



Dr. Rolf Auf der Maur
VISCHER AG
Schuetzengasse 1
PO Box 1230
8021 Zurich
Switzerland

23 June 2014

Dear Sirs

**Re: Summary of invalidation action by Osho Lotus Commune e.V. against CTM Registration No. 1224831 "OSHO" in the name of Osho International Foundation.
Invalidity No: 00005064C
Our Reference: S26653/RAC/AS**

We have been asked to provide you with a summary of the application for invalidation brought against our mutual client, Osho International Foundation ("OIF"), by Osho Lotus Commune e.V, led by Robert Doetsch. Accordingly, please find below our summary of the decision in the OHIM invalidation action in which the OHIM Board ruled in favour of our client OIF.

Summary

It is evident from the nature of the submissions filed by Osho Lotus Commune e.V and Robert Doetsch in support of the abovementioned OHIM proceedings, that their sole purpose for attacking Osho's long-registered EU trade mark through invalidation proceeding was an attempt to publically damage the integrity, goodwill and reputation of OIF through repeated, malicious, false, deliberately confusing and unsubstantiated statements.

Background

Our client's Community Trade Mark No. 1224831 for "OSHO" was filed on 30 June 1999 and was published for opposition on 06 March 2000. The trade mark remained unchallenged for over eleven years until the Applicant of the invalidation action, Osho Lotus Commune e.V, filed a cancellation action against our client's registered trade mark. The action was clearly led by Robert Doetsch as is evident from his involvement in the evidence stages.

The trade mark "OSHO" has been used and recognised as a trade mark of our client for over twenty five years, since its creation in 1989. The unsupported and unfounded action brought by Osho Lotus Commune e.V , and Robert Doetsch has unfairly led to our client incurring an enormous amount of time and expense in searching through its archives for evidence to defend its validly registered trade mark right. The OHIM decision, in OIF's favour, is particularly useful in documenting the lengths to which Osho Lotus e.V and Robert Doetsch have gone in attacking OIF and identifies the tactics used by them in this case. Unfortunately, the actions of submitting wholly unsupported allegations without any relevant supporting evidence have already had a substantial adverse impact on our client. We believe that it is fair to say that the continued attempts to involve OIF in legal cases without consequence to the claimant in all of these proceedings, namely Osho Lotus Commune e.V and Robert Doetsch, is a tactic to try and cause maximum disruption to OIF's business.

As you will know, OIF was founded under the name Rajneesh Foundation Europe in 1984 and it is the administrative body set up during the lifetime of Osho to initially cover the European activities of Rajneesh Foundation International, a US public charity organisation which handled the commercial activities of Osho and owned the trade marks and copyright in Osho's work. OIF has developed a network of hundreds of meditation and information centres using the "OSHO" trade mark in relation to meditation services on a global scale. As the owner of the copyright in all of Osho's works and additional rights of IP as music, art, images created by third parties and assigned to the foundation, it also translates and organises the global publication rights to all of his works including his books and discourses and has developed a network of hundreds of publishing licenses throughout the world. The extent of OIF's works has resulted in the archiving and publication of the complete works by Osho into a library which can be found on its website, and it has also set up a library of printed editions in India's National Parliament in New Delhi. During most of Osho's public life, his meditation services and related printed and video publications were provided under the trade mark "RAJNEESH". When he changed his name to OSHO in 1989, shortly before his death, he was actively involved in making sure that the meditation centres offering "RAJNEESH" branded activities and meditations re-branded all of these as "OSHO".

Since the change of name in 1989, OIF has successfully administrated and operated a successful global network of licensees who run meditation centres under the "OSHO" trade mark and provide OSHO-branded meditations and educational services relating to its meditations. The control and policing of the mark by the OIF was commended by the OHIM Board throughout its decision against Osho Lotus Commune e.V and Robert Doetsch.

Mr Robert Doetsch (Ramateertha)

Robert Doetsch has a longstanding connection with OIF and was for a period a director of OIF. In 1999 he signed a Letter of Understanding on behalf of his company trading under the name "OSHO UTA INSTITUTE", effectively re-confirming in writing an existing license from 1989 taking a license to use "OSHO" in relation to meditation services. Significantly, Mr Doetsch was instrumental in the enforcement of OIF's trade mark rights against a trade mark infringement relating to the unauthorised use of "OSHO" in relation to meditation services in Germany.

Robert Doetsch, was asked to resign by Osho personally several years before Osho adopted the name Osho. Since this time, we understand that he and several other disgruntled members of the Osho Community have attacked the OIF and have attempted to pirate OIF's intellectual properties and have actively sought support from other members of the public in their attempts to create a commercial benefit for themselves from Osho's works. This malicious campaign has been publicised online by Osho Friends Europe e.V., an entity closely linked to Osho Lotus Commune e.V and Robert Doetsch. Having failed to convince members of the public, Mr Doetsch attempted to create evidence that there were in fact many independent third parties using the mark freely.

Such evidence was introduced into the abovementioned invalidation action. However, this was a tactic that failed to deceive the OHIM Board which took the view that OIF had continued to control use of its trade mark as demonstrated by its evidence. Not one shred of evidence was provided in support of the "free use" submission and all of the proposed third party use was in fact use of the mark under a license with the OIF.

Furthermore, we confirmed that Osho Lotus Commune e.V itself – through its subsidiary companies - has acknowledged the name change project from "RAJNEESH" to "OSHO" and trade mark rights vested in the mark "OSHO" and has even signed trade mark license agreements in relation to the use of "OSHO". Neither entity ever challenged the use of the "RAJNEESH" trade mark presumably because, at that time, they held no grudges with Osho, OIF or its board members.

OHIM Invalidation proceedings

Please find enclosed a copy of the decision issued by OHIM.

For the four years the case was on going, not once did Osho Lotus Commune e.V or Robert Doetsch provide one shred of relevant evidence that supported their allegations. They simply submitted false allegations attacking all historical material provided by OIF. As an example, Osho Lotus Commune e.V and Robert Doetsch claimed that OIF did not have a right to the mark “OSHO” and attempted to imply that OIF had “hijacked” the mark “OSHO” out of nowhere with no connection to the mark whatsoever. They further attempted to create an overlap between trade marks and copyrights in order to confuse and mislead the OHIM Board by referring to copyright throughout the proceedings instead of trade mark rights. This clearly reveals their intentions of destroying all intellectual property of OIF. In response to these claims, OIF provided historical and legally binding assignment agreements discussing trade marks dating back to the 1960’s. Osho Lotus Commune e.V and Robert Doetsch even attacked these documents. Continuing with their efforts, Osho Lotus Commune e.V and Robert Doetsch also claimed that there was worldwide, third party use of the mark “OSHO” by “300 meditation centres in 45 countries”. These centres were in fact all licensees of OIF and copies of the license agreements were submitted into the proceedings by OIF which demonstrated the lengths to which Osho Lotus Commune e.V and Robert Doetsch were creating malicious and false claims. They then attempted to attack the validity of the licenses with fancifully worded arguments based on false assertions and misleading untruths without any substance or supporting evidence. Next, they argued that the mark “OSHO” was descriptive and was used in a descriptive manner and denied all involvement with the OIF. OIF prepared several comprehensive witness statements to evidence their involvement with OIF (*in particular, the witness statements of Mr. Klaus Steeg, Mr. Michael Byrne and Mr. Philip Toelkes*) only for the factual and supported comments in these statements to be denied and/or ignored by Osho Lotus Commune e.V and Robert Doetsch without any evidence or solid legal grounding. The OHIM Board expressly recognised the fact that Osho Lotus Commune e.V and Robert Doetsch attempted to cast doubt on these witness statements and made specific reference to this in its decision at paragraph 46. Osho Lotus Commune e.V and Robert Doetsch even argued against the meaning of individual teachings under the “OSHO” brand, which was totally irrelevant in the invalidation proceedings. We believed that such statements were included only with the purposes of creating prejudice against OIF and to add weight to their wholly unsupported and false allegations.

Upon our review of the very first submissions of Osho Lotus Commune e.V it was clear that the invalidation was nothing more than an unsupported and unsubstantiated attack on OIF in an attempt to mislead the OHIM Board into thinking that the “OSHO” mark should be cancelled. This became more evident as each further round of submission by Osho Lotus Commune e.V and Robert Doetsch was simply a repetition of arguments already submitted into proceedings which strayed way beyond the core ground of the invalidation. Fortunately, the OHIM Board did not accept the unsupported submissions and made specific reference to the misleading attempts of Osho Lotus Commune e.V and Robert Doetsch in its decision on the matter.

At paragraph 15 the OHIM Board states;

“The Applicant [Osho Lotus Commune e.V and Robert Doetsch] has attempted to conceal its long standing association with OIF”.

It is our view that the continuous denial of factual arguments and evidence submitted into the proceedings as a result of Osho Lotus Commune e.V and Robert Doetsch launching this invalidation action makes it clear beyond doubt that the attack was filed with the intention of causing disruption to OIF. The voluminous but

wholly- unsupported submissions made by Osho Lotus Commune e.V and Robert Doetsch were nothing more than attempts to delay proceedings at every possible stage. The unsupported submissions also extend to all witnesses relied on by Osho Lotus Commune e.V and Robert Doetsch. As OIF were successfully able to prove with documentary evidence that all witnesses relied on by y Osho Lotus Commune e.V and Robert Doetsch had previously been involved with OIF but decided to join the small group of disgruntled individuals in the attack against the OIF. Despite Osho Lotus Commune e.V and Robert Doetsch's attempts to mislead the OHIM Board, not one witness was an independent user of the mark "OSHO". In fact, many also operated under license with the OIF.

The OHIM Board also dismissed all legal arguments put forward by Osho Lotus Commune e.V and Robert Doetsch. All of the submissions against OIF were nothing more than unsubstantiated, false claims put forward with fancifully worded submissions.

At paragraphs 17 and 24 respectively, the OHIM states;

"The claims by the applicant that the term "OSHO" describes a world view is not correct" and "No evidence has been provided by the applicant to indicate that the term "OSHO" cannot function as a commercial badge of origin".

The OHIM Board also recognised that Osho Lotus Commune e.V and Robert Doetsch had failed to provide a single shred of evidence to support its claims.

In its decision, the OHIM Board further confirm that it is clear that "OSHO" is a trade mark of OIF and that OIF have controlled and policed the use of the trade mark since its creation. The OHIM Board state that OIF have not usurped or hi-jacked the "OSHO" registration as Osho Lotus Commune e.V and Robert Doetsch suggested to the Board and make specific reference to Osho Lotus Commune e.V and Robert Doetsch's failed attempts to provide any cogent evidence in support of their wholly unfounded, unsupported and misleading submissions.

Specifically, at paragraph 52 the OHIM Board state:

"However, what does appear to emerge reasonably clear from the evidence is that the CTM proprietor [OIF] has to all intents and purposes controlled the "OSHO" trade mark for many years without interruption, and from its very inception as a brand."

Quite simply, Osho Lotus Commune e.V and Robert Doetsch were not able to provide uncontroverted evidence of any of the above points as such evidential material does not exist. Instead they attempted to focus their arguments on self-created and exaggerated evidence knowing that they had no relevant evidence to hand. We suspect that this will be a common and reoccurring theme in the case at hand.

At paragraphs 53 and 54, the OHIM Board specifically point out that it is significant that OIF have held the mark for fourteen years without contest and that it has taken ten years for someone to raise an objection against the registration, stating:

"But far more significant for the purposes of these proceedings is the fact that the CTM proprietor has held the registration of the contested mark for the past 14 years" and "it has taken over 10 years for anyone to raise an objection to the registration of the contested mark on absolute grounds".

We believe that the invalidation action was only launched when the small group of individuals were able to fund their claims and actions.

Osho Lotus Commune e.V and Robert Doetsch filed many misleading and false statements into the abovementioned proceedings, even providing purposely misquoted statements, using inverted commas around hypothetical statements to suggest that such statements have been used by OIF and continually exaggerated false allegations whilst obstructing and distorting relevant facts. OIF successfully entirely refuted each allegation made against it, with factual evidence and submissions.

In our view, the invalidation action brought by the Applicant is not an action brought with the interests of the law or general public in mind. It is not brought on the basis of sound legal grounds, supported by reliable factual evidence. As we have shown, and as the OHIM Board has confirmed, this invalidation action is nothing more than a calculated attempt to bring down a reputable and long-established brand into the public domain for the Applicant's own personal benefit. Throughout these proceedings the Applicant has misinterpreted quotes, has manipulated each item of evidence it has put forward to support its arguments, has made false and misleading submissions and has unreasonably denied all factual and legally conclusive documents submitted into these proceedings.

We hope that this will be of use to you and will support the submissions you are required to submit in the case at hand.

Please do not hesitate to contact us if you require and supporting material from the OHIM invalidation case to use as evidence in your submissions.

Yours faithfully

Keltie LLP

Keltie LLP

Cc: Osho International Foundation (klaus.steeg@oshointernational.com)