

O-235-13

TRADE MARKS ACT 1994

IN THE MATTER OF AN APPLICATION UNDER 84416
BY QUANTUM WORLDWIDE HOLDINGS INC
FOR A DECLARATION OF INVALIDATION OF REGISTRATION NO 2597723
IN THE NAME OF STEPHEN SPARROW

SUPPLEMENTARY DECISION

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1. In my interim decision in these proceedings, issued on 8 May 2013, I found that Mr Sparrow had successfully defended his registration. That being the case, and as in his counterstatement he had requested an award of costs in the event of the application for invalidation being unsuccessful, I also found that he was entitled to an award of costs in his favour.

2. As Mr Sparrow had not been professionally represented during the proceedings, I allowed him a period of 21 days to produce an estimate of his costs in line with the guidance set out by Mr Richard Arnold Q.C. sitting as the appointed person in *South Beck 0/168/08*. I further allowed Quantum a period of 14 days from receipt of the estimate, to provide its written submissions on that estimate. Both parties responded within the relevant periods.

3. Quantum makes no comment on the level of costs claimed by Mr Sparrow but instead submits that no costs should be awarded. It states:

“My final word reflects on paragraph 17 of Mr. Sparrows final written submissions dated 26th February 2013. Whilst both parties remain unaware of the direction of the invalidation case Mr. Sparrow, requests in writing;

“If it should be that you do not find favour with my defence, I would ask that the hearing officer makes no award of costs, as the applicant has not sought such costs in its application, and in any event cannot have incurred any given Mr. Mitchell’s own admission that he is not charging his client costs.”

Mr. Sparrow is completely unaware of the costs incurred by My Client and agreements made in full, which were bound with clauses, which have gone against me due to the failure of the invalidation request. Therefore I ask the registry to reflect Mr. Sparrow’s request on an equal footing and that there is no award of costs to either party.”

4. As I indicated above, Mr Sparrow has sought an award of costs, has successfully defended his registration and is entitled to an award which is intended to be a contribution towards the costs he has expended. He estimates his costs as follows:

Reviewing the application:	7 hours
Completing the counterstatement:	8 hours
Reviewing Quantum’s submissions:	8 hours
Preparing submissions:	10 hours
Preparing for Case Management Conference:	4 hours
Attending above conference:	1 hour
Subtotal:	38 hours @ £18 =£684
Postage, stationery, telephone, photocopying:	£35
Total:	£719

5. The application was based on a single ground brought under the provisions of section 47 of the Act and founded on section 5(2)(b) of the Act. The application form was brief and the documents attached to the form would not have added significantly to the time it would have taken to review it. Whilst 7 hours seems somewhat excessive for review of a form, I recognise that it would have taken some time to research the relevant law on which the application was based. I do not consider that it is reasonable for it to have taken 8 hours to complete the counterstatement which, given the single ground of attack, was commensurately brief nor do I consider it reasonable to have taken 10 hours to prepare submissions.

6. Taking the above into account, and applying the broad brush approach advocated by the case law referred to above, I consider the sum of £600 to be a reasonable figure as a contribution towards Mr Sparrow's costs.

7. I therefore order Quantum Worldwide Holdings Inc to pay Stephen Sparrow the sum of £600. This sum is 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. The period for appeal against the interim decision runs concurrently with the appeal period for this supplementary decision.

Dated this 5th day of June 2013

**Ann Corbett
For the Registrar
The Comptroller-General**