

**TRADE MARKS ACT 1994
IN THE MATTER OF APPLICATION No. 83032
BY STEADFAST ASSET MANAGEMENT LIMITED
FOR REVOCATION OF TRADE MARK No. 2297052
STANDING IN THE NAME OF
STEADFAST CAPITAL MANAGEMENT LP**

SUPPLEMENTARY DECISION

1) On 29 July 2010 I issued decision O-269-10 in which I found in favour of the registered proprietor. Both sides sought costs above the normal scale but in relation to different aspects of the case. I therefore afforded both parties the opportunity to provide submissions regarding the awarding of costs prior to reaching a decision.

2) Both sides have availed themselves of this opportunity. I therefore turn to consider the issues raised by the parties.

3) The initial substantive hearing was abandoned, due to the registered proprietor's request to file additional evidence. The applicant undoubtedly incurred costs in preparing for this hearing, although I note that the registered proprietor did make an offer of payment with regard to these costs which was rejected.

4) Once the registered proprietor had provided the further evidence to the Registry the applicant for registration sought an interlocutory hearing to object to its acceptance into the proceedings. The Hearing Officer decided to allow the evidence into the proceedings and also rejected a claim for discovery regarding the legal advice provided by the registered proprietor's counsel. It is clear that while initially the evidence was not supplied to the applicant at the same time it was sent to the Registry, it was sent shortly after under a covering letter (and not the original letter submitted to the Registry). Whilst the registered proprietor should have copied both the evidence and the original letter to the applicant there were references to both in subsequent correspondence that should have alerted the applicant to the oversight. Clearly, the bulk of the blame for the mix up lies with the registered proprietor.

5) The registered proprietor objected to the cross examination of the independent witnesses. As I noted in my decision these were individuals who hold positions where they would have demonstrated their integrity over numerous years. I believe that the registered proprietor was correct in stating that the applicant made a "tactical decision to request cross-examination in the hope that these people would be too busy to come to the UK-IPO to be cross examined, hoping thereby to undermine the obvious force and cogency of their evidence in another way". The semi-veiled allegation during the cross examination of one of the witnesses that they, the witnesses, were conspiring by discussing the line of questioning in the witness holding room was particularly crass and totally unjustified. I fully agree with the applicant's view that they should be allowed to cross-examine witnesses but this should not be simply to impugn their integrity. In the event, the questioning did go slightly beyond this but served only to strengthen the registered proprietor's case.

6) I turn now to the issue of whether the registered proprietor's activities fall within the remit of the Financial Standards Authority (FSA) and require the registered proprietor to be registered with that body. It was alleged that the absence of such a registration meant that the activities undertaken by the registered proprietor in the UK were illegal actions. As I pointed out at the hearing and in my decision, the Registry is not the correct body to be determining such issues. The FSA is active in enforcing its regulations and the matter should have been raised with that body. It is entirely possible that in the years since this action was launched before the Registry the FSA would have reached a determination. The registered proprietor is quite correct in asserting that a considerable amount of time and effort was spent dealing with this issue both in evidence and at the hearing. Indeed, following the hearing, but before my decision was issued additional written submissions were made by the applicant. These submissions were not requested by the Registry and permission was not sought prior to their provision. In the event I found against the applicant in regard to this ground of revocation.

7) Lastly, I take into account the fact that the specification of the registered proprietor was severely reduced as a result of the revocation action. The reduction was conceded by the registered proprietor at the hearing after the cross-examination of the principle witness, Mr Carney. Although, to my mind, it was clear from the written evidence that the registered proprietor was not involved in mutual funds but was only a hedge fund.

8) Taking all of the above into account I have decided not to award either side costs off the scale. I have decided to award costs within the scale to the registered proprietor, taking account of the various issues set out above and offsetting costs to which the applicant is entitled.

9) I order the applicant to pay the registered proprietor the sum of £2,700. This sum 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 is unsuccessful.

Dated this 13th day of September 2010

**G W Salthouse
For the Registrar
The Comptroller-General**