

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. 10265
BY BUILDING DESIGN PARTNERSHIP LTD
FOR RECTIFICATION OF THE REGISTER IN RESPECT
OF TRADE MARK NO. 2137585, STANDING ON THE
REGISTER IN THE NAME OF
THE BUILDING DESIGN PARTNERSHIP LTD**

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IN THE MATTER OF APPLICATION NO. 10265 BY BUILDING DESIGN PARTNERSHIP LTD FOR RECTIFICATION OF THE REGISTER IN RESPECT OF TRADE MARK NO. 2137585, STANDING ON THE REGISTER IN THE NAME OF THE BUILDING DESIGN PARTNERSHIP LTD

DECISION

The trade mark, BDP, was registered on 13 March 1998 under No. 2137585 in respect of services in Class 42.

The registered proprietor shown on the form of application and subsequently on the Register is The Building Design Partnership Limited. By an application dated 12 August 1998, Building Design Partnership Limited, “the applicants”, applied for rectification of the Register under Section 64 of the Act in respect of the trade mark concerned, by the correction of the name of proprietor to that of the applicants.

No formal statement of grounds was received with the form TM26, but evidence in the form of a Statutory Declaration by Mr Philip Warren Harris, of Gill Jennings & Every, the applicants representatives was filed. From this it can be taken that the grounds of rectification are that the application was filed in error in the name of The Building Design Partnership Limited.

In his statutory declaration Mr Harris states that due to an error on his part at the time of filing, application number 2137585 was filed in the name of The Building Design Partnership Limited when in fact the registered name of this company was Building Design Partnership Limited as evidenced by a copy of the Certificate of Incorporation on Change of Name shown as Exhibit 1.

Mr Harris also states that the company on whose behalf application number 2137585 was filed is English company number 2207415 and that at all material times the correct name of that company was Building Design Partnership Limited as shown in Exhibit 1 and remains Building Design Partnership Limited.

With these facts in mind, I now turn to consider the grounds for rectification under Section 64 of the Act, the relevant parts of which state:

- 64(1) Any person having a sufficient interest may apply for rectification of an error or omission in the register:

Provided that an application for rectification may not be made in respect of a matter affecting the validity of the registration of a trade mark.

- (2) An application for rectification may be made either to the registrar or to the court, except that -
- (a) if proceedings concerning the trade mark in question are pending in the

- court, the application must be made to the court; and
- (b) if in any other case the application is made to the registrar, he may at any stage of the proceedings refer the application to the court,
- (3) Except where the registrar or the court directs otherwise, the effect of the rectification of the register is that the error or omission in question shall be deemed never to have been made.

I am satisfied that the applicants have the qualifying status demanded by Section 64 of the Act: that is that they have a sufficient interest in the registration. I am also satisfied that this is not a request that must be made to the court. It is appropriate therefore for me to consider the request.

In so far as the error is concerned I am satisfied that it occurred as a result of an error on the part of the applicants representative. The consequence is that the registration stands in the wrong name. In all of the circumstances I am satisfied that the error should be corrected and, therefore, in the exercise of the discretion conferred upon me by Section 64 of the Trade Marks Act 1994, I direct that the Register be rectified by the deletion of the name shown against the registered proprietor in respect of trade mark number 2137585 and replaced with the name Building Design Partnership Limited.

Dated this 26 day of November 1998

M KNIGHT
Acting for the Registrar
The Comptroller General