

O-151-18

SUPPLEMENTARY DECISION

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. 3177884 BY
RANDOLPH LTD
TO REGISTER:**

campus elysium

AS A TRADE MARK IN CLASSES 16, 35, 41 & 42

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 408318 BY ELYSIUM LEISURE LIMITED**

1. On 14 February 2018, I issued an interim decision in these proceedings (BL O-098-18). In that decision, I stated:

“Conclusion in relation to the specifications as filed

62. The opposition to the following goods and services fails and is dismissed accordingly:

Class 16 - Paper and cardboard; Bookbinding material; Photographs; Stationery; Adhesives for stationery or household purposes; Artists’ materials; Paintbrushes; Typewriters and office requisites [except furniture]; Plastic materials for packaging; Printers’ type; Printing blocks.

Class 35 - Office functions.

63. The opposition against the following goods and services succeeds regardless:

Class 16 - Instructional and teaching material [except apparatus].

Class 35 - Advertising; Business management; Business administration.

Class 41 - Education; Providing of training; Entertainment; Sporting and cultural activities.

Class 42 - Design and development of computer hardware and software.

64. As matters stand, the application also succeeds in relation to “printed matter” in class 16 and “Scientific and technological services and research and design relating thereto; Industrial analysis and research services” in class 42. If, however, the applicant were to offer a revised specification which positively limited its printed matter in class 16 to goods which one would not regard as being educational in nature (scrapbooks for example) and its services in class 42 to a purpose completely unrelated to the opponent’s services in class 42, it may

be possible for the application to proceed to registration for limited specifications in these classes.

Next steps

65. With the above in mind, the applicant is allowed 14 days from the date of this interim decision to offer revised specifications in classes 16 and 42. Any such revised specifications offered should be copied to the opponent who will then be allowed a period of 14 days from the date that it receives a copy of the revised specifications to provide comments. At the conclusion of that period, I will review any submissions the parties may make and issue a supplementary decision, in which I will deal with costs and set the period for appeal.”

2. The applicant responded to that invitation in a letter dated 23 February 2018. It stated:

“Having reviewed the INTERIM DECISION for this case, we stand by to accept the decision made by CJ BOWEN. We will not appeal or re-submit a revised application, as this has taken nearly 2 years to get to this point, and we do not intend to take up any more time of your office in this case and it's issues. We are seeking closure - in it's full entirety.”

3. The opposition fails to the extent outlined in paragraph 62 of the Interim Decision. However, as the applicant elected not to offer revised specifications in classes 16 and 42, the opposition now succeeds to the following extent:

Class 16 – Printed matter; instructional and teaching material [except apparatus].

Class 35 - Advertising; Business management; Business administration.

Class 41 - Education; Providing of training; Entertainment; Sporting and cultural activities.

Class 42 - Scientific and technological services and research and design relating thereto; Industrial analysis and research services; Design and development of computer hardware and software.

Summary of conclusions

4. Subject to any successful appeal, the application will be allowed to proceed to registration for the goods and services shown below and refused in respect of all the other goods and services in the application.

Class 16 - Paper and cardboard; Bookbinding material; Photographs; Stationery; Adhesives for stationery or household purposes; Artists' materials; Paintbrushes; Typewriters and office requisites [except furniture]; Plastic materials for packaging; Printers' type; Printing blocks.

Class 35 - Office functions.

Costs

5. Although both parties have achieved a measure of success, as the opponent has successfully opposed all of the services in classes 41 and 42, three of the four named categories of services in class 35 and two of the named categories of goods in class 16, it has been more successful than the applicant and is, as a consequence, entitled to a contribution towards its costs. Awards of costs in proceedings commenced after 1 July 2016 are governed by Annex A of Tribunal Practice Notice ("TPN") 2 of 2016. Applying the guidance in that TPN, but making a "rough and ready" reduction to the award to reflect the measure of the applicant's success, I award costs to the opponent on the following basis:

Preparing a Notice of Opposition and reviewing the counterstatement:	£150
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Written submissions:	£225
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Official fee: £100

Total: £475

6. I order Randolph Ltd to pay to Elysium Leisure Limited the sum of **£475**. This sum is to be paid within fourteen days of the expiry of the appeal period or within fourteen days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 8th day of March 2018

C J BOWEN

For the Registrar