinguish the product or service from others, which have another origin. It opined that for a trademark to be able to fulfill its essential role in the system of undistorted competition, it must guarantee that all goods or services bearing it have originated under the control of a single undertaking which is responsible for its quality.

Under section 2 of our Trade Marks Act, a trademark is defined in the following terms: -

‘...except in relation to a certification trademark, a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark, whether with or without any indication of the identity of that person, and means, in relation to a certification mark, a mark registered or deemed to have been registered under section *forty – two*’.

It is clear from the above that a trademark distinguishes products in the market place. It is in view of this that it is also referred to as a ‘badge of origin’. It denotes the commercial origin of a product. Apparently, it can only perform this function if it is distinctive from other marks. As observed, it is in this context that section 14 should be approached. The said sections 14 (1) provides: -

‘14(1) In order for a trade mark (other than a certification trademark) to be registrable in Part A of the register, it must contain or consist of at least one of the following essential particulars:

- (a) The name of a company, individual or firm, represented in a special or particular manner;
- (b) The signature of the applicant for registration or some predecessor in his business;
- (c) An invented or invented words;
- (d) A word or words having no direct reference to the character or quality of the goods and not being, according to its ordinary signification, a geographical name or a surname;
- (e) Any other distinctive mark, but name, signature or word or words , other than such as falls within the descriptions in the foregoing paragraphs (a), (b), (c) and (d) shall not be registrable under the provisions of this paragraph except upon evidence of its distinctiveness

Although not part of the legal text, the requirement for distinctiveness is also evident from the side notes to section 14 which reads '*Distinctiveness requisite for registration in Part A*'. But perhaps more importantly, the need for distinctiveness is evident from the substance of the provision itself, in particular, sub-sections (1)(e) and (2). I find it inescapable that distinctiveness is a pre-condition for registration. I am therefore constrained to agree with the applicant that ability to distinguish one product from another is not a pre-requisite. It is difficult to comprehend how a trademark would function as a badge of origin or indicator of source in the absence of this important quality.

The question, it would seem to me, is what the nature of this distinctiveness should be, that is, what 'distinctive' entails or put another way, what the mark should be distinct from or in relation to. In this regard, subsection (2) of section (14) is insightful as to what constitutes 'distinctiveness'. It provides: -

'14(2) For the purposes of this section, 'distinctive' means adapted, in relation to the goods in respect of which a trademark is registered or proposed to be registered, to distinguish goods with

which the proprietor of the trademark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trademark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration’.

This provision, in my view, should be read with the preceding sub-section (1). In my considered opinion, it in a sense provides a standard against which to measure a mark as to whether it satisfies the requirements in sub-section 1. I interpret ‘distinctiveness’ to mean a mark being either inherently different or acquiring the capability to be distinguished from other marks and thus capable of distinguishing goods in the market place. ‘Adapted’, on the hand, denotes a mark coming to be associated with a particular product. As noted by the opponent in paragraph 6 of its affidavit in support of opposition, it must be in relation to specific goods.

Simply stated, the mark should sufficiently differ from other marks to distinguish a product. But this ‘distinctiveness’ is in relation to other ‘badges of origin’, namely trademarks and not other signs such as company names. I also agree that section 13 cannot be interpreted as precluding the registration of a registered company name as a trademark. The said section 13 provides: -

‘13. No registration of a trade mark shall interfere with –

- (a) any bonafide use by a person of his own name or of the name of his place of business, or of the name or of the name of the place of business of any of his predecessors in business; or**
- (b) the use by any person of any bonafide description of the character or quality of his goods, not being a description that would be likely to be taken as importing any such reference as is mentioned in paragraph (b) of section (1) of section nine or in paragraph (b) of subsection (3) of section forty-two’.**

If anything, this provision acknowledges that there may be instances where a trademark may have been registered before as a company name. It gives the prior user the leeway to continue using his name or that of his business notwithstanding the registration thereof as a trademark. It clarifies the extent of the exclusive rights accruing from trademark registration, particularly, that they are limited in as far as preventing legal and natural persons from using their names, is concerned. I further agree that under the Trade Marks Act, searches are only conducted on registered trademarks and pending trademark applications.

Turning to allegations of confusing similarity, section 16, on which the opponent relied, provides: -

'It shall not be lawful to register as a trade mark or part of a trade mark any matter the use of which would, by reason of its being likely to deceive or cause confusion or otherwise, be disentitled to protection in a court of justice or would be contrary to law or morality, or any scandalous design'.

Applicant's counsel contended that the above provision is not concerned with confusing similarity. Whereas it is true that this provision does not expressly refer to possible confusion with an already registered mark as is the case under section 17(1), I am satisfied that it is equally concerned with avoiding confusion, including confusing similarity. As a matter of fact, its only difference with section 17(1) is that it is broader. It includes grounds beyond confusing similarity with registered marks. Both provisions nonetheless have the same end.

But be that as it may, our interpretation of section 16 has been that a challenge on grounds of confusing similarity can only be premised on a registered trademark. We have taken this view, bearing in mind the letter and spirit of other provisions of the Act, among them sections 7, 9, 12 and 17. We are fortified in our view by the fact that even for registered trademarks, protection is not in a vacuum but in relation to particular goods. Consistent with the doctrine of

'specificity', protection for registered trademarks is not wholesale but only in relation to goods in respect of which they are registered. In **Dristan Trademark (1986) RPC 161 (India)**, Madon J. had the following to say on this question: -

'A trademark is a means to distinguish goods made by one person from those by another. A trademark cannot therefore exist in *vacuo*. It can only exist in connection with the goods in relation to which it is used or intended to be used. Its object is to indicate a connection in the course of trade between the goods and some person having the right to use the mark either with or without any indication of the identity of that person'.

Further and more importantly, our interpretation has been upheld by the high court. Judge Chibomba, in **D H Brothers Industries (pyt) Ltd v Olivine Industries Ltd 2009/HPC/0239 (Unreported)**, agreed that section 16 could not be read in isolation of the other provisions. She stated and I quote: -

'I therefore agree with learned counsel for the Respondent that section 16 should not be read in isolation of other provisions of the Act. Properly read with section 17(1) of the Act, it will be seen that protection is only offered to registered trademarks and not similar or identical unregistered trademarks. This is strengthened by the provision of section 9(i) of the Act which gives exclusive right of use to a proprietor of a registered trademark. In addition, section 7 of the Act also disentitles a proprietor of an unregistered trademark from instituting proceedings to prevent or recover damages for infringement of an unregistered trademark'.

I therefore side with the Applicant that in the absence of registration as a trademark, notwithstanding the similarity with its name, the Opponent Company lacks the basis upon which to challenge registration. It goes without saying that company names and trademarks serve different purposes. The former denotes

the business undertaking while the latter, as discussed, distinguishes the goods. Whereas trademark registration confers exclusive rights in relation to other 'indicators of origin', registration of a company name confers the right to exclude the use of a similar trade name. It has been held elsewhere that stretching trademark rights to include other signs such company names and vice-versa would be stretching the statutes further than they were intended.

In addressing the relationship between trademarks and other signs, the Advocate General, in **HOLTERSHOFF v FREIESLEBEN CASE C- 2/1000 (ECJ)**, was of the opinion that:

'Where use of a sign does not indicate origin, there can by definition be no confusion as to the origin of the two sets of goods, regardless of whether they are identical or merely similar, and also of whether the sign is identical or merely similar to the protected mark. It would in my view introduce unnecessary inconsistency into the scheme of the provision if a right to prevent use other than for the purpose of indicating origin were to depend on the likelihood in some cases and not in others'.

I am nonetheless satisfied, on a balance of probabilities, and accordingly find as a fact, that the Opponent was the first to use the mark. The Applicant's own evidence was that it only started using the mark in 2006. On the other hand, it did not contest the alleged use of the mark by the Opponent. According to the Opponent, it has used the mark as far back as 2002. As I earlier observed, it is a fact that the Opponent Company was incorporated in 2002 with the object of entertainment. On the whole, therefore, I have no reason to doubt that the opponent pioneered the use of the mark.

To the extent that the Opponent used the mark on its promotional material for its entertainment activities, it is arguable that it employed the mark as an unregistered trademark. Unfortunately, as I have said, an opposition under the

Act cannot be founded on an unregistered mark. Under section 12, however, the Act recognizes prior rights. One may continue using a mark notwithstanding the registration of a similar mark. It provides: -

'12. Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it, in relation to goods, in relation to which that person or predecessor in title of his has continuously used that mark from a date anterior -

(a) To the use of the first-mentioned trade mark in relation to those goods by the proprietor or a predecessor in title of his; or

(b) To the registration of the first-mentioned trade mark in respect of those goods in the name of the proprietor or a predecessor in title of his;

Which ever is the earlier, or to object (on such use being proved) to that person being put on the register for that identical or nearly resembling trade mark in respect of those goods under subsection (2) of section seventeen'.

In the light of the view I have taken of this matter, the ideal would seem to have the marks co-exist pursuant to section 17(2). As earlier indicated, however, neither of the parties seems amenable to such a co-existence and I am constrained to impose it on the parties. The said section 17(2) provides: -

'17(2) In case of honest current use or other special circumstances which, in the opinion of the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, make it proper so to do, the Registrar or the High Court as the case may be, may permit the registration of trade marks that are identical or nearly resemble each other in respect of the same goods or description of

goods by more than one proprietor subject to such conditions and limitations, if any, as the Registrar or the High Court may think it right to impose'.

My conclusion is that the applicant labored under the mistaken view that mere registration of the company name entitled it to exclusive use of the name as a trademark. This error appears to have been later realised, prompting the opponent to equally file for registration of the STAR SEARCH Logo as a trademark in the same class 16 on 21st September, 2007. Under unclear circumstances, this mark was subsequently registered on 6th October 2009. The applicant made representation regarding this registration but given my limitations under the Act, the Applicant Company would better commence expungement proceedings if still desirous to challenge the registration.

In sum, I dismiss the opposition but take the view that the opponent would be within its rights to claim prior rights to the mark. Nonetheless, this is merely an opinion as issues of infringement are the preserve of the high court. Each party shall bear its cost of and incidental to this application. Leave to appeal to the high court if dissatisfied with this decision is granted.

DELIVERED THIS 29th DAY OF JULY 2010


A.M. Banda-Bobo (Mrs.)

REGISTRAR

