

# O-143-17

1 THE UK INTELLECTUAL PROPERTY OFFICE

2  
3 The Rolls Building  
4 7 Rolls Buildings  
5 Fetter Lane  
6 London EC4A 1NL

7 Monday, 6th March 2017

8 Before:

9 MR. GEOFFREY HOBBS QC  
10 (Sitting as the Appointed Person)

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12 In the Matter of the Trade Marks Act 1994

13 - and -

14 In the Matter of an Appeal to the Appointed Person under  
15 Section 76

16 - and -

17 In the Matter of Consolidated Actions between ORLA SHIELDS  
18 (the Appellant) and RENTR LIMITED (the Respondent)

19 - and -

20 In the Matter of Opposition No. 600000290 by Ms. Shields to UK  
21 Trade Mark Application No. 3106641 RENTR in Classes 9, 36, 37  
22 and 42 in the name of RL

23 - and -

24 In the Matter of Opposition No. 404702 by RL to UK Trade Mark  
25 Application No. 3101924 RENTR (word mark) in the name of  
Ms. Shields

- and -

In the Matter of Opposition No. 405030 by RL to UK Trade Mark  
Application No. 3100235 RENTR in the name of Ms. Shields

- and -

In the Matter of Opposition No. 405046 by RL to UK Trade Mark  
Application No. 3107538 RENTR in the name of Ms. Shields

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In the Matter of an Appeal to the Appointed Person from the  
decision of Ms Judi Pike, acting on behalf of the Registrar, the  
Comptroller-General, dated 12th August 2016.  
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(Transcript of the Stenograph Notes of Marten Walsh Cherer Ltd.,  
1st Floor, Quality House, 6-9 Quality Court,  
Chancery Lane, London WC2A 1HP.  
Telephone No: 020 7067 2900. Fax No: 020 7831 6864  
e-mail: info@martenwalshcherer.com)  
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MR. AARON NEWELL of Lewis Silkin LLP appeared for the Appellant.  
MS. TANIA CLARK of Withers & Rogers LLP appeared for the  
Respondent.  
MR. ALLAN JAMES appeared for the Registrar.

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APPROVED DECISION  
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1 THE APPOINTED PERSON: This is an appeal from a case management  
2 decision, delivered in writing by the Registrar's Hearing  
3 Officer, Ms Judi Pike, on 12 August 2016. The appeal is  
4 brought with the permission of the Hearing Officer under rule  
5 70(2) of the Trade Marks Rules 2008. The background to the  
6 appeal is a little complicated. I cannot avoid going into  
7 some of the detail of it for the purposes of this decision.

8 On 20 March 2015, Ms Orla Shields applied under number  
9 3100235 to register a figurative representation of the word  
10 RENTR as a trade mark for use in relation to "real estate agency  
11 services" in class 36 and "repairs to buildings" in class 37.  
12 She applied under number 3101924 on 31 March 2015 to register  
13 the plain word RENTR as a trade mark for use in relation  
14 to "mobile application for the rental market to help landlords  
15 manage their properties and tenant relationship as well as to  
16 find tradesmen for repairs" in class 9, "information relating to  
17 property management and tenants provided via mobile application"  
18 in class 36, "information relating to tradesmen for repairs,  
19 provided by a mobile application" in class 37, and "design of  
20 mobile application for the rental market to help landlords  
21 manage their properties and tenant relationship, as well as to  
22 find tradesmen for repairs" in class 42.

23 On 7 May 2015, she applied under 3107538 to register the  
24 word RENTR figuratively represented in a form that was nearly  
25 identical to the figurative representation covered by her

1 application number 3100235.

2 The trade mark covered by the 7 May application was put  
3 forward for registration in respect of an expanded version of  
4 the list of goods and services in classes 9, 36, 37 and 42  
5 covered by the 31 March application for registration.

6 Ms Shields further applied on 15 June 2015 under number  
7 014254122 to register the plain word RENTR as an EU trade mark  
8 for use in relation to a plethora of goods and services in  
9 classes 9, 35, 36, 37, 38, 39, 41, 42 and 45. This application  
10 was filed with a claim to priority from application number 3101924  
11 which was, as I have said, filed on 31 March 2015.

12 All four of these applications for registration were  
13 opposed by Rentr Limited on the basis of earlier rights which  
14 it claimed to have acquired through use of the mark RENTR in the  
15 UK. The three applications for registration in the UK were also  
16 opposed under section 3(6) of the Trade Marks Act 1994 on the  
17 basis that they were made in bad faith.

18 The opposition to UK application number 3100235 was filed under  
19 number 405030. The opposition to UK application number 3101924  
20 was filed under number 404702. The opposition to UK application  
21 number 3107538 was filed under number 405046. The opposition to  
22 EU application number 014254122 was filed under number  
23 B002591983.

24 For its part, Rentr Limited applied under number 3106641  
25 on 30 April 2015 to register the plain word RENTR as a trade

1 mark for use in relation to goods and services in classes 9, 36,  
2 37 and 42 which it identified in terms identical to those used  
3 in Ms Shield's corresponding application for registration filed  
4 under number 3101924 on 31 March 2015.

5 The 30 April application filed by Rentr Limited was  
6 opposed by Ms Shields on 4 August 2015, on the basis that it  
7 conflicted with the rights to which she was entitled as  
8 proprietor of EU trade mark application number 014254122, UK  
9 trade mark application number 3101924, and UK trade mark  
10 application number 3100235. The opposition was filed as a fast  
11 track opposition under number 600000290.

12 On 12 August 2015, Rentr Limited filed a Form TM8 defence and  
13 counter statement in which it requested a stay of the  
14 opposition to its application for registration on the basis that  
15 all three of the earlier trade mark applications cited against  
16 it were, in their own turn, the subject of active opposition  
17 proceedings.

18 The Registry responded to the request for a stay in an  
19 official letter of 23 October 2015, stating:

20 "The Registry has considered the request for  
21 suspension and the preliminary view is that the fast track  
22 opposition should be suspended to await the filing of a  
23 defence in the related opposition actions under No's 405030  
24 and 405046. Upon the filing of such a defence the Registry  
25 intends to exercise discretion under Rule 62(1)(g) of The

1 Trade Marks (Fast Track Opposition) (Amendment) Rules 2013, to  
2 treat the fast track opposition as a conventional opposition  
3 in order to consolidate with Opposition No's 405030 and  
4 405046. A consolidated timetable for evidence and submissions  
5 will then be set.

6 "If either party objects to this view they should file  
7 written arguments and request a hearing on the matter within  
8 14 days from the date of this letter, that is on, or before, 6  
9 November 2015. If no request for a hearing is received the  
10 preliminary view will automatically be confirmed."

11 In the absence of any objection to that proposal, the  
12 Registry proceeded to give directions for the further conduct of  
13 the four sets of opposition proceedings then pending before the  
14 Registry in the UK. The directions were notified to the parties  
15 in an official letter of 26 November 2015, which stated as  
16 follows:

17 "CONSOLIDATION

18 "The Registry has considered the matter and has noted  
19 that there are related proceedings namely Application number  
20 3106641, Opposition number 600000290, Application number  
21 3101924, Opposition number 404702 and Application number 3107538,  
22 Opposition number 405046. Given the nature of the cases the  
23 Registry directs under Rule 62(g) of the Trade Marks Rules 2008  
24 that the cases be consolidated. Unless the Registry receives  
25 any adverse comments from either party this course of action

1 will take place and Opposition number 600000290 will become  
2 the lead case. It then follows that all future correspondence  
3 and evidence should be headed up to relate to all cases.

4 "It is noted that evidence has been filed in respect of  
5 opposition number 404702. However, rather than accept this the  
6 Registry's view is that it should be amended and incorporated  
7 into the consolidated timetable of evidence which is now being  
8 set for the case and the related series of opposition cases.

9 "EVIDENCE BY BOTH PARTIES

10 "You are advised that rather than evidence being filed  
11 separately for each of the above cases, the parties can file  
12 one set of evidence which refers to all cases which would save  
13 time and expense for the parties.

14 "In addition rather than the parties filing evidence in  
15 turn, both parties will be given the same date to file their  
16 evidence in support of both proceedings.

17 "In accordance with Tribunal Practice Notice 2/2010 a  
18 period of two months is allowed for both parties to submit  
19 evidence and/or submissions as appropriate. The evidence and / or  
20 Submissions should therefore be received on or before 26 January  
21 2016 and both sides should copy each other in on the evidence in  
22 accordance with Rule 64(6). Failure to do so will result in the  
23 evidence not being admitted into the proceedings.

24 "The Registry has an overriding objective to ensure that  
25 proceedings are completed within a reasonable time. As a

1 result the Registry would expect the parties to adhere to the  
2 following timetable:

3 "Both parties to file evidence in support: 26 January  
4 2016 (headed for all cases).

5 "Both parties to file evidence in reply: two months from  
6 receipt of other party's evidence.

7 "On receipt of the above evidence a period of one month  
8 will be given for both parties to notify the Registry whether  
9 or not they intend to file further evidence of fact in reply.  
10 If such a request is received a further period of one month  
11 will be allowed to file any evidence.

12 "Upon the conclusion of the evidence rounds the parties  
13 will be asked if they wish to be heard on this matter."

14 There are a number of comments I need to make at this  
15 juncture in relation to this letter. First, there is a degree  
16 of ambiguity about the meaning of the word "consolidation" as  
17 used in relation to Registry proceedings. The word is  
18 generally not used in relation to such proceedings to refer to  
19 amalgamation or unification of the kind that may take place  
20 when several sets of proceedings are merged into a single  
21 proceeding by way of an order for consolidation in the High  
22 Court. Rather, it refers to the process of directing that  
23 several sets of proceedings pending before the Registrar  
24 should proceed together and be dealt with collectively for  
25 case management purposes, so as to facilitate a single



1 combined hearing and result in a single combined determination  
2 of the various matters in dispute between the parties. That  
3 is what the official letter of 26 November 2015 was referring  
4 to when it provided for "consolidation" of the four specified  
5 sets of opposition proceedings.

6 Second, as recognised in the official letter of 23 October  
7 2015, it is necessary when giving directions for separate sets  
8 of proceedings to proceed together in that way for the  
9 tribunal to be clear as to the sequence in which evidence is  
10 required to be filed and as to the status which it, and any  
11 associated documentary disclosure, shall have at the single  
12 combined hearing for the purposes of the single combined  
13 determination of the issues between the parties. The  
14 assumption, in the absence of any direction to the contrary, is  
15 that evidence and disclosure provided in accordance with the  
16 directions given will be filed and available for the purposes of  
17 all and not only some of the proceedings that are being processed  
18 collectively.

19 Third, that is indeed the basis upon which the directions  
20 for evidence were set out in the official letter of 26 November  
21 2015. The letter expressly stated that, "Rather than evidence  
22 being filed separately for each of the above cases, the parties  
23 can file one set of evidence which refers to all cases".  
24 It went on to specify that the Registry would expect the parties  
25 to adhere to a three-stage timetable. At stage one, both

1 parties were expected to file evidence in support, headed for  
2 all cases, by 26 January 2016.

3 If all had gone according to plan, there would have been  
4 a volley of evidence. Each side would have filed evidence  
5 simultaneously in support of their position across all four  
6 cases.

7 At stage two, both parties were expected to file what  
8 the letter described as "evidence in reply" to the other  
9 party's evidence at stage one. Given that there were three  
10 stages in the timetable for evidence, it would have been  
11 clearer and more accurate to have described the evidence at  
12 stage two as "evidence in answer" rather than "evidence in  
13 reply".

14 If all had gone according to plan, there would have been  
15 a second volley of evidence, with each side simultaneously  
16 filing evidence in answer, across all four cases, within two  
17 months of receiving the evidence it had received from the  
18 opposite party across all four cases at stage one.

19 At stage three, there was to be a period of up to two months  
20 within which each side would be able to file "further  
21 evidence of fact in reply" to the evidence in answer which it  
22 had received across all four cases from the opposite party at  
23 stage two.

24 I note that the letter did not specify that this should be  
25 evidence "strictly in reply", but the tenor of the direction was

1            basically to that effect.

2            I should say at this point that I regard that  
3            three-stage approach to the filing of evidence as an entirely  
4            appropriate approach for the Registrar to have adopted in the  
5            circumstances of a case such as the present where there are,  
6            as I have indicated, issues of bad faith to be decided.  
7            Neither side contested the directions for evidence set out in  
8            the official letter of 26 November 2015. Rentr Limited, to  
9            whom I shall now refer as "the respondent", filed evidence  
10           and observations across all four cases on 26 January 2016 in  
11           accordance with the timetable set by the Registry.

12           Ms Shields, to whom I shall now refer as "the appellant",  
13           did not. Her professional representatives filed a Form TM9 on  
14           26 January 2016 requesting an extension of two months within  
15           which to comply with the direction for filing evidence at stage  
16           one.

17           At this point, the proceedings began to slide out of  
18           control. The respondent objected to the requested extension  
19           of time. On the basis of comments it had received from the  
20           respondent, the Registry expressed the preliminary view, in an  
21           official letter dated 17 February 2016, that "on the basis the  
22           other side's evidence is substantial" an extension of time  
23           expiring on 24 February 2016 would be granted for the filing  
24           of evidence by her personally, but that the request for an  
25           extension should otherwise be refused.

1           The stance adopted by the Registry is apparent from the  
2 following timetable proposed in that letter:

3           "The Registry would expect the parties to adhere to the  
4 following timetable below:

5           "Filing of evidence on behalf of Orla Shields as referred  
6 to above: 24 February 2016.

7           "On the filing of the above evidence a period of  
8 one month will be given for Rentr Limited to notify the  
9 Registry whether or not they intend to file further  
10 evidence of fact in reply. If such a request is received a  
11 further period of one month will be allowed to file any  
12 evidence.

13           "Upon the conclusion of the evidence rounds the parties  
14 will be asked if they wish to be heard on this matter."

15           That proposal seems to me to have involved an attempt to  
16 discard rather than extend the timetable for evidence set by  
17 the official letter of 26 November 2015. It did so by  
18 excluding the opportunity for Ms Shields to file evidence  
19 across all four cases at stages one and three of a three-stage  
20 process and by confining her to the filing of evidence in  
21 answer to the respondent's evidence within a shortened period  
22 from receipt of it, expiring on 24 February 2016.

23           She requested and was granted a hearing to consider the  
24 matter. The parties were notified in an official letter dated 24  
25 February 2016 that a case management conference had been set for

1           10 March 2016, and that "The setting of a revised evidential  
2 timetable will be discussed at the Case Management Conference".

3           The outcome of the case management conference on 10 March  
4 2016 is set out in a decision letter of the same date:

5           "At the case management conference held this morning, I  
6 confirmed that the period for Ms Shields to file her evidence  
7 in chief in the consolidated proceedings has now passed,  
8 without any evidence having been filed. Ms Shields now has  
9 until 11 May 2016 to file evidence strictly in reply to Rentr  
10 Limited's evidence in chief. There is no need to set a period  
11 for Rentr Limited to reply because there is no evidence from  
12 Ms Shields to reply to.

13           "In a normal opposition, the evidential rounds go like  
14 this:

15           "a) The opponent files evidence to support its grounds  
16 and to refute the defence.

17           "b) The applicant files evidence to support its defence  
18 and reply to the opponent's evidence.

19           "c) The opponent has a chance to file evidence strictly  
20 in reply to the applicant's evidence (which it has not seen  
21 before).

22           "In consolidated cross-proceedings, such as these, the  
23 evidence rounds (as set out in the Registry letter dated 26  
24 November 2015) go like this:

25           "a)Both parties are given the same date so that:(i)each party

1 files evidence to support its own grounds of opposition; to refute  
2 the other side's evidence; and to support its own defence; (ii) both  
3 parties are then given the same date (two months later) to file  
4 evidence strictly in reply.

5 "Both parties are, therefore, given an equal chance to  
6 file evidence in chief and to reply to the other side's  
7 evidence, just as they are in a normal opposition."

8 I pause at this point to observe that the decision  
9 recorded in this letter appears to me to disregard the fact that  
10 the time set for the filing of evidence at stage one of the  
11 three-stage timetable was extendable under rule 77(6)(b) of the  
12 Trade Marks Rules 2008 and also the fact that the appellant had  
13 filed an application on Form TM9 asking for it to be extended  
14 and also the fact that the newly revised evidential timetable  
15 envisaged, contrary to the three-stage timetable established for  
16 the purposes of "consolidation" in the official letter of 26  
17 November 2015, that each side would end up with only one  
18 opportunity to file evidence across all four cases.

19 Moreover, the observations made in the decision letter  
20 with regard to "the evidence rounds as set out in the Registry  
21 letter dated 26 November 2015" do not accurately describe the  
22 operation and effect of the direction set out in that letter.  
23 They indicate to me that the decision recorded in the letter of  
24 10 March 2016 was based on a misunderstanding of the procedure  
25 which the November letter had actually put in place.

1           The appellant subsequently filed three witness  
2 statements on 11 May 2016 as "Ms Shields' evidence in reply" across  
3 all four cases. The Registry wrote on 18 May 2016 saying that the  
4 evidence was accepted, subject to minor matters of pagination  
5 which it asked the appellant's professional representatives to  
6 rectify. However, the respondent objected to the evidence which  
7 had been filed as not being evidence strictly in reply, but  
8 rather evidence in chief which was inadmissible for having been  
9 filed after expiry of the 26 January 2016 deadline for the  
10 filing of stage one evidence in accordance with the directions  
11 given in November 2015.

12           A further case management conference took place on 10  
13 August 2016, to consider the approach which the parties and the  
14 Registry should adopt with regard to the further conduct of the  
15 consolidated opposition proceedings. The appellant was given  
16 the opportunity to provide the Hearing Officer with written  
17 submissions after the hearing elaborating on her  
18 criticisms of the Registry's approach to procedure in the  
19 consolidated oppositions. These were filed on 10 August 2016.

20           The Hearing Officer issued her decision letter on 12  
21 August 2016, stating as follows:

22           "Further to Wednesday morning's case management  
23 conference, I have now considered Mr Newell's submissions,  
24 received Wednesday afternoon. Having given them my full  
25 attention, I remain unconvinced that Mr Newell's position is

1 the correct one.

2 "It is standard Tribunal practice to consolidate  
3 cross-actions and to set simultaneous evidence filing patterns  
4 accordingly. Rule 62 of the Trade Marks Rules 2008 and  
5 Tribunal practice Notice 2/2010 refer. Accordingly, what  
6 should have happened is this:

7 "On or before 26 January 2016, both parties were to file  
8 evidence, to cover the following:

9 "Ms. Shields was to file evidence to support her  
10 opposition under Section 5(1)/5(2) and to refute Rentr  
11 Limited's defence (in its counterstatement) (evidence is not  
12 obligatory for these grounds); Ms Shields was to file evidence  
13 to support her defence against Rentr Limited's grounds under  
14 sections 3(6) and 5(4)(a); Rentr Limited was to file evidence  
15 to support its defence of Ms Shield's application, under  
16 sections 3(6) and 5(4)(a), and to refute her defence (in her  
17 counterstatement).

18 "In a standard opposition, the opponent files its  
19 evidence in chief, then the applicant files one set of  
20 evidence, which is its evidence in chief to support its  
21 defence and to reply to the opponent's evidence in chief.  
22 Finally, the opponent files evidence strictly in reply to the  
23 applicant's evidence. In a cross-consolidation, both parties  
24 file evidence in chief at the same time. They then get a  
25 further two months to file evidence strictly in reply to each



1 other's evidence.

2 "Therefore, both parties in a standard opposition get one  
3 chance to file evidence in chief and one chance each to file  
4 evidence in reply. Both parties in a cross-consolidation get  
5 one chance to file evidence in chief and one chance to reply.  
6 The evidence rounds are simultaneous rather than sequential,  
7 but there is an equal chance to file evidence in chief and  
8 reply, just as in a standard opposition.

9 "Mr Newell did not query the timetable, which set the  
10 simultaneous pattern for filing evidence, set out in the  
11 caseworker's letter of 26 November 2015; nor did he challenge  
12 my explanation either at the case management conference held  
13 on 10 March 2016, nor as set out in my letter of the same  
14 date.

15 "For the record, the caseworker's letter of 26 November  
16 2015 contained an error in that there should not have been a  
17 further (third) period, for filing further evidence (in  
18 reply), as set out in the penultimate paragraph of that  
19 letter.

20 "The upshot of all of this is that Ms Shields decided not  
21 to file evidence by 26 January 2016 because, as Mr Newell  
22 explained on Wednesday, she did not have to, having the  
23 earlier filed trade mark. That is fine, as far as her section  
24 5(1)/5(2) opposition is concerned. However, she failed to  
25 file evidence to support her defence against the section 3(6)

1 and 5(4)(a) grounds, which should have been filed by that  
2 date.

3 "What appears now to have happened is that, in filing  
4 evidence strictly in reply to Rentr Limited's evidence, Ms  
5 Shield's evidence contains both evidence in reply (correctly)  
6 and evidence in chief (incorrectly). It is unacceptable to  
7 circumvent the missing of the evidence in chief date by  
8 including facts which should have been filed as evidence in  
9 chief, as evidence in reply. This is because Rentr Limited  
10 has not seen that evidence before. If Ms Shields had filed it  
11 when it should have been filed (in January), Rentr Limited  
12 would have been able to reply to it two months later, as per  
13 the timetable.

14 "Accordingly, I will now set a date for a further case  
15 management conference to consider Dr Murphy's submissions on  
16 the admissibility of some of Ms Shield's evidence, and also  
17 his client's request to file further evidence to meet the  
18 challenges raised by Ms Shields to some of its evidence.

19 "At the next case management conference, there will be no  
20 further discussion of the Tribunal's approach to consolidated  
21 evidence rounds. The only issue will be Dr Murphy's  
22 submissions regarding the admissibility of Ms Shields'  
23 evidence. Mr Newell should be prepared to contest the  
24 submissions regarding those parts which are, or are not, reply  
25 evidence by pointing out to which parts of Rentr Limited's

1 evidence he considers that his client's evidence is in reply.  
2 The case management meeting will be held on Friday 9 September  
3 2016 at 10.30 am.".

4 The reasoning in this decision letter goes all the way  
5 to discarding the three-stage timetable established for the  
6 purposes of "consolidation" in the official letter of 26  
7 November 2015. It purports to dismiss the third stage from  
8 consideration as an error mistakenly introduced into the  
9 consolidated proceedings by the caseworker who issued the  
10 relevant directions on behalf of the Registrar.

11 It erroneously maintains by way of justification for  
12 doing so that the three-stage process of filing evidence  
13 sequentially in standard opposition proceedings is equivalent to  
14 a two-stage process in which both parties are (1) initially  
15 required to file evidence simultaneously and without sight of  
16 any evidence from the other, and (2) subsequently permitted to  
17 file evidence simultaneously in reply to the evidence they have  
18 received from the other.

19 In addition it departs from the two-stage process which it  
20 ascribes to the directions given in November 2015 by reducing  
21 it to a process in which the appellant only has the  
22 opportunity to file evidence strictly in reply to the evidence  
23 filed by the respondent on 26 January 2016. The respondent  
24 has no opportunity to file evidence in reply to any evidence  
25 filed by the appellant which might be admitted into the

1 proceedings. And it rules out all further discussion of the  
2 tribunal's approach to consolidated evidence.

3 The net effect of this decision letter is that the directions  
4 for evidence set out in the official letter of 26 November  
5 2015 might just as well never have been given.

6 The parties have been left in a position where the  
7 Registry has not only moved forward on the basis of an  
8 incorrect interpretation of the 26 November 2015 timetable, but  
9 also migrated away from its own reinterpretation of it  
10 without putting another coherent timetable in place for the  
11 conduct of the consolidated proceedings.

12 In my view, it would be procedurally irregular in the  
13 context in which the 12 August 2016 decision came to be  
14 delivered to plough on with the procedure envisaged by that  
15 decision.

16 I consider that justice to both parties requires the  
17 August decision letter to be set aside in its entirety and  
18 for the proceedings to be remitted to the Registry for what I  
19 would describe as a "holistic" case management conference, to  
20 take place before a different Hearing Officer, with a view to  
21 giving such directions for the filing of evidence as the  
22 Registrar considers to be most appropriate for the purpose of  
23 achieving a fair resolution of the issues in dispute between  
24 the parties in the events which have happened.

25 My decision therefore is that the Hearing Officer's

1 decision letter of 12 August shall be set aside. I direct  
2 that the costs of this appeal be treated as costs incurred in  
3 the Registry proceedings, to be dealt with by the Registrar at  
4 the conclusion of those proceedings in the usual way.

5 Unless anybody wants to say anything, I think that  
6 concludes today's hearing. The judgment will be transcribed.  
7 I will check it, make any changes which seem necessary to make  
8 things I have said a little more coherent than when I  
9 said them, then the judgment will be issued to the parties in  
10 the ordinary way. A transcript of the oral hearing will be made  
11 available to the parties on the usual timescale, which is  
12 generally between a week and two weeks from today. Thank you  
13 for your submissions.

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