

O-026-10

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION

No. 83358

BY GROUP LOTUS PLC FOR REVOCATION OF

TRADE MARK No. 2297413A

STANDING IN THE NAME OF

TEAM LOTUS VENTURES LIMITED

BACKGROUND

1) The following trade mark is registered in the name of Team Lotus Ventures Limited.

Mark	Number	Registration Date	Class	Specification
TEAM LOTUS	2297413A	12.09.03	41	Sports entertainment services, motor racing, club services, hospitality, organisation of competitions and events.

2) By an application dated 17 October 2008, Group Lotus Plc applied for the revocation of the registration under the provision of Section 46(1)(a) claiming there had been no use of the trade mark on the services for which it is registered in the five years following the date of completion of the registration procedure. A revocation date of 13 September 2008 is sought.

3) On 6 January 2009 the registered proprietor filed a counterstatement denying the applicant's claim.

4) Both sides filed evidence. The matter was due to be heard on 11 January 2010. However, on 6 January 2010 the registered proprietor consented to the revocation of the trade mark. The trade mark is therefore revoked in full as of 13 September 2008.

5) As the applicant has been successful it is entitled to a contribution towards its costs. Both sides have provided written submissions on the issue of costs. The applicant seeks costs at the top end of the Registry scale, as it states that it made repeated requests for evidence regarding its claim to entitlement to use the mark in suit and also evidence relating to the issue of consent. I note that the issue of "claim to entitlement of use" relates to the period some considerable time prior to the registration of the mark and is therefore not an issue that should be considered under a revocation based on non-use. While I therefore reject the request to award costs at the top end of the Registry scale, I do accept that Counsel for the applicant would have carried out some preparatory work (such as on its skeleton argument and submissions) at the point at which the registered proprietor consented to the revocation. I order the registered proprietor to pay the applicant proprietor the sum of £1,100. This sum to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 26 day of January 2010

**George W Salthouse
For the Registrar,
the Comptroller-General**