

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO 2128767
BY PAUL SHEPHERD
TO REGISTER A TRADE MARK IN CLASSES 16, 28 AND 41**

AND

**IN THE MATTER OF OPPOSITION THERETO UNDER NO 47881
IN THE NAME OF PARTY LAND INC.**

TRADE MARKS ACT 1994

**IN THE MATTER OF Application No 2128767
by Paul Shepherd to register a trade mark
in Classes 16, 28 and 41**

And

**IN THE MATTER OF Opposition thereto under
No 47881 by Party Land Inc.**

SUPPLEMENTARY DECISION

On 13 March 2000, I issued my decision in respect of the above proceedings, finding the opposition to be successful under Section 5(1) in respect of Classes 16 and 28 of the application, and Section 5(2)(a) in respect of Class 41 by virtue of the opponents' earlier Community Trade Mark Application, subject to that application proceeding to registration. Having been notified that the opponents' earlier Community Trade Mark application had been withdrawn and the period during which it can be reinstated having passed, I determined that it no longer constituted an earlier trade mark and a barrier to the registration of this application and issued a Supplementary decision on 1 August 2000 reversing my decision of 13 March 2000.

It has since been brought to my notice that the opponents had made a request, pursuant to Article 108 of the Community Trade mark regulations and Section 10 (1) of the Community Trade Mark regulations 1996, to have the Community Trade Mark application converted to a United Kingdom application. The request having been accepted, the application (number 2241153) now stands to be determined under the Trade Marks Act 1994. Under the provisions of Article 108 the converted application retains the seniority date of the Community Trade Mark application and still constitutes an earlier trade mark. It follows, therefore, that my Supplementary Decision issued on 1 August 2000 is incorrect, and under the provisions of Rule 66 of the Trade Marks Rules 2000, I hereby withdraw that decision. Consequently, the opposition remains as having been deemed to be successful, although under the provisions of Section 6(2) the final outcome is dependant upon the earlier trade mark owned by the opponents (now a United Kingdom national application) proceeding to registration. Accordingly, I direct that my decision of 13 March 2000 will not take effect until one month following the date of registration of United Kingdom trade mark number 2241153.

Dated this 25 day of October 2000

**Mike Foley
for the Registrar
The Comptroller General**