

O-303-16

SUPPLEMENTARY DECISION ON COSTS

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

**IN THE MATTER OF APPLICATION NO 3042037
BY CLANN IP LIMITED TO REGISTER THE FOLLOWING SERIES OF SIX
TRADE MARKS**

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IN CLASSES 36 AND 45

**AND IN THE MATTER OF OPPOSITION
THERE TO UNDER NO 401957
BY SPICERHAART GROUP SERVICES LIMITED**

AND

**IN THE MATTER OF APPLICATION NO 3048491
BY SPICERHAART GROUP SERVICES LIMITED TO REGISTER THE TRADE
MARK**

SPICERHAART

IN CLASSES 16, 35, 36 AND 45

**AND IN THE MATTER OF OPPOSITION
THERE TO UNDER NO 402624
BY CLANN IP LIMITED**

1) In my decision issued on 16 March 2016 under the BL number O/140/16, my comments on costs were as follows:

“51) SGS [Spicerhaart Group Services Limited] has been successful in respect of both of the consolidated proceedings and is entitled to a contribution towards its costs.

52) At the hearing, Mr Holah submitted that costs based on the published scale (see Tribunal Practice Notice 4/2007) are appropriate with the exception of the costs associated with the cross examination of Mr Pollington. In respect of these costs, he submitted that because the cross-examination was, as it transpired, in relation to a document that has no bearing on the outcome of the proceedings, then SGS is entitled to the unnecessary costs of Mr Pollington attending the hearing. I agree and ***I allow 14 days from the date of this decision for SGS to submit a schedule of costs relating to Mr Pollington’s attendance together with receipts, where appropriate. Clann [Clann IP Ltd] is permitted a further 14 days to make submissions on the schedule, if it so wishes.*** I will then issue a supplementary decision on costs.”

2) SGS provided a schedule of costs on the 29 March 2016. No submissions were received from Clann. I reproduce the schedule of costs in full. Below:

Date	Time	Fee earner	Narrative	Cost
22 Feb 2016	2 hours	Mark Holah	Reviewing and considering Exhibit LP-17 document for cross examination	£1090
22 Feb 2016	1 hours	Mark Holah	Meeting with Mr Pollington preparing for cross examination	£545
22 Feb 2016	1 hours	Rachel Harrison	Meeting with Mr Pollington preparing for cross examination	£340
25 Feb 2016	1 hours	Mark Holah	Cross examination at hearing	£545
25 Feb 2016	1 hours	Rachel Harrison	Cross examination at hearing	£340
22 Feb 2016			Parking costs	£4.30
22 Feb 2016			Travel Fare	£19.00
22 Feb 2016			Sustenance	£2.99

22 Feb 2016	Sustenance	£4.20
25 Feb 2016	Parking Costs	£7.70
25 Feb 2016	Travel Fare	£28.10
25 Feb 2016	Sustenance	£19.29
25 Feb 2016	Sustenance	£4.55
Total		£2950.13

3) The expenditure incurred by Mr Pollington is supported by a copy of a statement from the NatWest bank illustrating the itemised expenditure.

4) I find this schedule of consists to be generally reasonable. I do not believe it is appropriate for costs to be paid in respect of Rachael Harrison's attendance at the hearing because she played no part in the cross examination on the day, but in other respects I accept the schedule as a realistic reflection of the costs resulting from the cross examination request from Clan.

5) Taking the above into account, together with my comments in paragraph 52 of the substantive decision, I make an award of costs in favour of SGS on the following basis:

Opposition fee in the first opposition	£200
Preparing statement in first opposition	£300
Considering statement and preparing counterstatement in second opposition	£300
Preparing own evidence & considering other side's	£1000
Preparing and attending hearing	£1300
Actual costs associated with cross examination	£2610.13
Total:	£5710.13

6) I order Clan IP Limited to pay Spiderhaart Group Services Limited the sum of £5,710.13 which, in the absence of an appeal, should be paid within 14 days of the expiry of the appeal period.

Dated this 24th day of June 2016

**Mark Bryant
For the Registrar
The Comptroller-General**