

O-571-14

TRADE MARKS ACT 1994

APPLICATION 84246 BY LEHMAN BROTHERS HOLDINGS LIMITED

TO REVOKE TRADE MARK REGISTRATION 2392287

IN THE NAME OF SETAI (TURKS AND CAICOS) LIMITED

FOR NON-USE

Decision to set aside earlier decision

1. Following a hearing before me on 29th May, a written decision in these proceedings was signed (i.e. "made") on 15th August and issued on Monday 18th August ("the decision").
2. On the previous Thursday (14th August), the parties faxed a letter to the Office in which they notified the registrar that a settlement had been reached and that the application for revocation was withdrawn. This was not processed in time to prevent the issuing of the decision. The parties agree that the decision should be regarded as a nullity.
3. The issuing of a written decision in the circumstances described above appears to me to be an irregularity in procedure, which is correctable under Rule 74 of the Trade Mark Rules 2008. Rule 74 provides the registrar with discretion to correct such irregularities subject to such conditions as he may direct. It also requires that the parties be given notice of such a correction. I gave such notice on 27th August. The intention of the proposed correction is, so far as it is possible to do so, to return matters to the position prior to the issuing of the decision so that the withdrawal of the application for revocation can be processed.
4. The parties have had the opportunity to comment on the proposed correction. Having considered those comments, I direct that:
 - i) The decision is set aside;
 - ii) The period for appealing against the decision is closed;
 - iii) The decision should not be published;
 - iv) The applicant's request to withdraw the application for revocation should be processed;
 - v) The decision should be treated as confidential and not open to public inspection in the same way as material covered by a direction under Rule 59;
 - vi) The correspondence on the public file relating to the decision and dated after 18th August should be treated in the same way;
 - vii) This decision should also be treated as confidential to the parties until such time as the period for appeal has expired or, if there is an appeal, until the appeal process has come to an end.

^{2nd}
Dated this day of October 2014


Allan James
For the Registrar