

O-360-21

**TRADE MARKS ACT 1994**  
**IN THE MATTER OF**  
**TRADE MARK REGISTRATION NO. 2576287**  
**IN THE NAME OF AWAD NABIL**  
**FOR THE TRADE MARK**

**QATAR AIRWAYS**

**AND THE APPLICATION FOR CANCELLATION THEREOF**

**UNDER NO. 503302**

**BY**

**QATAR AIRWAYS GROUP (Q.C.S.C.)**

1. Mr Awad Nabil is the registered proprietor of the following UK trade mark:

UK TM No. 2576287

## **Qatar Airways**

Filing date: 24 March 2011

Registration date: 29 July 2011

*Class 18: Leather and imitations of leather, and goods made of these materials.*

*Class 25: Clothing, footwear, headgear.*

*Class 28: Games and playthings: playing cards; gymnastic and sporting articles; balls for use in sport, exercise or games; sporting articles, apparatus and equipment*

2. Qatar Airways Group (Q.C.S.C.) (hereafter Q.C.S.C.) seeks revocation of the registered mark, in full, on the grounds of non-use under Section 46(1)(a) of the Trade Marks Act 1994 ('the Act') in respect of the period 30 July 2011 to 29 July 2016 with an effective revocation date of 30 July 2016, and under section 46(1)(b) for the period 24 August 2015 to 23 August 2020, with an effective revocation date of 24 August 2020.

3. Mr Nabil filed a TM8N and counterstatement dated 20 October 2020 in which he denied the grounds for revocation but elected not to file evidence of use at this date<sup>1</sup>.

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<sup>1</sup> Section 9 TM8N

4. The Tribunal acknowledged receipt of the TM8N in a letter of 26 November 2020 and set a deadline of 26 January 2021 for receipt of Mr Nabil's evidence. The Tribunal's letter stated,

“In accordance with Rule 38(7) of the Trade Marks Rules 2008, if no evidence is filed by the due date, the registrar may treat the proprietor as not opposing the application and the registration of the mark shall, unless the registrar directs otherwise, be revoked.”

5. No evidence was received by 26 January 2021 and on 4 March 2021 the Tribunal wrote to Mr Nabil in the following terms,

“As no evidence of use has been filed within the time period set, Rule 38(7) applies. Rule 38(7) states that:

“...the registration of the mark shall, unless the registrar directs otherwise, be revoked.”

The Registry is minded to treat the proprietor as not opposing the application for revocation and revoke the registration as no evidence of use has been filed within the prescribed period.

If no response is received on or before **18 March 2021** the Registrar will proceed to issue a short decision on the issue of failure to comply with the Rules governing the filing of evidence of use.”

6. Mr Nabil subsequently telephoned the Tribunal. Mr Nabil requested a copy of the 4 March letter which was duly sent on 8 March and which itself reiterated the 18 March deadline. I would add that there was a hearing held on 8 March, before me, in connection with related opposition proceedings (under number 600001489).

7. On 9 March 2021 Mr Nabil emailed the Tribunal and enclosed a copy of an amended TM8N and 8 invoices. Mr Nabil had amended section 8 and 9 from the original TM8N. The amended sections are set out below:

**8. Counterstatement by defendant: If a defence is based on "proper reasons for non-use" then this should be clearly set out in the counterstatement**

The counterstatement should state the reason(s) why the proprietor opposes the application for revocation for non-use. The counterstatement should say which goods/services you have used the mark for.

*Please use a continuation sheet if not enough space.*

I should not lose the rights that I have as the owner of my Trademark UK00002576287  
I would like to prevent the registration of this mark on the basis of your earlier mark. Our trademark is in use since 2011/2 under our trademark class 18-25-28 that covers 100 of products we also licencing our trademark's, Many products that have our Qatar Airways design and our trademark & designs are made to order . Please see some customers Invoices to show that the trademark has been in use and is still in use. Qatar Airways is Printed on the leather materials and products like wallets and bags, suitcases and briefcases, clothing polo shirts, caps, women T-shirts , sweatshirts. Sport balls, footwear headgears and many other products that is made to order & that is registered under my trademark-class- 18-25-28.  
We also have Big orders for the future and pacifically for the year 2022.  
Please look up my website - <http://qatarairways.online/index.html#>

**9. Evidence in support of the counterstatement**

**Are you filing evidence with this form in support of your defence?**

**Note:** You do not have to file evidence of use with your counterstatement. However, if you do not, then you need to provide this evidence within 2 months.

*Please use a continuation sheet if not enough space.*



Yes > List details below



No

1A- 2012 customer sale invoice  
2A- 2013 customer sale invoice  
3A- 2014 customer sale invoice  
4A- 2015 customer sale invoice  
5A- 2016 customer sale invoice  
6A- 2017 customer sale invoice  
7A- 2018 customer sale invoice  
8A- 2019 customer sale invoice  
9A- 2020 customer sale invoice  
1-My Letter

8. The Tribunal wrote to Mr Nabil on 15 March stating that the evidence submitted was not in the correct evidential format and provided a hyperlink to the IPO website page which gives guidance on providing a witness statement and exhibits. The Tribunal letter also instructed Mr Nabil that if he wished to refile his evidence then he must also submit a retrospective extension of time request via a form TM9R by 29 March.

9. Q.C.S.C. emailed the Tribunal on 22 March objecting to the decision to allow Mr Nabil further time to submit a TM9R and to re-submit his evidence. A Case Management Conference (CMC) was requested.

10. On 23 March, Mr Nabil filed a TM9R in which he requested a further 21 days from the expired deadline of 18 March. The reasons Mr Nabil gave for missing the deadline are set out below:

**7. If the deadline relates to opposition or cancellation proceedings, tell us here why you missed the deadline and why you need more time?**

(Use a separate blank sheet if there is not enough space for your answer.)

My mother-in-law was infected with the coronavirus  
I had to look after my newborn baby I had to help my wife and was moving to a new property and did not have a good Internet connection for communication .  
And I' m not in good financial situation to hire Lawyers and therefore my reply was not clear enough on my points and evidence of use,

11. Q.C.S.C. emailed the Tribunal again on 15 April stating that the 21 days requested by Mr Nabil had expired on 8 April and as no evidence had been submitted, it requested a CMC to discuss these matters with a view to revoking the registered trade mark.

12. The CMC took place before me via telephone conference on 5th May 2021. The CMC was attended by Mr Nabil and Mr Tom Hooper of Bird & Bird LLP representing Q.C.S.C.

13. During the CMC I asked Mr Nabil about the reasons he had given on the TM9R and when the events he had stated took place. He confirmed that his mother-in-law had coronavirus in October 2020, his wife was still unwell after giving birth in February 2020 and childcare was an ongoing issue during that time due to local lockdowns. In addition, Mr Nabil stated that the move to new premises had taken several months between September to December 2020 because of the lockdown issue.

14. Furthermore I asked Mr Nabil why he had still not submitted his evidence, some weeks after filing the TM9R. Mr Nabil replied that he had emailed the evidence on 5 April and again on 16 April, when he noticed that the 5 April email had failed to send. I was not able to find either email Mr Nabil referenced on the Tribunal's case management system so I asked him to confirm the email address he had used. Mr Nabil said that he had emailed [Charlotte.Peacock@twobirds.com](mailto:Charlotte.Peacock@twobirds.com).

15. By way of context Ms Peacock is an attorney at Bird & Bird who had represented Q.C.S.C. in recent related opposition proceedings against Mr Nabil. It became apparent that Mr Nabil had only emailed Ms Peacock with evidence and had not emailed the Tribunal. I asked Mr Nabil to resend his 16 April email to [tribunalhearings@ipo.gov.uk](mailto:tribunalhearings@ipo.gov.uk) so that I could review it following the conclusion of the CMC. Although I gave Mr Nabil the Tribunal email address orally, I also asked my colleague in the Tribunal hearings team to email Mr Nabil directly after the CMC so that he had the correct email address to respond to, in case it had not been clearly heard over the telephone.

16. In reply Mr Hooper stated that his colleague Ms Peacock had begun maternity leave on 26 March 2021 and an automated email reply had been set up on her email account to inform anyone sending emails of her absence. However Mr Hooper had accessed Ms Peacock's email account and was able to open the 16 April email sent by Mr Nabil. He described the email content to me during the CMC and stated that the evidence sent by Mr Nabil was not in the correct evidential format requested by the Tribunal and that it should not be admissible. He further stated that the TM9R should not be granted and the contested trade mark should be revoked as Mr Nabil had been given ample opportunities to get his evidence in the correct format and sent to the Tribunal and had still not done so. The delays which have ensued since the original deadline passed in January were detrimental to his clients and that further costs were being incurred unnecessarily. In addition, he added that the Tribunal's overriding objective is to deal with all cases expeditiously and fairly and it had already been 3 months since the original deadline had passed which was unfair to his clients.

17. I concluded the CMC after hearing submissions from both sides but reserved any decision until I could review the content of Mr Nabil's 16 April email and all other material that was sent to the Tribunal.

18. Following the conclusion of the CMC, the Tribunal has not received anything from Mr Nabil directly. However Mr Hooper forwarded the 16 April email from Mr Nabil (that had been sent to Ms Peacock) to the Tribunal. Mr Nabil has not contacted the Tribunal to say this email is incomplete or incorrect.

19. For the sake of completeness I should also add that Mr Hooper also forwarded an additional email from Mr Nabil dated 23 March 2021. Although it had been sent to Ms Peacock only, it was actually for the attention of the Tribunal officer responsible for this case, Ben Howells. Although nothing turns on this, the verbatim text of the 23 March email states,

“Dear Ben Howells.

I hope your keeping safe.

Thank you for your email and letters.

Looks like the new applicant doesn't understand the meaning of coronavirus situation for the nation and what we all going through.

Trying to Object on the Trade Mark Office doing its job for giving me an extension to submit my evidence info for my existing my trademark they existed for the last nine years. Under no circumstances they would be allowed to register the same trademark under my three class since I have been using and still using my trademark. Since the applicant has powerful Lawyers that knows the trademark law more than me that doesn't change the facts.

I have pointed out in my statement I him have until 29 March 2021. To submit my full evidence.

I'm also going to talk to trademark lawyers today so they can submit the case on my behalf hopefully to show the use of my existing trademark since 2011.

Keep Safe

Best Regards

Nabil “

20. I have now reviewed the contents of the 16 April email and all material sent by Mr Nabil. The text of the 16 April email reads

“Dear IPO/ Bird & Bird LLP

I Have sent you this email on the 05\04\21 but looks like it has never left my laptop for unknown reason. Please see attach files.

Best Regards

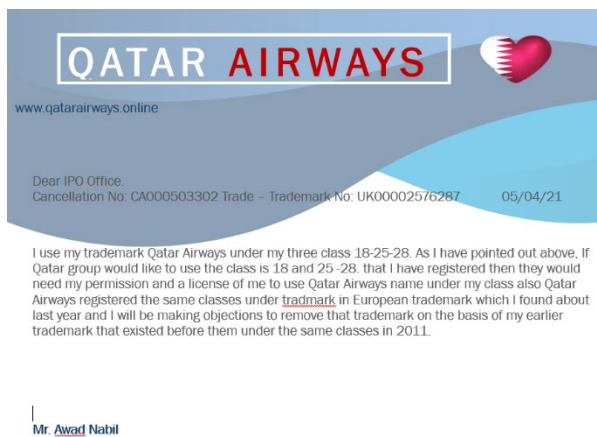
Stay Safe

Nabil”

21. There were three attachments to the email comprising the following documents:

- A Word document entitled “Head Letter”
- A Word document entitled “MY Letter”
- A pdf document entitled “TM8N copy”

22. The content of the “Head Letter” document is set out below



23. The content of the “MY Letter” document is set out below





I'm sorry for late replay for my above case.

My mother-in-law was Unfortunately infected with the coronavirus. I had to look after my newborn baby I had to help my wife and was moving to a new property and did not have a good Internet connection communication specially with the lockdown situation we are in at the moment, This should not change the fact that I'm the owner of the two trademarks known as "Qatar foundation/ trademark numbers. UK 00002589497 and "Qatar Airways" trademark numbers. UK00002576287. That is registered since the dates 24 March 2011. My UK00002576287 trademark is registered under three classes 18-25-28 same as all my other seven trademark's with IPO office that I have been using since I have been in use of my trademark and I registered my trademark and therefore it is against the law to allow any other trademark with the same name and the same class to be registered. UK00002576287, the Qatar Group in 2015 has tried to provoke one of my other trademark known as Qatar foundation UK 00002589497, please look up the case number and you will see for yourself and find out that I am the person who has won the case and we are in the same situation again now by the same group requesting to invalidate yet another trademark of mine just because they have more money than me or have more powerful Lawyers than me does not change the law and the facts that I use my trademark Qatar Airways under my three class 18-25-28. As I have pointed out above, If Qatar group would like to use the class is 18 and 25 -28. that I have registered then they would need my permission and a license of me to use Qatar Airways name under my class also Qatar Airways registered the same classes under trademark in European trademark which I found about last year and I will be making objections to remove that trademark on the basis of my earlier trademark that existed before them under the same classes in 2011.

Mr. Awad Nabil

24. The pdf document entitled "TM8N copy" is a duplicate of the form attached to Mr Nabil's email of 9 March.

25. Having now had the opportunity to consider the submissions made at the CMC, to review the 16 April email and other material sent by Mr Nabil, I am content that as the amended TM8N contained references to the invoices and contained a statement of truth the retrospective extension of time should be granted and, as a consequence, the evidence filed by the opponent, on the 9 March, is admitted into these proceedings.

26. As my decision does not terminate proceedings, the case will now pass back to the case worker who will set the next deadline.

**Dated this 13th day of May 2021**

**June Ralph  
For the Registrar**