

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. 10308 BY
SOCIETE NOUVELLE DES PRODUITS DE BEAUTE ET
PARFUMS RENE GARRAUD FOR RECTIFICATION OF
THE REGISTER IN RESPECT OF TRADE MARK NO. 1488215,
STANDING ON THE REGISTER IN THE NAME OF
RENE GARRAUD S.A.**

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO. 10308 BY SOCIETE NOUVELLE DES PRODUITS DE BEAUTE ET PARFUMS RENE GARRAUD FOR RECTIFICATION OF THE REGISTER IN RESPECT OF TRADE MARK NO. 1488215, STANDING ON THE REGISTER IN THE NAME OF RENE GARRAUD S.A.

DECISION

The trade mark, RENE GARRAUD, was registered on 19 February 1993 under no. 1488215 in respect of goods in Class 3.

The registered proprietor shown on the form of application and subsequently on the Register is Rene Garraud S.A. By an application dated 18 September 1998, Societe Nouvelle Des Produits De Beaute Et Parfums Rene Garraud “the applicants” applied for the rectification of the Register under Section 64 of the Act in respect of this registration, by the correction of the name of the proprietor to that of the applicants.

The grounds for rectification are that the application was made in error in the name of Rene Garraud S.A., the correct name should have been Societe Nouvelle Des Produits De Beaute Et Parfums Rene Garraud.

The applicants filed evidence in these proceedings in support of their application. This evidence comprised a Statutory Declaration by the trade mark agent acting in respect of both parties, Mr David Jon Devons of Marks & Clerk..

Mr Devons states that he was responsible for filing trade mark application no. 1488215 RENE GARRAUD in Class 3 on 10 January 1992. He states that he was instructed to file the application in the name of Rene Garraud S.A. by a letter dated 6 December 1991 from Wella Aktiengesellschaft in Germany. A copy of this letter is produced as Exhibit DJD 1.

Mr Devons goes on to refer to a copy of letter dated 10 August 1998 from Cabinet Beau de Lomenie (Marks & Clerk’s french associates) which states that the trade mark has been registered in the name of Rene Garraud S.A. whereas the correct name is Societe Nouvelle des Produits de Beaute which has been the correct name of the company since their registration which dates back to July 27, 1955. This letter also refers to an extract from the French Trade Register and a verified English translation which also indicates that application no. 1488215 was mistakenly filed in the wrong name and that the correct name should have been Societe Nouvelle des Produits de Beaute et Parfums Rene Garraud. These documents are shown in Exhibit DJD 2.

I now turn to consider the grounds of rectification under Section 64 of the Act, which states:

- 64(1) Any person having a sufficient interest may apply for the 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 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.
- (4) The registrar may, on request made in the prescribed manner by the proprietor of a registered trade mark, or a licensee, enter any change in his name or address as recorded in the register.
- (5) The registrar may remove from the register matter appearing to him to have ceased to have effect.

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.

I am satisfied that an error occurred as a result of which the registration stands in the wrong name. 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 registration no. 1488215 and replaced with the name Societe Nouvelle des Produits de Beaute et Parfums Rene Garraud.

Dated this 26 day of November 1998

M KNIGHT
Acting for the Registrar
The Comptroller General