

5 **THE REPUBLIC OF UGANDA**

IN THE SUPREME COURT OF UGANDA AT KAMPALA

**(CORAM: TUMWESIGYE, ARACH-AMOKO, JJSC; ODOKI,
TSEKOOKO, OKELLO, AG.JJSC)**

CIVIL APPEAL NO.15 OF 2014

10 **BETWEEN**

GUANGZHOU TIGER BATTERY (U) LTD:.....APPELLANT

VERSUS

INCARGO FREIGHT AGENCIES LTD:.....RESPONDENT

15 *(Appeal from the decision of the Court of Appeal at Kampala (Kasule, Mwangusya and Mwondha ,JJA), dated 29th May,2014, in Civil Appeal No.126 of 2013)*

JUDGMENT OF ARACH-AMOKO,JSC

20 This is a second appeal by the appellant, Guangzhou Tiger Battery (U) Ltd. It arose from the decision of the Court of Appeal which upheld the judgment of the High Court dismissing the appellant's suit against the respondent.

25 The facts which gave rise to the appeal are straightforward and undisputed. The appellant instituted HCCS No. 333 of 2012 in the Commercial Court against the respondent and the Uganda Revenue Authority, seeking for a permanent injunction, an inquiry into damages, and an account for profits, delivery up and destruction of the offending goods, damages and costs.

30 The appellant's contention was that it was at all material times since 11th November 2007, the registered user in Uganda of Trade Mark No. 19462 consisting of the words "Tiger Head", registered in

5 class 9 part A of the Trademarks register, packed in red, blue and white layout. That the Tiger Head name is widely known in Uganda as signifying the appellant's batteries and it has acquired a substantial reputation and good will in the use of the name and mark.

10 The appellant's case was that the 1st defendant, now the respondent, had infringed the said registered trade mark and wrongly imported into the country for sale and passed off 6 containers of Tiger Head batteries, not being of the appellant's manufacture as those of the appellant.

15 In its defence, the respondent contended that it imported the goods on the basis of The External Trade Act (Import License) (Tiger Head Brand Batteries) Order, 2011, Statutory Instrument No. 23 of 2011, from an international open market.

20 Uganda Revenue Authority, the second defendant in whose hands the goods were, undertook to abide by the decision of the court.

At the scheduling conference, the following facts were agreed upon:

1. The appellant is the registered user in Uganda of registered trademark No. 19462 consisting of the words "Tiger Head" registered in class 9, part A of the Trademarks Register.
- 25 2. By bill of lading No. GZ7287810 dated the 22nd of May 2012, the respondent imported six (6) twenty foot containers numbers TTNU3268736; TRLU2924823; FSCU3563820; ECMU1667567; TRLU9662427; and CMAU1395595 of Tiger Head batteries from Yick's Industrial Limited, Hong Kong, with
30 the destination declared as Uganda.
3. The goods were in the hands of the URA.

The issues for determination were framed as follows:

1. Whether the actions of the respondent amount to an infringement of the appellant's rights as the registered user of

5 the trademark and whether the respondent had passed off the goods as those of the appellant.

2. What remedies were available to the parties?

The appellant relied on the written statement by Mr. Bob Kabonero, a Director of Whitemans (U) Ltd. The respondent also relied on the statement of Mr. Byamukama Fred, its Managing Director. The documentary evidence annexed to the pleadings was agreed upon as well by the parties.

The learned trial judge, (Masalu Musene, J), heard the evidence of the witnesses and in his judgment, came to the conclusion that the respondent had not infringed the appellant's rights as the registered user of the Tiger Head trademark and that there had been no passing off of the respondent's goods as those of the appellant. Consequently, he dismissed the appellant's suit with costs and ordered URA to release the respondent's goods.

20 The appeal to the Court of Appeal was also unsuccessful as earlier stated. The appellant has now appealed to this Court.

Grounds of Appeal.

The memorandum of appeal filed in this court set out nine grounds of appeal, namely that:

25 ***1. The learned justices of appeal erred in law and in fact when they failed to properly re-evaluate the evidence and thus came to a wrong conclusion that that the appellant had not adduced sufficient evidence to prove that the goods were not of its manufacture and they infringed on the appellant's trade mark rights.***

30 ***2. The learned justices of appeal erred in law and in fact by requiring proof of facts already agreed upon by the parties when they came to the conclusion that because***

5 *the appellant had not physically seen the batteries in issue, there was no proof that they were counterfeits.*

10 *3. The learned justices of appeal erred in law and misconstrued the law of evidence when they required the appellant to provide further proof of a negative assertion that the goods were not of its own manufacture.*

15 *4. The learned justices of appeal erred in law and in fact in holding that the respondent's act of importation of goods to Uganda for sale to the general public does not constitute infringement because the goods were not yet on the market and had been impounded by URA.*

20 *5. The learned justices of appeal erred in law and in fact in holding that the respondent was not aware of the contract between the appellant and the registered owner of Tiger Head trade mark and the appellant so as to be said to have infringed the said mark.*

25 *6. The learned justices of appeal erred in law and in fact in holding that the appellant as the registered user of the Tiger Head trademark and manufacturer of Tiger Head batteries had no goodwill in its products bearing the Tiger Head trademark.*

30 *7. The learned justices of appeal erred in law and in fact in holding that only the registered owner of a trademark has goodwill in the products bearing that trademark.*

35 *8. The learned justices of appeal erred in law and in fact in finding that the importation of the goods by the respondent was not wrongful because the respondent had*

5 ***a license from the Minister of Tourism, Trade and Industry.***

9. ***The learned justices of appeal erred in law and in fact in finding that passing off had not been proved by the appellant.***

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Representation:

At the hearing of the appeal, Mr.Edwin Karugire, Mr.Fred Muwema and Mr.Peter Kawuma represented the appellant while Ms. Diana Kasabiti and Ms.Dorothy Bishagenda represented the respondent.

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Submissions:

Mr. Karugire, Counsel for appellant argued grounds 1, 2, 3 and 9 together, because in his view, they touched on evidence. He then argued grounds 4 and 5 separately and 6 and 7 together and lastly ground 8.

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Arguing grounds 1, 2, 3 and 9, Counsel criticized the holding by the Court of Appeal that the appellant had not adduced sufficient evidence to prove the claim of infringement and passing off. Counsel contended that the Court of Appeal failed to re-evaluate the evidence on record as expected of that court. He submitted that had the court properly evaluated the evidence it would have come to the conclusion that the appellant had in fact discharged its burden of proof and it was the respondent which had the burden to prove its assertion that the goods in question were manufactured by the appellant. He maintained his argument in the Court of Appeal that the respondent had the burden of proof since it was difficult to prove a negative as per Seaton JSC, (as he then was) in the case of **J.K Patel vs Spear Motors Limited, SCCA No. 4 of 1991**. He therefore prayed that this Court finds for the appellant on these grounds.

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5 Regarding ground 4, counsel contended that the finding by the
Court of Appeal is not supported by the law of trademarks
particularly section 36 (1) and (2) where the key word is "*the use of*
the mark" not the sale of the goods. Also section 79(1) of the
10 Trademark Act which gives a civil remedy to the parties and the key
word is "...*a person whose rights are in imminent danger...*" He
referred to Kerly's Law of Trademarks and Trade Names, 14th Edn.
Page 608 where it is stated that a trademark owner is not bound to
wait before taking action to see whether customers will in fact be
15 deceived, for the very life of a trademark depends upon the
promptness with which it is vindicated. Counsel contended that the
act of importation is in itself an infringement. The Court of Appeal
therefore erred in law and in fact in holding that the act of
importation of the goods to Uganda for sale to the general public
does not constitute infringement because the goods were not yet on
20 the market and had been impounded by URA.

On ground 5, counsel submitted that knowledge of the contract
between the registered owner and the trademark user is irrelevant
in determining infringement of a trademark. He contended that the
respondent ought to have known that the appellant was the
25 registered user of the said trademark since the agreement was not
private because it is registered in the trademarks register. He
contended further that the rights of a registered user are protected
under section 49 (3) of the Trademark Act; therefore, the use by the
registered user is the same as use by the owner. He submitted
30 further that Section 79 of the Trademarks Act protects a person
whose rights under the Act are in danger, not only of the registered
owner. It was therefore an error of law and fact for the Court of
Appeal to hold that the respondent was not aware of the contract
between the appellant and the registered owner of the Tiger Head
35 Trademark so as to be said to have infringed the said trademark.

Regarding grounds 6 and 7, counsel contended that there was
misdirection by the learned Justices of Appeal in that they mixed

5 up the appellant's rights under infringement and passing off. Counsel submitted that passing off rights arise out of the manufacture and trade in the product. Section 1 of the Trademarks Act clearly defines it as passing off one's product as that of another in an attempt to deceive potential buyers. He contended that you do
10 not have to deceive, but once you attempt to deceive, then that amounts to passing off. On the other hand, infringement rights arise from registration of the trademark. As for goodwill, it does not arise from ownership of a trademark, but from the commercial activities engaged in by the use of the trademark. (See: **Britania**
15 **Allied Industries Ltd vs Aya Biscuits (U) Ltd, HCCS No.24 of 2009**) The appellant averred in the plaint that the appellant had been manufacturing, selling and trading in Tiger Head batteries even before its registration. This fact was admitted. The evidence of the goodwill was also not controverted. The learned Justices of the
20 Court of Appeal therefore erred in law and in fact in holding that the appellant had no goodwill in the products bearing that trademark.

Ground 8 criticized the Court of Appeal for finding that the importation of the goods was not wrongful because the respondent
25 had a license from the Minister of Tourism, Trade and Industry. Counsel submitted that the license required the respondent to import goods manufactured by the appellant and actually protected the appellant's trademark rights. Counsel further submitted that it is actually an offence under section s.12 (1) of the Trademarks Act
30 to import goods in contravention of any of the provisions of any license issued under the Act.

Mr. Muwema submitted on the grounds generally and his contention was that the complaint by the appellant in the suit was basically that the importation of the goods by the respondent was
35 wrong in that it infringed the appellant's trademark. That it was the respondent that claimed that it was lawful, therefore the duty to prove that the importation was lawful rested on the respondent

5 because it is the one that had been licensed to import the batteries,
not the appellant. He argued that the burden was fixed by law,
namely, section 9 of the External Trade Act. Under that section, at
all times, when the issue of importation of restricted goods comes
into question, the burden must be placed on the importer. It was
10 therefore wrong to place the burden on the appellant by the courts
below.

According to Mr. Muwema, the second burden was the evidential
burden, that is, the burden to prove facts. The relevant facts were,
the import license was for goods manufactured by the appellant,
15 but the imported goods did not show who their manufacturer was.
Therefore, straightaway, the respondent had failed to discharge that
evidential burden that the goods had been imported in accordance
with the license. Based on the foregoing arguments, Mr. Mwema
prayed that this Court reverses the decision of the Court of Appeal
20 because it was based on a misdirection of the burden of proof.

In response, counsel for the respondent on their part supported the
decision of the Court of Appeal and opted to argue grounds 1,
2,3,4,5 and 8 together, followed by grounds 6, 7 and 9 together.

Regarding grounds 1,2,3,4, and 8, Counsel was of the view that
25 these grounds were in respect to the issue of infringement. Counsel
restated the duty of this Court as a second appellate court, which is
to the effect that the Court is not required to re-evaluate the
evidence except in the clearest cases. The role of this Court is
basically to consider whether the first appellate court has, in
30 approaching its task, misapplied or failed to apply the relevant
principles. Counsel cited the case of **Milly Masembe V Sugar
Corporation of Uganda [2002]2 EA.434** in support of this
proposition. The thrust of counsel's submission is that the Court of
Appeal was fully aware of its duty as a first appellate court and
35 stated so in its judgment. The Court of Appeal also properly
evaluated the evidence and applied the law of trademark

5 infringement correctly. Counsel contended further that the evidence before the court was indeed lacking as the court had found and the quality of the evidence given by the appellant's witness was poor. The issue was not about the number of witnesses. These grounds should therefore fail.

10 Regarding grounds 6, 7 and 9, and counsel for the respondent submitted that these grounds deal with the issue of passing off. Again, counsel supported the findings of the Court of Appeal arguing that the Court of Appeal was aware of the statutory definition of passing off. The Court of Appeal also applied the
15 correct law as stated in **Reckitts and Colman Products Ltd vs. Borden Inc & Ors [1990] UKHL 12 (08 February 1990)**. Counsel further contended that, the conclusions of fact arrived at were supported by evidence on record. That this Court does not, therefore, have the authority to interfere with the findings of fact,
20 since the applicant has not shown that the Court of Appeal did not do its duty properly. It was counsel's view that the instant case is accordingly distinguishable from that of **Milly Masembe vs Sugar Corporation (Supra)**, because, in that case, the trial court had a different holding from the Court of Appeal. That was thus a clear
25 case where the Supreme Court was required to re-evaluate the evidence. In the instant case, both the trial court and the Court of Appeal reached a concurrent finding of facts. In Counsel's view, this is not therefore a clear case upon which this Court should re-evaluate the evidence. Counsel further denied any admissions as
30 alleged by the appellant's counsel, arguing that admission must be clear and unequivocal, if it is to be relied on. She prayed for dismissal of the appeal with costs to the respondent in this court and the courts below.

35 Mr. Karugire made a brief rejoinder to the above submissions in which he strongly disagreed with the respondent's counsel and basically maintained the earlier submissions and prayers.

5 **Consideration of the grounds by court**

I have carefully perused the record of appeal and listened to the submissions by learned counsel. I consider the real issue to resolve in this appeal is whether the Court of Appeal as well as the High Court correctly evaluated the evidence, correctly applied the law regarding burden of proof, infringement and passing off; and arrived at a correct decision.

As a second appellate Court, I am fully aware that the two lower Courts reached concurrent findings of fact regarding the importation of the goods into the country. Therefore, this Court can only interfere with those findings if it is satisfied that the lower courts were grossly wrong and or applied wrong principles of the law. This duty of this court as a second appellate court has been re-stated in a line of authorities including **Milly Masembe vs Sugar Corporation (supra)** as follows:

20 ***“The Court also had the power under rule 29(1) of the Supreme Court Rules to decide on matters of law or mixed law and fact. On a second appeal, the Supreme Court was not required to re-evaluate the evidence in the same manner as a first appellate Court would as doing so would create unnecessary uncertainty. It was sufficient to decide whether the first appellate Court on approaching its task applied the relevant principles properly. Kifamunte Henry v Uganda [1997] LLR 72(SCU) followed.***

Evaluation of evidence

30 That said, I note that the Court of Appeal was aware of its well settled duty as a first appellate court. In its judgment at page 6 after referring to Rule 30(1)(a) of the Court of Appeal Rules and cases decided by this Court including **Kifamunte Henry v Uganda, SCCR No. 10 of 1992, Charles Bitwire v Uganda, SCCR No. 23 of**

5 **1985 and Banco Arabe Espaniol vs Bank of Uganda, SCCA No . 8 of 1998**, where it was stated that:

10 ***“...the first appellate court has a duty to re-hear the case and to consider the materials before the trial judge. The appellate court must then make up its own mind not disregarding the judgment appealed from but carefully weighing and considering it...”***

15 I further find that the Court of Appeal in approaching its task, clearly guided itself as to the law regarding its duty to re-evaluate the evidence. The Court then set out the issues which had been agreed upon for determination by the trial court; the law regarding burden of proof, the definition of infringement and of passing off and proceeded to carry out what I consider as a detailed appraisal and scrutiny of the entire evidence on record as well as the analysis of the evidence by the trial judge. In the end, the Court of Appeal
20 agreed with the findings of fact before coming to the same conclusion as the High Court had reached. The Court evaluated the evidence properly, in my judgment.

Burden of proof

Regarding burden of proof the trial judge stated thus:

25 ***“It is quite correct that s. 101 of the Evidence Act provides;-***

‘Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which she or he asserts must prove that those facts exist.’

30 ***In this case, it was the plaintiff who asserted that the imported batteries were not manufactured by the plaintiff. And it is the plaintiff who filed the suit against the defendant. It was therefore the duty of the plaintiff to prove that the batteries imported were not manufactured by the plaintiff through an expert in the field of battery***

5 **manufacturer (sic). The plaintiff failed to do so and cannot shift the burden to the 1st defendant. The burden of proof is on the plaintiff and not the other way round.”**

In agreeing with the trial judge, the Court of Appeal also referred to section 101 of the Evidence Act above, and in addition, stated the following:

10 **“S.102 of the Evidence Act provides that ‘the burden of proof in a suit or proceedings lies on that person who would fail if no evidence at all were given on both sides.’**

I do not find any fault with the statement which is clear, he who asserts must affirm.

Infringement

On the law of infringement, the Court of Appeal stated this:

15 **“In order for infringement to exist, it has to be proved that the respondent infringed the rights of the registered user and has to be done by adducing evidence. It was the duty of the appellant to adduce evidence to show that the people in the Uganda market had confused the batteries imported and therefore had had been deceived that they were manufactured by the appellant there as not.”**

25 This statement is in line with the provisions of section 36 of the Trade Marks Act No. 17 of 2010 which gives a registered trade mark owner an exclusive right to the use of the trademark and subsection 2 provides that:

30 **“(2) Without prejudice to the general effect of subsection (1), the right conferred by that subsection shall be taken to be infringed by a person who, not being the owner of the trademark or a registered user of the trademark uses by way of permitted use, a mark identical with or so nearly resembling it, as to be likely to deceive or cause confusion in**

5 **the course of trade in relation to any goods of the same description where use would result in a likelihood of confusion and in such a manner as to render the use of the mark likely to be taken –**

(a) **as a trademark relating to goods;**

10 (b)....”

(underlining is added for emphasis).

In the case of **Zeneca Ltd vs. Vivi Enterprises Ltd HCCS No. 842 of 19949 (reported in [1999] KLR 843)**, a decision of the High Court which I respectfully find very persuasive, the plaintiff was a manufacturer and distributor of a drug called Ketrax since 1970. The drug was sold throughout Uganda. In 1992, the defendant started packaging and distributing at a lower price, another drug called Vetrax. The packaging was similar to that of the plaintiff's drug. There was evidence that many people in the country thought it was the same drug. The plaintiff filed a suit for damages for infringement and passing off. In its defence, the defendant contended, just as in the case before us, that the drug was manufactured abroad and that the National Drug Authority had authorized its importation.

25 Byamugisha J (as she then was) held that:

30 **“The burden of proof lies on the plaintiff to satisfy court that there has been an infringement of its trademark. The plaintiff has also to prove that there is a resemblance between the two get ups which is deceptive. The duty of the court in the matter is to decide whether the get up complained of does so nearly resemble the plaintiff's registered trademark as to be likely to deceive or cause confusion in the minds of the public. See: - Payton & Co. Ltd VS Snelling Lambarde & Co. Ltd [1901] A.C.”**

35 The learned judge held that on the facts of the case, the resemblance between Ketrax and Vetrax was so as to cause and

5 deceive members of the public. Therefore the plaintiff had proved that the defendant had infringed its trademark.

Passing off

10 S.1 of the Trademarks Act defines passing off as, ***“representing one’s own product as that of another in an attempt to deceive potential buyers”***

The legal basis governing cases of passing off was clearly enunciated in the case of **Reddaway vs Banham [1886] AC 199** where Lord Salisbury’s LC (as he then was) said:-

15 ***“Nobody has the right to represent his goods as the goods of somebody else. How far the use of particular words, signs or pictures does or does not come up to the proposition which I have enunciated in each particular case must be the question of evidence.”***

20 As regards the nature of evidence required, this was set out in the case of **Parke Davis & Co. vs Opa Pharmarcy Ltd [1961] EA 556**, where the court stated thus:-

25 ***“Kelly at Page 421 has, by reference to cases not available to us, given instances of the type of evidence by which a court should be guided, such as the that there has been confusion, evidence of the circumstances usually attending to the distribution and sale of the goods under consideration, of the type of customer and the degree of discrimination commonly portrayed, expert evidence as to the circumstances usually attending the sale of goods in a particular trade , and as to the ordinary class of customers served , their intelligence and education , what they particularly look for in purchasing the plaintiff’s goods...”*** (underlining is added for emphasis.)

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Halsbury’s Laws of England, 4th Edition, volume 48, paragraph 281 states that:

5 ***“In actions for infringement of a trademark, or passing off, the burden is on the plaintiff. Moreover in passing off cases, the plaintiff must show the deception and confusion, caused by the matter complained of, which is operative in leading consumers to receive wrong goods or services.”***

10 With regard to the test to be applied, this was set out in the case of **Haria Industries vs P.J Products Ltd [1970] EA 365** at page 368 where Sir Charles Newbold, President of the Court of Appeal for East Africa (as he then was) stated as follows;

15 ***“ But the test in determining whether or not the defendant had put on the market an article which would be likely to deceive is whether an average customer, without any precise recollection of the article he wants but acting with reasonable care would if he saw the article complained of be likely to be confused.”***

20 In that case the two articles in question were placed before court for examination and comparison. The plaintiff had alleged that the defendant had put on the market baking powder in packets which bore resemblance to that of the plaintiff with the consequence that they were likely to be confused with the plaintiff's baking powder.
25 The High Court ruled in favour of the plaintiff and awarded damages for passing off. The appeal was allowed in part by reduction of the damages.

In the case of **Zeneca Ltd vs. Vivi Enterprises Ltd** (supra), the learned judge held, inter alia, that passing off is the representation
30 to the public of the defendant's goods as goods of the plaintiff by use of signs, words, pictures, packaging and coloration and like manner to create a deceptive or confusing resemblance. That in all cases, it is a question of evidence as to whether the resemblance exists and causes deception or confusion. In that case, the judge
35 found that there was sufficient evidence to show that the plaintiff's product (Ketrax) had been marketed in Uganda since 1970 as a

5 drug for worms. That constituted reputation. The judge also found
that there was no doubt that the name Vetrax so resembled the
name Ketrax that it was likely to cause confusion in the minds of
the consumers and there was evidence to show that the customers
were buying Vetrax thinking it was Ketrax. The judge held that, that
10 was proof of passing off as alleged by the plaintiff.

Upon a close scrutiny of the Court of Appeal judgment, I find that
the Court of Appeal understood the above legal principles and
applied them correctly to the case at hand. There was no mix- up as
alleged by the appellant's counsel.

15 Applying the principles in these provisions of the above Evidence
Act, the Court of Appeal found that:

***“There was no evidence supporting the fact which Mr. Bob
Kabonero alleged that they exist for the Court to give
judgment as to any legal right or liability in the appellant’s
20 favour(sic). For example, there was no evidence at all from the
appellant company in China oral or written that the batteries
were not of the appellant’s manufacture. The evidence of the
plaintiff was lacking.”***

In agreeing with the trial judge, the Court of Appeal also found that
25 the appellant had not adduced sufficient evidence to prove the
claim of passing off. In conclusion, the Court stated thus:

***“All the grounds of appeal have failed because of the
appellant’s failure to prove that the facts he claimed existed
for the Court to give judgment in its favour.”***

30 Having re-evaluated the evidence myself, I find no reason to
interfere with the concurrent findings of the Court of Appeal and
the High Court. As the two courts rightly observed, the appellant's
evidence was lacking. Apart from merely stating that the batteries
imported by the respondent had not been manufactured by the
35 appellant, the appellant made no effort to prove its case of

5 infringement by displaying the infringing batteries before court. The trial judge was therefore not in a position to determine if the batteries were deceptive or counterfeit as alleged by the appellant. There was thus no basis for the Court to make a conclusion of the likely deceit or confusion arising from the sale of the purported
10 infringing batteries. The issue of passing off could not arise as well since the goods had not been released by the URA, so there was no evidence of passing off either.

Further, the respondent's evidence that it imported the batteries under the license issued by the Minister of Tourism Trade and
15 Industry vide Statutory Instrument No.23 of 2011 from the open international market was not controverted even during cross examination of Mr. Byamukama. The Statutory Instrument provided in section 2 that:

20 **“Incargo Freighters and Agents Ltd is granted a licence to import Tiger Head Batteries manufactured by Guangzhou Tiger Head Battery Group Company Ltd, China.”**

The Statutory Instrument did not say that the respondent should only import the batteries from the appellant's factory. Besides there was evidence from PW1 during cross examination that there were
25 other traders of Tiger Head batteries in Uganda such as Kampala Modernity Ltd.

In my opinion, that explains why the serial numbers of the containers and the seals were not identifiable by PW1. Further, the batteries were not inspected or produced in court for comparison
30 with the ones manufactured by the appellant. In addition, no expert on batteries was called as a witness. Like the two courts below, I am equally satisfied that the appellant has not proved the case to the required standard.

5 In the result, I find no reason to depart from the findings and decision of the Court of Appeal. This appeal should accordingly be dismissed with costs here and the Courts below.

Delivered at Kampala thisday of October, 2015

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M.S.ARACH-AMOKO

JUSTICE OF THE SUPREME COURT

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