Saudia Arabian Airlines Corporation v Saudia Kenya Enterprises Limited (Civil Appeal 47 of 1984) [1986] KECA 73 (KLR) (12 March 1986) (Judgment)

Saudia Arabian Airlines Corporation v Saudia Kenya Enterprises Limited [1986] eKLR

Neutral citation: [1986] KECA 73 (KLR)

REPUBLIC OF KENYA

IN THE COURT OF APPEAL AT NAIROBI

CIVIL APPEAL 47 OF 1984

AA KNELLER, HG PLATT & JM GACHUHI, JJA

MARCH 12, 1986

BETWEEN

SAUDIA ARABIAN AIRLINES CORPORATION ..... APPELLANT

AND

SAUDIA KENYA ENTERPRISES LIMITED ..... RESPONDENT

(Appeal from a judgement and order of the High Court of Kenya at Nairobi (Cocker, J.) dated January 15, 1984 In Civil Appeal 186 of 1983)

JUDGMENT

1. The appellant, Saudia Arabian Airlines Corporation (SAAC), claims it is a corporation incorporated in the Kingdom of Saudi Arabia and owns a logo or trade mark in the form of a palm tree imposed on a delta device with crossed swords supporting and criss-crossing the delta. It is registered, extensively used and known in most countries of the world and has acquired a worldwide reputation for goods used by SAAC which are covered by classes 12 and 16 in the Third Schedule to the trade marks Rules promulgated under sections 39 and 41 of the *trade marks Act* (Cap 506).

2. The respondent, Saudia Kenya Enterprises Limited (SKEL), alleges it is a company incorporated in Kenya and has a trade mark for its goods registered in classes 12 and 16 as TMS B26905 and B26906 and they are so similar to or identical with those of SAAC that the Registrar of trade marks on December 9, 1980 would not register SAAC'S which were labelled TMA Nos 28109 and 28110.

3. So on February 2, 1981, SAAC appointed Kaplan and Stratton, the Nairobi Advocates, its agents to have SKEL's registrations removed under section 29(1) (a) and rectified under section 35 of the *trade marks Act*.

4. The applications, one for each registration, were made three days later and their grounds included allegations that-

    1. because their marks and goods are so similar confusion and deception is likely to arise in the minds of the public so as to disentitle SAAC's marks to protection in a court;

    2. SKEL was not the true owner of the marks and therefore not entitled to claim ownership of them or to apply to register them;

    3. by having them registered SKEL was fraudulently attempting to profit from SAAC's worldwide reputation;

    4. SKEL's registrations should not remain on the register or be protected by a court because it had acted dishonestly, fradulently and with malafides;

    5. the action of SKEL constituted unfair competition;

    6. its registrations were contrary to articles 6 sexies and 10 bis of the Paris Convention for the Protection of Industrial Property 1880 which the Kenya Government ratified on June 14, 1965;

    7. its registrations were contrary to sections 14, 20(1), and 35 of the *trade marks Act*;

    8. SAAC owned the copyrights in the marks and their use by SKEL was an infringement of those copyrights and;

    9. neither party had made any bona fide use of the marks in relation to the goods for which they were registered up to the end of December, 1980.

    SAAC's applications concluded with the averment that because of all that just tabulated SAAC was "an aggrieved party".

5. Its statement of each case of the same date had almost the same matters in it as the applications. So did the supporting statutory declarations of SAAC'S manager for Kenya, Central and Southern Africa (Kasim Ali Reza) who went on to disclose that SKEL's marks were registered for its stationery and related goods and that it described itself as being, among other things, a travel promoter so that the public in Kenya might wonder whether SKEL was using SAAC's mark with its consent or under licence when all along there was no connection. Furthermore, continued SAAC's manager, when SKEL filed its application TMA B29605 in class 12 and TMA B29606 in class 16 at the registry SKEL did not legally exist and so could not be the proprietor of either mark. And, he added, SKEL's advocates by a letter of December 9, 1980 had threatened to sue SAAC for breach of its trade mark if it did not discontinue using it which SAAC's advocate replied to on December 15, 1980 saying SAAC refused to do so and, in turn, threatening to take rectification proceedings to remove SKEL's registered marks which in due course it did.

6. SKEL's counter statements of May 8, 1981, supported by the statutory declarations of its Chairman, John Harun, resisted these proceedings on the grounds that-

    1. its registrations of its marks were valid because they did not offend against any section of the Act;

    2. they were not obtained by fraud, bad faith or dishonesty;

    3. they had been registered for over a year before SAAC made its applications.

4. unfair competition was absent (because only SKEL's business was within Kenya);

5. SAAC was bent on infringing SKEL'S rights in the use of these marks in Kenya;

6. such a use by SAAC would be illegal;

7. it would cause confusion and deceive the public;

8. SAAC's country, Saudi Arabia, was not a member of the World Intellectual Property Organization; and

9. SAAC could not pray in aid the Paris Convention since it had not registered the marks in Saudi Arabia.

7. On May 4, 1983 Samiulla Sahikh, who by then acted as the manager for SAAC in Kenya, Central and Southern Africa, made statutory declarations in which he claimed SAAC owned the copyrights in the drawings because it commissioned the American aircraft manufacturing company Boeing to produce them and then to embellish the tails of SAAC's Boeing aircraft with them.

8. John Harun replied for SKEL with statutory declarations claiming he invented them in 1967 and he assigned them in 1980 to SKEL. Each was designed to portray a triangle representing engineering and general designs (one of the objects of SKEL), a palm tree representing the living aspect of those designs and agriculture and two crossed swords to portray the general African way of life all set in green to symbolise potency and the lushness of Kenya.

9. On July 20, 1983 SAAC and SKEL (represented by Mr Hime with Mr Chandhri and Mr Jamal, together with Mr Wambeu and Mr Kinyanjui, respectively) appeared before the learned deputy registrar of trade marks (Mr Muchae). At the outset the ultimate issue before him was whether or not the trade marks (numbers B26905 and B26906) which were in the names of SKEL should be removed?

10. The deputy registrar never reached this issue because SKEL's advocate took a preliminary objection; the deputy registrar should not hear the applications at all because they were contrary to the laws of the country, impugned its sovereignty, transgressed the provisions and the spirit of the *trade marks Act* (cap 506) all because SAAC was not the registered proprietor of these trade marks. The applications should be struck out at once was what Mr Wambeu urged on behalf of SKEL.

11. Mr. Hime's reply was that although SAAC had not registered the marks it owned them and was entitled to claim the propreitory rights in them. Thus SAAC was entitled to take these proceedings under sections 29 and 35 of the *trade marks Act* in Kenya. They were not proceedings for trade mark infringements or passing off. They were to strike off the register these two marks. It was only necessary for SAAC to be "an aggrieved person" under sections 29 and 35 of the Act for it to launch these applications.

12. Mr Wambeu, in reply repeated his written submissions for the preliminary objection. Reduced to their simplest they amounted to a submission that a foreign corporation which has not registered its trade mark in Kenya cannot complain if a local person or local company does so first, regardless of what field each trades in or intends to do so.

13. The learned deputy registrar summarised the submissions and the preliminary objections by posing this question. Can someone (or a firm or a corporation) that claims to be the owner of an unregistered trade mark take proceedings under sections 29 and 35 of the Act against someone who has claimed it as his own and registered it beforehand? He held he could if he claimed to be an aggrieved person.

He gave this ruling on August 2, 1983 and SKEL'S advocates declared they would appeal to the High Court. The applications before the Ddeputy registrar of trade marks were then adjourned sine die.

14. The appeal, which was by motion on notice under rule 117 of the trade marks Rules was filed on September 27 that year, heard by Mr Justice Cockar on October 5,6, and 7 and judgment was delivered on January 25, 1984.

15. The learned judge found that he must allow the appeal because in his view SAAC did not qualify as an aggrieved person. He set aside the ruling of the deputy registrar and went on to strike out the applications of SAAC because it had no locus standi to make such an application. The costs of that appeal and the costs of the preliminary objection before the deputy registrar were awarded to SKEL.

16. He did all that because he found that since SKEL registered these marks first any use of similar ones by SAAC was mala fides and contrary to SKEL's rights in them. It was not the kingdom of Saudia Arabia which made the application so any submission that the national airline adapted its national emblems was irrelevant.

17. And so was any registration by SAAC of the mark in any other country. This the learned judge based on a paragraph in the judgment of Spry, Ag P of the former Court of Appeal for East Africa in Brooke Bond KenyaLtd v Chai Ltd [1971] EA 10 12 (CA-K).

18. Mr Justice Cockar's view was that "an aggrieved person" was one whose legal rights were limited or might be limited if the marks remained on the register and both he (or it) and the opponent were engaged in the same trade or any connected trade. He could find no legal right of SAAC in Kenya which would be or was limited by the mark remaining on the register in the name of SKEL . He found as a fact SAAC began operating in Kenya after the marks were registered by SKEL. He also held SAAC had not acquired any right in them in Kenya by using them here.

19. The learned judge also dealt with other matters which were canvassed by the parties' advocates in the Pigh Court but not in this one so there is no need to traverse that ground again.

20. So now SAAC asks this court to allow its appeal with costs, set aside the judgments and order of the High Court in Nairobi and order the deputy registrar of trade marks to continue hearing the applications by SAAC for the removal of trade marks B26905 and B26906 from the Trade Marks Register .

21. SKEL contends that the decision of the High Court ought to be affirmed on grounds in addition to those relied upon by it and the appeal should be dismissed with costs.

22. SAAC's grounds of appeal, in brief, are that Mr Justice Cockar erred in holding –

    a. SAAC was not an aggrieved person;

    b. SAAC had no locus standi;

    c. SAAC's use of its similar or identical marks outside Kenya was irrelevant;

    d. SKEL's adaptation of the Coat of Arms of the Kingdom of Saudia Arabia was irrelevant;

    e. SAAC had infringed SKEL's rights in its registered marks;

    f. SAAC's rights are not limited by SKEL'S Marks remaining on the register; and the learned judge erred in

    g. going beyond the issue of whether or not SAAC was an aggrieved person;

h. granting SKEL a certificate of validity under section 47 of the Act for each mark before the question of its validity had been decided or on an appeal from a preliminary objection to SAAC's locus standi.

23. SKEL's grounds, summarised, for affirming the decision in addition to those relied upon by the judge were –

1. SAAC's remedy was not an appeal from the ruling but the deputy registrar's earlier refusal to register its marks;

2. SAAC's applications were misconceived in law;

3. they were attempts to prevent infringement of their marks;

4. SAAC had acted illegally and could not be afforded relief by any court, and;

5. SAAC had no legal existence and could not bring any proceedings.

24. There was a great deal of material in the memorandum of appeal from and the notice of grounds for affirming the decision of the High Court but having heard the submissions of Mr Deverell for SAAC and Mr Wambeu for SKEL much of it was dispelled or more suitable for the deputy registrar to resolve later.

25. It seems clear to me what SAAC was seeking to do before the deputy registrar was to persuade him to expunge the entry in the register of these marks, the registered trade marks of SKEL, on the ground that SKEL should not have registered them because their use by SKEL would by reason of their being likely to deceive or cause confusion disentitle the marks to protection in a court of justice.

26. SAAC'S applications were under section 35(1) of the Act to get off the register SKEL's marks which should not be there because they were prohibited under the terms of section 14.

27. Now, it is agreed all around, that only a person aggrieved can make such an application according to section 35(1). The preliminary objection was concerned with whether or not SAAC was "person aggrieved".

28. A person aggrieved" is not defined in the Act. There are no reported decisions of any East African Court on what that phrase means but the *trade marks Act* (cap 506) is based on English Acts so is it proper and useful to see what the English courts have made of it.

29. Lord Pearce in his speech in Daiguiri Rum Trade Mark, [1969] RPC 600, 615 dealt with the words "persons aggrieved" by pointing out that they were used in the first [English] *trade marks Act* in 1875 without further definition and added [at page 615].

> In my opinion, the words were intended by the Act to cover all trade rivals over whom an advantage was gained by a trader who was getting the benefit of a registered trade mark to which he was not entitled. If an erroneous entry "[in the register]" gives to his rival a statutory trade advantage which he was not intended to have, any trader whose business is, or will probably be affected thereby is "aggrieved" and entitled to ask that the error should be corrected."

and in the same passage he explained the history and purpose of the *trade marks Act* in this was-

> At common law a trader could ask the courts to protect him from the improper use of his mark by others who would pass off their goods as his. But to do this he had to establish by cogent evidence from the purchasing public and the trade that the mark had come to denote

his goods and his alone. To avoid the paraphenalia of proof and to help traders by enabling them to see more clearly where they stood in respect of particular trade marks the *trade marks Act* were passed. It is, and was intended to be a great advantage to a trader to have his mark registered under the Acts. That advantage to him is to some extent a corresponding disadvantage to his rivals. He was only intended to have it if necessary qualifications are fulfilled. If they are not, the mark is not to be entered on the register. If it subsequently appears that it is wrongly entered on the register it is to be removed. For to permit it to remain would give him, at the expense of his rivals an advantage to which he is not entitled."

30. Lord Pearce referred to the locus classicus on who is an 'aggrieved person' which is William Powell, trading as Goodall, Backhose & Co v TheBirmingham Vinegar Brewery Company Limited, [1894] RPC 4 (HL) in which in turn their Lordships cited with seeming approval the Court of Appeal's decisions of In re Riviere's Trade Mark, 26 Ch D 48 and In reAppollinaris Trading Company's trade marks, [1891] 1 Ch 186.

31. And since then there have been decisions on the phrase by the English Court of Appeal or the Registrar of trade marks or his deputy reported as Wright Crossley & Co's Trade Mark [1898], 15 RPC 131,, Ellis & Co'sTrade Mark, [1904] RPC 617, Lever Bros v Sunniwite Products, [1949] RPC 84 and Wells Fargo Trade Mark, [1977] RPC 503 and the OscarTrade Mark Case, [1979] RPC 173.

32. Beginning with the fact that the only person who can apply under the Kenyan legislation to have the register rectified is someone aggrieved by an entry made in the register kept under the Act the first question that arises is who is a person aggrieved? At the outset that is merely a question of locus standi and one of mixed fact and law. My analysis of the English decisions produce these guiding beacons –

    (i) no exact exhaustive definition is possible;

    (ii) reasons of public policy make it undesirable to narrow unduly the definition because it is a public mischief that there should be on the register a mark that should not be there;

    (iii) common informers and strangers proceeding want only (Lord Ashbourne in Powell's case) or officious interferers (Lord Herschell, L C in Powell's case) are excluded because they have no interest at all in the register being correct;

    (iv) anyone in the same trade and dealing in the same articles as one who has wrongfully registered a trade mark is prima facie an aggrieved person;

    (v) someone who lacks a trading interest in the goods covered by the registered mark is not one (The Quakers could not have rectified a registration of 'Quaker' for liquor Ellis & Co's Trade Mark and the Academy of motion picture Arts and Sciences could not have removed from the Register the mark 'Oscar' registered for gramaphone records, radio and sound equipment Oscar Trade Mark and Lever Bros could not have sunniwite's mark removed because Lever dealt in soapless detergent and sunniwite's mark was registered for its scents, cosmetics and hair lotions Lever Bros v Sunniwite Products;

    (vi) if the applicant's business is based abroad the case should be judged on its merits: In Re Riviere's Trade Mark but compare Wells FargoTrade Mark where the applicant's business was based in Liechtenstein so it was held to have no locus standi;

    (vii) anyone in the same trade who can show he wishes to trade in the same articles and would be hampered or impeded in his business or developing it by the existence of the registration of that mark is one;

(viii) any trader is an aggrieved person if the registration of the mark restrains what would otherwise have been his legalrights;

(ix) each case depends on its own facts; and

(x) the circumstances of a case may show that an applicant is not aggrieved.

33. And from these same English authorities it is clear that if the trader deals in the same class of goods [in England] and could use the same or a similar mark then that is prima facie evidence of his being aggrieved. This can only be displaced by the person who registered the trade mark showing that there is no reasonable probability that the objector would have used the mark if free to do so. So the onus may shift to the one who registered it during an application.

34. Mr Justice Cockar selected the definition of Lord Herschell in Powell's TM [1894] AC 8 and the one in Kerly's Law of trade marks and Trade Names, 10th ed, 1972, 204 which is anyone said to be infringing a registered mark, and in doing so, with respect, he did not err.

35. That being so, SAAC and SKEL are said to be travel promoters in Kenya, each claiming to be entitled to use a similar or identical logo here, each using it in magazines and advertisements in Kenya and each asserting it had acquired rights in it by usage in Kenya.

36. All that will have to be proved in the applications if not admitted but this was not necessary in the preliminary objection .

37. That being so, it is clear that SAAC was substantially interested in having each mark removed from the register. And its interests would probably be damaged if these marks remained on it as those of SKEL.

38. And it is certain that as rival travel promoters, in Kenya, assuming they are for the moment, SKEL would be gaining an advantage from these registered trade marks as its own which would be wrong if it were not entitled to them and certainly qualify SAAC as an aggrieved person for the purpose of section 35 of the Act.

39. So, in my respectful view, Mr Justice Cockar erred when he reversed the deputy registrar's ruling on the preliminary objection. And he erred in making findings on matters that were not relevant to the objection including the granting of a certificate of validity in respect of each mark under section 47 of the Act before the applications were heard.

40. Mr Deverell for SAAC also asked for the certificate of validity given by Mr Justice Cocker to SKEL's registered trade marks to be cancelled because their validity or otherwise had not been decided by the deputy registrar and the learned judge was not seized of that issue in the appeal.

41. Mr Wambeu's reply was that whether or not Mr Justice Cockar could or should have granted those certificates there was no right of appeal from them and he cited Haslam Co v Hall (2) [1888], RPC 144.

42. Haslam Foundry and Engineering Co. Limited, owned a patent and brought an action in 1886 against Messrs J and E Hall and Co alleging infringement and asking for an injunction and other relief.

43. Judgment was entered by Stephen J on August 1, 1887 for Hall and Co with costs but a certificate that the validity of the patent was in question in the action was given to Haslam Co. This entitled them to solicitor and client costs in any subsequent action. Hall and Co appealed.

44. The Court of Appeal (Lord Esher M R, Fry and Lopes, L JJ) held that it had no jurisdiction to deal with certificates because section 19 of the *Judicature Act* 1873 limited it to hearing and determining appeals from any judgment order or rule and no more.

45. In my view Haslam v Hall is not in point. It is a decision of the Court of Appeal in England of February 25, 1888 and it is related to a certificate in a patent action and appeal, and that court's jurisdiction under the English *Judicature Act* [1873].

46. Whereas here before this court in Kenya in 1986 we have certificates in a trade mark appeal granted by a High Court judge under section 47 of the Kenya *trade marks Act* (cap 506) and the jurisdiction of this court in appeal from the High Court on all the High Court did in the first appeal.

47. This court's jurisdiction springs from the provisions of section 3 of the *Appellate Jurisdiction Act* (cap 9) and on this issue section 3(2) is particularly relevant because it declares –

    (2) for all purposes of and incidental to the hearing and determination of any appeal in the exercise of the jurisdiction conferred by this Act, the Court of Appeal shall have, in addition to any other the power, authority and jurisdiction vested in High Court."

48. And by rule 31 of the Court of Appeal Rules this court so far as its jurisdiction permits has power to confirm, reverse or vary the decision of the High Court and make any necessary incidental or consequental orders.

49. Thus, in my view, this court has jurisdiction to reverse the learned judge on that part of his decision which relates to the certificates of validity and it should do so because whether or not they should be granted was not a matter in the appeal before him.

50. The result, in my view, is that each ground in SAAC's appeal succeedsand each in SKEL's notice of grounds for affirming the decision of the High Court fails.

51. Therefore I would allow the appeal with costs here, in the High Court and before the deputy registrar of trade marks, set aside the judgment and orders of Mr Justice Cockar and order the same deputy registrar to proceed with the hearing of the application by SAAC for the removal of the trade marks from the Trade Mark Register from where he left off.

52. And I would reject SKEL's notice of ground for affirming the decision of the learned judge and award the costs to SAAC.

53. Platt Ag JA and Gachuhi Ag JA agree so those are the orders of the court in this appeal.

    Platt Ag JA. I agree.

54. The respondent to this appeal, Saudi Kenya Enterprises Ltd, intervened in proceedings, brought by the appellant, Saudi Arabian Airlines Corporation, for the rectification of the register of trade marks under sections 29 and 35 of the *trade marks Act* (cap 506). Section 29 provides that a registered trade mark may be taken off the register in respect of any of the goods in respect of which it is registered on application by any aggrieved person; and by section 35 the application may be made to the registrar. The intervention of the respondent was to raise a preliminary issue to the effect that the rectification proceedings could not be brought at all, because they were illegal, and would prevent the quiet enjoyment and protection given to the respondents by the registration of their trade marks under the *trade marks Act*.

55. The reasons for this submission appear to have been that:-

    1) the appellant must first show that they have a trade mark obtained pursuant to the provisions of the *trade marks Act*;

    2) a trade mark must be registered;

3) the appellant was not the registered owner of the trade marks they claimed;

4) the appellant had made false statements in their statutory declarations;

and

5) the appellant was prohibited from bringing or filing the present application under section 5 of the *trade marks Act*.

56. There is not one word about the concept of an aggrieved person in the objection of the respondent, as explained by Mr Wambeu in his address. That was raised by the appellant in reply, after showing that all the contentions of the respondents were beside the point.

57. The registrar then dismissed the objections. He said that with regard to the preliminary objection the question was – can an owner of an unregistered trade mark take rectification proceedings under sections 29 and 35 of the *trade marks Act*? He answered that question saying that an aggrieved person could take rectification even where he is not an owner of a registered mark. Moreover one did not need to be the registered owner of a trade mark under section 2 of the *trade marks Act*. It is implied that section 5 had nothing to do with these proceedings as indeed it may not, because the Registrar said these were not "infringement" proceedings. The Registrar quite properly did not get involved in matters of fact concerning the statutory declarations or the position of the appellant in relation to the marks they claimed. He ordered the application to be heard on its merits.

58. It is very important to emphasise that the application of the concept of an aggrieved person was not part of the preliminary point. Kneller, J A has pointed out the characteristics of an aggrieved person. Unless some very clearly defined issue on agreed facts is put to the court or Registrar, that concept is not justiceable on a preliminary objection. That is because it is not a precise legal concept and depends on the facts of any particular case. The whole application will usually have to be heard. It was right therefore that this matter should be inquired into by the Registrar after hearing the whole application on its merits. It is pertinent to note that the Registrar did not find that the appellant certainly was an aggrieved person. What he did was to quote Lord Herschell's opinion as to the characteristics of a person aggrieved, which, if they existed, would give a person locus standi to be heard as an aggrieved person, in order to show, no doubt, that the objections did not apply on that point.

59. This opinion was taken on appeal to the High Court and the whole appeal went entirely wrong after the following crucial statements:-

> "To my mind the whole issue in this appeal and in fact in the preliminary objection taken before the deputy registrar can be decided if the question of who can be included in the term "an aggrieved person" can be satisfactorily resolved."

60. That is precisely what could not be decided, because it was not an issue on the appeal against the registrar's ruling; which could be accepted. It had not yet been decided by the registrar, who did not give his reasons why the appellant was an aggrieved person, for the simple reason that he had not been called upon to do so by the parties. The learned judge filled in the supposed lacuna. In doing so he referred to Brooke Bond vs ChaiLtd [1971] EA 10 at p 12. Spry, Ag P said that a trade usage in other parts of the world would not be a ground for depriving a proprietor of his right to a trade mark registered in Kenya in a passing-off action, although it might well be a reason for refusing an application for registration. In my judgment, refusal of an application for registration refers not only to the original application, but also to challenges to such registration.

61. In saying this, I am aware that the parties presented arguments on the question of an aggrieved person. It was one of Mr Wambeu's issues on appeal; it was extensively explored by Mr Deverell. But the parties did not, as far I can find, ask the judge to make findings in lieu of the registrar. It is clear that the appeal ought to have been restricted to the points of the objection only since that was all that had been decided. But the learned judge did not deal with these points. There is, for instance, no reference to section 2 or section 5 of the Act or to the statutory declarations. The judge held that the appellant (in this appeal) was not an aggrieved person. Consequently it follows that as the hearing of the appeal exceeded its bounds, the decision must be set aside. It would be suitable to send the record back to the registrar for him to continue to hear the application from where he left off, giving the whole matter his attention, and so finally deciding the issues before him. That will be the quickest method of bringing this litigation to a conclusion.

62. I would agree with the orders proposed by Kneller JA.

63. Gachuhi Ag J A I have read the judgment of Kneller JA in draft. I entirely agree with the conclusion therein reached that the appellant is an aggrieved person whose application should be heard and be determined by the deputy registrar. I also agree with the proposed orders the court should make.

DATED AT NAIROBI THIS 12TH DAY OF MARCH, 1986

A.A. KNELLER

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JUDGE OF APPEAL

H.G. PLATT

.....

AG. JUDGE OF APPEAL

J.M. GACHURI

.....

AG. JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR