

TRADE MARKS ACT 1994

TRADE MARKS (INTERNATIONAL REGISTRATION) ORDER 1996

IN THE MATTER OF:

OPPOSITION No. 70281

IN THE NAME OF

ASTA MEDICA AKTIENGESELLSCHAFT

TO THE REQUEST FOR PROTECTION IN THE UNITED KINGDOM

OF INTERNATIONAL TRADE MARK No. 705950

IN THE NAME OF

MEDSYM ARZTESERVICE INFORMATION-UND

VERANSTALTUNGSDIENST GMBH

DECISION

1. On 30th November 1998 Medsym Arzteservice Information-und Veranstaltungsdienst GmbH (*“the Applicant”*) sought protection in the United Kingdom for International Trade Mark 705950 **PULMOJET** in respect of *“medicines for inhalation purposes”* in Class 5. Protection was requested under the provisions of the Madrid Protocol and the Trade Marks (International Registration) Order 1996.

2. The request was refused in the context of an opposition filed by Asta Medica Aktiengesellschaft GmbH (*“the Opponent”*) under number 70281 in April 2000. The grounds for refusal were set out in a Decision issued by Mr. John MacGillivray on behalf of the Registrar of Trade Marks on 15th May 2003. The Applicant was ordered to pay £1,000 towards the Opponent’s costs of the opposition.

3. On 16th June 2003 the Applicant gave notice of appeal to an Appointed Person under Section 76 of the Trade Marks Act 1994. In subsequent correspondence it was indicated that the parties had entered into certain transactions and arrangements which effectively rendered the opposition and the appeal redundant. I then invited them to enquire whether, in the light of these developments, the Registrar would object to the hearing officer's Decision being discharged and the opposition being withdrawn by consent c.f. the Decision in Opposition No. 50491 to Application No. 2204593 (SRIS 0/195/03, 23rd June 2003).

4. By letter dated 22nd March 2004 the Registrar confirmed that he had no objection to that course of action.

5. I therefore direct and determine with the consent of the parties that:

- (1) the Decision issued by Mr. MacGillivray on 15th May 2003 in opposition 70281 be discharged;
- (2) the Applicant's appeal from that Decision stands withdrawn;
- (3) the Opponent's opposition under number 70281 to the Applicant's request for protection of International Trade Mark 705950 in the United Kingdom also stands withdrawn.

These agreed provisions leave the parties with no orders as to the costs of the opposition or the appeal. I have assumed, in the absence of any communication to the contrary, that

this is intentional on their part.

Geoffrey Hobbs Q.C.

30th March 2004