

TRADE MARKS ACT 1994

**In the matter of
application no 2302429
by First Rate Travel Services Ltd
to register a Trade Mark in Classes 35, 36, 39 and 43**

DECISION

1. On 8 June 2002, First Rate Travel Services Ltd of Pharmacia House, Prince Regent Road, Hounslow, Middlesex, TW3 1NE applied under the Trade Marks Act 1994 to register the trade mark:



in Classes 35, 36, 39 and 43 of the register in respect of:

- Class 35 Advertising; business management business administration; office functions.
- Class 36 Insurance; financial affairs; monetary affairs.
- Class 39 Transport; packaging and storage of goods; travel arrangements.
- Class 43 Services for providing food and drink; temporary accommodation.

2. Following refusal of the application I am now asked under Section 76 of the Act and Rule 62(2) of the Trade Marks Rules 2000 to state in writing the grounds of my decision.

3. The application was examined under the provisions of Section 37(1) of the Act. The Examination Report issued on 1 July 2002 informed the applicant that the requirements for registration were not met because objections arose under Sections 3(1)(b) and 5(2) of the Act.

4. Under Section 3(1)(b) the applicant was advised that the mark was liable to objection in all classes of the application because the mark consists essentially of the laudatory words *first rate travel services* together with a non-distinctive oval background, being a sign which would not be seen as a trade mark as it is devoid of any distinctive character for, eg travel services of the highest quality.

5. Objections were raised under Section 5(2) of the Act in respect of the following registered marks:

2008647 dated 13 January 1995



in Class 36: Insurance services.

and

2067912 dated 4 April 1996



in Class36: Financial services relating to currency and foreign exchange; banking services.

6. The Examination Report also advised the applicant that, if they were able to overcome objections raised in the report, it would also be necessary for the specification of services in class 43 to be reworded. A provisional rewording to *Providing food and drink; temporary accommodation* was proposed.

7. A period of six months was allowed for the applicant to respond to the Examination Report under Section 37(3) of the Act.

8. On 5 July 2002 a telephone call was received from the applicant in which they advised that they had taken over ownership of mark number 2067912 and were prepared to delete Class 36 of their application to overcome the remaining cited mark. The applicant was advised that it would be necessary for them to overcome the objection which had been raised under Section 3(1)(b) of the Act before the application may proceed. On 18 July 2002 the Examiner of the application telephoned the applicant to explain the reasons for the outstanding objections. The applicant indicated that they would respond in due course.

9. No substantive response having been received to the Examination Report within the six month time period specified, an Official letter was issued on 18 February 2003 refusing the application in accordance with Section 37(4) of the Act.

Dated this 18TH day of June 2003

**Martin Layton
For the Registrar
The Comptroller General**