

O-323 -17

TRADE MARKS ACT 1994

IN THE MATTER OF AN APPLICATION UNDER NO 501167
BY SHENZHEN MAIBO ELECTRONICS CORPORATION
TO DECLARE INVALID REGISTRATION NO 3123172
IN THE NAME OF MICROLAB PROBIT LIMITED

SUPPLEMENTARY DECISION

Supplementary decision

On 7 July 2017, I issued a decision in the above proceedings. This supplementary decision corrects an error in that decision.

At paragraphs 54 to 56 of my earlier decision, I found that the applicant had had the larger measure of success and was entitled to an award of costs in its favour, an award which would also take into account an amount for preparation and attendance at an earlier Case Management Conference. There was typographical error in the original decision in this regard which I now correct, the necessary power being contained in Rule 74 of the Trade Mark Rules 2008 which states:

“Correction of irregularities in procedure

74. –(1) Subject to rule 77, the registrar may authorise the rectification of any irregularity in procedure (including the rectification of any document filed) connected with any proceedings or other matter before the registrar or the Office.

(2) Any rectification made under paragraph (1) shall be made –

- (a) after giving the parties such notice; and
- (b) subject to such conditions,
as the registrar may direct.”

I therefore correct paragraphs 55 and 56 of my earlier decision to read as follows:

“55. I agree that the applicant is entitled to an award of costs in respect of the CMC. Given that it had been arranged to determine a request by the registered proprietor for an extension of time, it is unlikely that the applicant would have needed to carry out any significant amount of preparation. Certainly, its representative did not suggest it had. I accept that the registered proprietor could and should have indicated earlier that it no longer sought an extension of time so that the CMC could have been cancelled, however, given its immediate withdrawal of the request, the CMC was brief and was by telephone rather than e.g. personal attendance. In view of this and taking into

account the extent of the applicant's success and that neither side file either evidence or submissions, I make the award on the following basis:

Preparation of the application for cancellation:	£200
Official filing fee:	£200
Subtotal:	£400
Less amount to reflect extent of success:	£100
Plus amount for aborted CMC:	£50
Total:	£350

56. I order Microlab Probit Limited to pay Shenzen Maibo Electronics Corporation the sum of £350. This sum is to be paid within fourteen days of the expiry of the period for appeal.”

Dated this 13th day of July 2017

Ann Corbett

For the Registrar
The Comptroller-General