

O-221-03

TRADE MARKS ACT 1994

DECISION ON COSTS

**IN THE MATTER OF APPLICATION NO 2227364
BY SIEMENS FINANCIAL SERVICES LIMITED
FOR THE TRADE MARKS:**

**ease-e:finance
EASE-E:FINANCE**

(a series of two)

**AND THE CONSOLIDATED OPPOSITIONS THERETO
UNDER NOS 51515 AND 51516
BY EASYGROUP IP LICENSING LIMITED**

Trade Marks Act 1994
In the matter of application no 2227364
by Siemens Financial Services Limited
for the trade marks:
ease-e:finance
EASE-E:FINANCE
(a series of two)
and the consolidated oppositions
thereto under nos 51515 and 51516
by easyGroup IP Licensing Limited

DECISION ON COSTS

Background

1) On 2 July 2003 I issued a decision in relation to the substantive issues in these proceedings. However, I did not make an award of costs for reasons that I gave in my decision. I wrote:

“74) In his submissions Mr Harrison requests costs off the scale owing to the vague nature of the grounds of opposition and of the opponent’s evidence. I experienced problems with much of the exhibited material as easyGroup in lengthy pieces had not highlighted the relevant parts. Some of the evidence was illegible owing to poor photocopying. Parts of it were not in English but no translation was filed. Owing to the work required in relation to this evidence I consider it reasonable that an award of costs should be at the top end of the scale. However, I am most concerned by the use of section 3(6) of the Act as a ground of opposition. easyGroup put in no evidence or argument to substantiate its claim in relation to this ground. Most of the evidence of Ms Wilson in my view goes to the issue of bad faith. I refer again to the comments of Mr Thorley QC in *Royal Enfield*:

“An allegation that a trade mark has been applied for in bad faith is a serious allegation. It is an allegation of a form of commercial fraud. A plea of fraud should not lightly be made (see Lord Denning M.R. in *Associated Leisure v. Associated Newspapers* (1970) 2 QB 450 at 456) and if made should be distinctly alleged and distinctly proved.”

In this case the allegation does appear to have been lightly made and not followed up. In these circumstances I have decided that Siemens should receive appropriate compensation for the cost of the statement of Ms Wilson.

75) As Siemens has been successful it is entitled to a contribution towards its costs. I will allow Siemens one month from the date of this issuing of this decision to furnish a breakdown of the costs involved in the drawing up and filing

of the statement of Ms Wilson. I will make an award of costs at the end of the period.”

2) On 29 July 2003 the Office received a letter from Mr Harrison giving a breakdown of the costs involved in Ms Wilson’s statement. The total sum comes to £2450 plus VAT. Taking into account those parts of Ms Wilson’s statement that do not go to the issue of bad faith, I have decided that Siemens Financial Services Limited should receive £2,000 as a contribution to the costs of this statement.

3) In addition to this I have decided that Siemens Financial Services Limited should receive the following amounts towards its costs:

Considering statements of case of easyGroup IP Licensing Limited	£200
Statements of case in reply	£300
Evidence of Siemens Financial Services Limited	£750
Considering evidence of easyGroup IP Licensing Limited	£750
Written submissions	£300

The amount for considering the evidence of easyGroup IP Licensing Limited reflects the difficulties arising from the way the evidence was presented and the nature of the evidence. With the £2000, referred to in paragraph 2, this comes to a total of £4300.

4) I order easyGroup IP Licensing Limited to pay Siemens Financial Services Limited the sum of £4300. This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision or the earlier decision on the substantive issues is unsuccessful.

Dated this 5TH day of August 2003

**David Landau
For the Registrar
the Comptroller-General**