JUDGMENT OF THE REGISTRAR OF TRADE MARKS APPEALED BEFORE THE SINDH HIGH COURT, KARACHI, PAKISTAN

Appellant: Abdul Wasim
Respondents: Messrs NTN Corporation and another
Decision: Appeals Dismissed as no illegality or apparent error is found in the impugned order

The Appellant challenged the decision of the Registrar of Trade Marks, which refused registration of the trade mark "NBN" on the grounds of its similarity to the well-known trade mark "NTN" owned by the Respondents. The Court, after examining the judgment and supporting material—which demonstrated that "NTN" was not only registered in Pakistan but also in several other countries—held that "NTN" qualified for protection as a well-known trade mark under Section 86 of the Trade Marks Ordinance, 2001.

Consequently, the Court held that the Appellant's adoption of the mark "NBN" was not entitled to protection, as it bore a clear resemblance to the Respondents' "NTN" mark. The impugned decision relied upon well-established case law. It was also noted that earlier court orders had restrained the Appellant from adopting or using the "NBN" trade mark.

The Court further observed that trade mark law was grounded in the fundamental principle of consumer protection, by preventing the use of similar, identical, or confusing trade marks by competing entities. It was evident that the Appellant adopted the trade mark "NBN" with knowledge of the long-standing prior use and goodwill of the "NTN" trade mark, which had been in use globally, including in Pakistan, in relation to ball bearings and taper rollers—as supported by registration certificates on record.

The Court also referred to its earlier decision in *Hamdard Laboratories (Waqf) Pakistan v. Muhammad Fahim*, (2016 CLD 2144), wherein it was held that if a mark fails the "Moron in a Hurry," "Class Trinity," or "LAPP" tests, it falls out of the legal protection umbrellaed by Trade Mark or common law and therefore cannot claim such protection. In the present case, "NBN" failed to meet those standards and was therefore not entitled to protection in the presence of the "NTN" trade mark.

Accordingly, both appeals were dismissed, as no illegality or apparent error was found in the impugned order.