

**O/1103/22**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF UK TRADE MARK NUMBER 918030737  
REGISTERED IN THE NAME OF ROSS INDUSTRIES, INC.  
IN RESPECT OF THE FOLLOWING TRADE MARK:**

**ROSS**

**IN CLASS 7**

**AND**

**AN APPLICATION FOR A DECLARATION OF INVALIDITY  
UNDER NUMBER 504040  
BY CHARLES ROSS & SON COMPANY**

## BACKGROUND AND PLEADINGS

1. Trade mark number 918030737 for the word “ROSS” (“the contested mark”) stands registered in the name of ROSS INDUSTRIES, Inc. (“the proprietor”). It has a filing date of 5 March 2019, a registration date of 30 August 2019 and a priority date of 5 September 2018. The contested mark is registered for the following goods:

Class 7: *Food processing machines and food preparation machines, namely, industrial electric food processors; Packaging machines for food.*

2. On 29 July 2021, Charles Ross & Son Company (“the applicant”) applied to have the contested mark declared invalid under section 47 of the Trade Marks Act 1994 (“the Act”). In pursuit of the invalidation, the applicant relies on section 5(4)(a) of the Act. The invalidation is targeted at all the goods for which the contested mark stands registered and relies on two unregistered signs: **ROSS** and the stylised sign shown below (which the applicant claims to have also used in black and white). The applicant claims to have used these signs throughout the UK since the 1970s for *manufacturing of mixing, blending, kneading, dispersion and drying equipment for the chemical, adhesives, food, pharmaceutical, cosmetics, plastics, coatings, electronics and other process industries.*



3. The applicant’s case is that use of the contested mark would constitute a misrepresentation to the public that would damage the applicant’s goodwill. Therefore, use of the contested mark would be contrary to the law of passing off.

4. The proprietor filed a defence and counterstatement denying the claims made. During the evidence rounds, the proprietor claimed that its **ROSS** mark has been in use in the UK since 1969.

5. The applicant is represented by Birketts LLP and the proprietor by Serjeants LLP. Both parties filed evidence and submissions during the evidence rounds. Neither party requested a hearing and only the proprietor filed written submissions in lieu.

## **EVIDENCE AND SUBMISSIONS**

6. The applicant filed evidence in chief in the form of the first witness statement of Joseph Martorana and its corresponding five exhibits (JM1 – JM5). Mr Martorana is Vice President of the applicant company, a position he has held since 1997.

7. The proprietor filed evidence in chief in the form of the witness statement of William L Harrison and its corresponding 23 exhibits (R1 – R23). Mr Harrison is Engineering Manager of the proprietor company, a position he has held since 2011. Written submissions accompanied the witness statement.

8. The applicant filed evidence in reply in the form of the second witness statement of Mr Martorana, accompanied by written submissions.

9. I have considered the entirety of the evidence and submissions and will refer to them where necessary throughout this decision.

## **DECISION**

### **Legislation**

10. Section 5(4)(a) states:

“(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented-

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, where the condition in subsection (4A) is met,

(aa) [...]

(b) [...]

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an “earlier right” in relation to the trade mark.”

11. Subsection (4A) of Section 5 states:

“(4A) The condition mentioned in subsection (4)(a) is that the rights to the unregistered trade mark or other sign were acquired prior to the date of application for registration of the trade mark or date of the priority claimed for that application.”

12. The relevant parts of section 47 state:

“47. (1) [...]

(2) Subject to subsections (2A) and (2G), the registration of a trade mark may be declared invalid on the ground-

(a) [...]

(b) that there is an earlier right in relation to which the condition set out in section 5(4) is satisfied,

unless the proprietor of that earlier trade mark or other earlier right has consented to the registration.

[...]

(5) Where the grounds of invalidity exist in respect of only some of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid as regards those goods or services only.

(5A) An application for a declaration of invalidity may be filed on the basis of one or more earlier trade marks or other earlier rights provided they all belong to the same proprietor.

(6) Where the registration of a trade mark is declared invalid to any extent, the registration shall to that extent be deemed never to have been made: Provided that this shall not affect transactions past and closed.”

### **Relevant law**

13. In *Discount Outlet v Feel Good UK*, [2017] EWHC 1400 IPEC, Her Honour Judge Melissa Clarke, sitting as a deputy Judge of the High Court, conveniently summarised the essential requirements of the law of passing off as follows:

“55. The elements necessary to reach a finding of passing off are the ‘classical trinity’ of that tort as described by Lord Oliver in the *Jif Lemon* case (*Reckitt & Colman Product v Borden* [1990] 1 WLR 491 HL, [1990] RPC 341, HL), namely goodwill or reputation; misrepresentation leading to deception or a likelihood of deception; and damage resulting from the misrepresentation. The burden is on the Claimants to satisfy me of all three limbs.

56. In relation to deception, the court must assess whether “*a substantial number*” of the Claimants’ customers or potential customers are deceived, but it is not necessary to show that all or even most of them are deceived (per *Interflora Inc v Marks and Spencer Plc* [2012] EWCA Civ 1501, [2013] FSR 21).”

## Relevant date

14. Whether there has been passing off must be judged at a particular point (or points) in time. In *Advanced Perimeter Systems Limited v Multisys Computers Limited*, BL O-410-11, Daniel Alexander QC (as he then was) as the Appointed Person considered the relevant date for the purposes of s.5(4)(a) of the Act. He explained that:

“41. There are at least three ways in which such use may have an impact. The underlying principles were summarised by Geoffrey Hobbs QC sitting as the Appointed Person in *Croom’s TM* [2005] RPC 2 at [46] (omitting case references):

- (a) The right to protection conferred upon senior users at common law;
- (b) The common law rule that the legitimacy of the junior user’s mark in issue must normally be determined as of the date of its inception;
- (c) The potential for co-existence to be permitted in accordance with equitable principles.

42. As to (b), it is well-established in English law in cases going back 30 years that the date for assessing whether a claimant has sufficient goodwill to maintain an action for passing off is the time of the first actual or threatened act of passing off: *J.C. Penney Inc. v. Penneys Ltd.* [1975] FSR 367; *Cadbury-Schweppes Pty Ltd v. The Pub Squash Co. Ltd* [1981] RPC 429 (PC); *Barnsley Brewery Company Ltd. v. RBNB* [1997] FSR 462; *Inter Lotto (UK) Ltd. v. Camelot Group plc* [2003] EWCA Civ 1132 [2004] 1 WLR 955: “date of commencement of the conduct complained of”. If there was no right to prevent passing off at that date, ordinarily there will be no right to do so at the later date of application.

43. In *SWORDERS TM* O-212-06 Mr Allan James acting for the Registrar well summarised the position in s.5(4)(a) proceedings as follows:

‘Strictly, the relevant date for assessing whether s.5(4)(a) applies is always the date of the application for registration or, if there is a priority

date, that date: see Article 4 of Directive 89/104. However, where the applicant has used the mark before the date of the application it is necessary to consider what the position would have been at the date of the start of the behaviour complained about, and then to assess whether the position would have been any different at the later date when the application was made.”

15. In *Smart Planet Technologies, Inc. v Rajinda Sharma* [BL O/304/20], Mr Thomas Mitcheson QC (as he then was), as the Appointed Person, pointed out that “*the start of the behaviour complained about*” is not the same as the date that the user of the applied-for mark acquired the right to protect it under the law of passing off. Rather, it is the date that the user of that mark committed the first external act about which the other party could have complained (if it knew about it) as an act of actual or threatened passing off. Typically, this will be the date when the first offer was made to market relevant goods or services under the mark. However, it could also be the date the first public-facing indication was made that sales were proposed to be made under the mark in future. If the user of the applied-for mark was not passing off at the time such use commenced (usually because no one else had acquired a protectable goodwill under a conflicting mark at that time), he or she will not normally be passing off by continuing to use the mark.

16. As outlined by the above authorities, the date for assessing a passing off claim in invalidation proceedings is typically the application date or priority date of the mark in suit. The priority date of the contested mark is 5 September 2018. However, the proprietor claims to have used its mark since 1969. In the instant case I must assess whether use of the proprietor’s mark was, at the priority date, liable to be prevented by the law of passing off. The onus is on the applicant to make out a prima facie case. If the applicant succeeds, in the circumstances of this case, I need to return to the proprietor’s own position in view of its claim to seniority. I say this because, although a passing off claim has to be established at the date of the application of the challenged mark, it is clear that the applicant could not have succeeded in a passing

off claim if the proprietor's potentially actionable use began before the applicant had established its own actionable goodwill in the UK.<sup>1</sup>

## Goodwill

17. The concept of goodwill was considered by the House of Lords in *Inland Revenue Commissioners v Muller & Co's Margarine Ltd* [1901] AC 217:

"What is goodwill? It is a thing very easy to describe, very difficult to define. It is the benefit and advantage of the good name, reputation and connection of a business. It is the attractive force which brings in custom. It is the one thing which distinguishes an old-established business from a new business at its first start."

18. In *South Cone Incorporated v Jack Bessant, Dominic Greensmith, Kenwyn House and Gary Stringer (a partnership)* [2002] R.P.C. 19 (HC), Pumfrey J. stated:

"27. There is one major problem in assessing a passing of claim on paper, as will normally happen in the Registry. This is the cogency of the evidence of reputation and its extent. It seems to me that in any case in which this ground of opposition is raised the registrar is entitled to be presented with evidence which at least raises a prima facie case that the opponent's reputation extends to the goods comprised in the applicant's specification of goods. The requirements of the objection itself are considerably more stringent than the enquiry under s.11 of the 1938 Act (see *Smith Hayden & Co. Ltd's Application (OVAX)* (1946) 63 R.P.C. 97 as qualified by *BALI Trade Mark [1969] R.P.C. 472*). Thus the evidence will include evidence from the trade as to reputation; evidence as to the manner in which the goods are traded or the services supplied; and so on.

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<sup>1</sup> See *Roger Maier and Assos of Switzerland SA v ASOS plc and ASOS.com Limited* [2015] EWCA Civ 220 and *CASABLANCA Trade Mark O/349/16*.



28. Evidence of reputation comes primarily from the trade and the public, and will be supported by evidence of the extent of use. To be useful, the evidence must be directed to the relevant date. Once raised, the applicant must rebut the prima facie case. Obviously, he does not need to show that passing off will not occur, but he must produce sufficient cogent evidence to satisfy the hearing officer that it is not shown on the balance of probabilities that passing off will occur.”

19. However, in *Minimax GmbH & Co KG v Chubb Fire Limited* [2008] EWHC 1960 (Pat) Floyd J. (as he then was) stated that:

“[The above] observations are obviously intended as helpful guidelines as to the way in which a person relying on section 5(4)(a) can raise a case to be answered of passing off. I do not understand Pumfrey J to be laying down any absolute requirements as to the nature of evidence which needs to be filed in every case. The essential is that the evidence should show, at least prima facie, that the opponent's reputation extends to the goods comprised in the application in the applicant's specification of goods. It must also do so as of the relevant date, which is, at least in the first instance, the date of application.”

20. In *Starbucks (HK) Limited & Anor v British Sky Broadcasting Group Plc & Ors* [2015] UKSC 31, Lord Neuberger (with whom the rest of the Supreme Court agreed) stated that:

“I consider that we should reaffirm that the law is that a claimant in a passing off claim must establish that it has actual goodwill in this jurisdiction, and that such goodwill involved the presence of clients or customers in the jurisdiction for the products or services in question.”<sup>2</sup>

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<sup>2</sup> Paragraph 47.

## The existence of goodwill

21. Mr Martorana's first witness statement provides some history of the applicant company including that it was established in 1842 in New York. Mr Martorana explains that whilst the company is based in the US, it has developed an international business and reach with customers worldwide. Exhibit JM2 are pages taken from the 'company history' section of the applicant's website. In the seven pages, there is no specific mention of the UK; there is a statement that reads "ROSS Wuxi [a ROSS plant in China] is the largest ROSS plant, serving customers all across Asia, Australia, South America and Europe".<sup>3</sup>

22. Sales figures for the UK and Northern Ireland have been provided as follows:

<b>Territory</b>	<b>Date range</b>	<b>Value of orders (\$)</b>	<b>Based on snapshot of orders</b>
Northern Ireland	1 January 2010 – 31 December 2019	127,637.58	40
UK	1970 – 79	31,318.31	52
	80-89	65,207.48	32
	90-99	966,253.30	37
	00-09	2,415,850.36	165
	10-19	6,296,970.90	319

23. Sales invoices have been provided at Exhibit JM4, dated between 1972 and 2019, showing sales of ROSS products to UK locations; the goods appear to all be mixers and spare parts. The descriptions of the goods on the invoices are not particularly detailed and given that the applicant relies upon equipment in the *chemical, adhesives, food, pharmaceutical, cosmetics, plastics, coatings, electronics and other process industries* I cannot be certain of the purpose of the goods referred to in the invoices.

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<sup>3</sup> Page 27.

24. The company's print advertising expenditure is shown below:<sup>4</sup>

Year	Food Industry	Pet Food Industry	Meat-Poultry Industry	Total Budget
2002	29,740.00	0.00	0.00	217,780.00
2003	75,155.00	0.00	0.00	300,445.00
2004	99,147.00	0.00	0.00	365,425.00
2005	129,638.00	0.00	0.00	427,955.00
2006	123,656.00	0.00	0.00	424,200.00
2007	116,766.00	0.00	0.00	406,914.00
2008	118,741.00	0.00	0.00	413,607.00
2009	27,813.00	0.00	0.00	198,655.00
2010	66,385.00	0.00	0.00	331,794.00
2011	97,469.00	0.00	0.00	394,914.00
2012	134,641.00	0.00	0.00	442,960.00
2013	150,552.00	0.00	0.00	501,700.00
2014	151,590.00	0.00	5,634.00	502,067.00
2015	156,692.00	0.00	5,664.00	491,800.00
2016	161,480.00	0.00	5,760.00	571,707.00
2017	182,316.00	0.00	5,940.00	602,926.00
2018	143,913.00	0.00	6,060.00	608,323.00
2019	145,220.00	7,375.00	6,240.00	643,537.00
2020	160,156.00	8,875.00	0.00	670,830.00
2021	158,420.00	38,175.00	0.00	681,271.00

25. The relevant territory for the above figures is not explained and so I cannot ascertain whether this is US, UK, EU or even worldwide advertising spend. It is not made clear whether these figures relate solely to the UK advertising spend and I have no way of knowing what proportion was spent on UK advertising.

26. Exhibit JM5 is said by Mr Martorana to contain a selection of circulations regularly used for the purpose of maintaining brand awareness. The Exhibit begins with an undated list of promotional publications by sector. Only the following publications relate to the EU:<sup>5</sup>

## Food

Petfood Industry – 641 circulation in Europe

<sup>4</sup> Paragraph 29 of the witness statement.

<sup>5</sup> Pages 114-116.

## **Chemical**

Chemical Engineering – 5,304 in Europe

BEST – approximately 2,800 in Europe

Benchmark Intelligence – approximately 3,000 in Europe

## **Adhesives/Coatings**

ASI – 474 in Europe

PCI – 1,076 in Europe

Coatings World – 1,628 in Europe

Ink World – 679 in Europe

## **Powder**

Powder Bulk Engineering – 448 in Europe

27. There are various publications within pages 117-131 of Exhibit JM5, however, it is not clear whether these are UK publications. There is a relevant explanation by Mr Martorana in his witness statement:<sup>6</sup>

“We maintain brand awareness by a combination of advertising, long standing customer relations and word of mouth relating to our product range. In addition, a significant proportion of the US publications we use has a readership in the EU.”

And in his second witness statement:<sup>7</sup>

“It is confirmed that circulation material provided at Exhibit JM5 had a UK readership at all pertinent times. Reference to Europe, Foreign and International does not exclude the UK [...]”

28. It would have assisted the applicant to provide figures in relation to these publications for me to establish what proportion of UK consumers had sight of them.

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<sup>6</sup> Paragraph 27.

<sup>7</sup> Paragraph 4.4

Based on the evidence before me, I cannot determine the proportion of the relevant public in the UK who have read the publications and, crucially, have seen the signs relied upon within those publications and associated them with the applicant and its goods.

29. Exhibit JM1 also contains promotional material to show use of the sign. Despite Mr Martorana's second witness statement explaining that "material previously provided at Exhibit JM1 was available in the UK at all pertinent times",<sup>8</sup> the materials dated 1917, 1919, 1923 and 1924 are unlikely to have been available in the UK given that in its own statement of grounds, the applicant states that the mark was not used in the UK until the 1970s. The remaining material comprises: an advert in Food Processing magazine in 1970 which contains a New York address; and images of machines bearing the stylised ROSS mark said to be from 1975. It is unclear how many people in the UK would have seen the 1970 magazine advert, which appears to be in a US publication, though Mr Martorana does state that it was available in the UK. For the 1975 images, there is no explanation as to what promotional material this was or where it was distributed, other than the general statement referred to earlier in this paragraph.

30. For completeness, Exhibit JM3 contains a report produced by Bishop IP Investigations, who were commissioned in February 2021 by the applicant to investigate the proprietor's use of its ROSS mark in Europe. It does not assist the applicant in demonstrating its own goodwill in the UK.

31. While each passing off case depends on its own facts, it is well established that the law may protect small levels of goodwill. However, this does not mean that any level of goodwill is automatically protectable. In *Hart v Relentless Records* [2002] EWHC 1984 (Ch), Jacob J. (as he then was) stated that:

"62. In my view the law of passing off does not protect a goodwill of trivial extent. Before trade mark registration was introduced in 1875 there was a right of property created merely by putting a mark into use for a short while. It was an

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<sup>8</sup> Paragraph 4.1

unregistered trade mark right. But the action for its infringement is now barred by s.2(2) of the Trade Marks Act 1994. The provision goes back to the very first registration Act of 1875, s.1. Prior to then you had a property right on which you could sue, once you had put the mark into use. Even then a little time was needed, see per Upjohn L.J. in *BALI Trade Mark* [1969] R.P.C. 472. The whole point of that case turned on the difference between what was needed to establish a common law trade mark and passing off claim. If a trivial goodwill is enough for the latter, then the difference between the two is vanishingly small. That cannot be the case. It is also noteworthy that before the relevant date of registration of the BALI mark (1938) the BALI mark had been used “but had not acquired any significant reputation” (the trial judge's finding). Again that shows one is looking for more than a minimal reputation.”

32. In *Smart Planet Technologies, Inc. v Rajinda Sharma* [BL O-304-20], Mr Thomas Mitcheson QC (as he then was), as the Appointed Person, reviewed the following authorities about the establishment of goodwill for the purposes of passing-off: *Starbucks (HK) Ltd v British Sky Broadcasting Group Plc* [2015] UKSC 31, paragraph 52, *Reckitt & Colman Product v Borden* [1990] R.P.C. 341, HL and *Erven Warnink B.V. v. J. Townend & Sons (Hull) Ltd* [1980] R.P.C. 31. After reviewing these authorities Mr Mitcheson concluded that:

“.. a successful claimant in a passing off claim needs to demonstrate more than nominal goodwill. It needs to demonstrate significant or substantial goodwill and at the very least sufficient goodwill to be able to conclude that there would be substantial damage on the basis of the misrepresentation relied upon.”

33. After reviewing the evidence relied on to establish the existence of a protectable goodwill Mr Mitcheson found as follows:

“The evidence before the Hearing Officer to support a finding of goodwill for Party A prior to 28 January 2018 amounted to 10 invoices issued by Cup Print in Ireland to two customers in the UK. They were exhibited to Mr Lorenzi's witness statement as exhibit WL-10. The customers were Broderick Group Limited and Vaio Pak.

37. The invoices to Broderick Group Limited dated prior to 28 January 2018 totalled €939 and those to Vaio Pak €2291 for something approaching 40,000 paper cups in total. The invoices referred to the size of “reCUP” ordered in each case. Mr Lorenzi explained that Broderick Group Limited supply coffee vending machines in the UK. Some of the invoices suggested that the cups were further branded for onward customers e.g. Luca’s Kitchen and Bakery.

38. Mr Rousseau urged me not to dismiss the sales figures as low just because the product was cheap. I have not done so, but I must also bear in mind the size of the market as a whole and the likely impact upon it of selling 40,000 cups. Mr Lorenzi explained elsewhere in his statement that the UK market was some 2.5 billion paper coffee cups per year. That indicates what a tiny proportion of the market the reCUP had achieved by the relevant date.

39. Further, no evidence was adduced from Cup Print to explain how the business in the UK had been won. Mr Rousseau submitted to me that the average consumer in this case was the branded cup supplier company, such as Vaio Pak or Broderick Group. No evidence was adduced from either of those companies or from any other company in their position to explain what goodwill could be attributed to the word reCUP as a result of the activities and sales of Cup Print or Party A prior to 28 January 2018.

40. Various articles from Packaging News in the period 2015-2017 had been exhibited but again no attempt had been made to assess their impact on the average consumer and these all pre-dated the acquisition of the goodwill in the UK. I appreciate that the Registry is meant to be a less formal jurisdiction than, say, the Chancery Division in terms of evidence, but the evidence submitted in this case by Party A as to activities prior to 28 January 2018 fell well short of what I consider would have been necessary to establish sufficient goodwill to maintain a claim of passing off.

41. This conclusion is fortified by the submissions of Party B relating to the

distinctiveness of the sign in issue. Recup obviously alludes to a recycled, reusable or recyclable cup, and Party B adduced evidence that other entities around the world had sought to register it for similar goods around the same time. The element of descriptiveness in the sign sought to be used means that it will take longer to carry out sufficient trade with customers to establish sufficient goodwill in that sign so as to make it distinctive of Party A's goods."

34. The only evidence that assists the applicant in that it directly relates to the relevant territory is the sales figures for the UK and Northern Ireland and the sales invoices, though I remind myself that it is not completely clear of the exact nature of the goods referred to therein. Even if I were satisfied that the evidence of sales in the UK was sufficient, by itself, to demonstrate goodwill, it would not be possible to determine which of the goods for which the applicant has claimed use were the subject of those sales. The applicant has relied upon its ROSS signs for *manufacturing of mixing, blending, kneading, dispersion and drying equipment for the chemical, adhesives, food, pharmaceutical, cosmetics, plastics, coatings, electronics and other process industries* and it is not clear which mixers referred to in the evidence were meant for which industry. The evidence is insufficiently solid for me to decide what, if any, goods the applicant owns goodwill in relation to.

35. The evidence relating to the history of the company is not sufficient since it does not specifically refer to the UK and the evidence relating to the advertising and promotion of the mark – the material at Exhibits JM1 and JM5 and the advertising spend – is not determinative. The applicant has not provided any figures relating to the circulation of any of the publications. Even if I had been provided with figures, I would need a breakdown of how many readers or subscribers were based in the UK and, further, what proportion would likely have read the particular adverts which feature the ROSS signs; added to which, consumers must not only encounter the sign but understand its connection with the applicant and the goods relied upon. As explained earlier in my decision, the advertising spend is not clearly directed at a particular territory and so I cannot determine what proportion, if any, was spent on UK advertising. The evidence in regard to the level of exposure of the signs in the UK is not sufficient to demonstrate goodwill.



36. Taking everything into account, even acknowledging that there have been sales of ROSS goods to the UK, I am of the view that the evidence is not sufficient to illustrate protectable goodwill. Determining whether there is goodwill is a multifactorial assessment. I must take account of the size of the relevant consumer group, the reach of the evidence, the length of time the relevant public has been exposed to the sign and how intensive the use has been, as well as the amount of money invested in promoting the sign. In this regard, the evidence is inadequate. I remind myself that the relevant territory is the UK; the majority of the evidence is not sufficiently clear or focused on the UK for me to be satisfied that consumers in the UK will associate the ROSS signs with the applicant and the goods relied upon.

37. In my view, the applicant has failed to establish that at the relevant date there was actionable goodwill in the ROSS signs in the goods relied upon in the UK and, therefore, the invalidation based upon section 5(4)(a) falls at the first hurdle. As such, the proprietor's argument that it used its mark prior to the applicant's claimed first use is not relevant as there could be no legitimate complaint of passing off by the applicant at the relevant date.

## **CONCLUSION**

38. The invalidation under section 5(4)(a) fails.

## **COSTS**

39. The proprietor has been successful and is entitled to a contribution towards its costs in line with the scale set out in Tribunal Practice Notice 2/2016. In the circumstances, I award the proprietor the sum of £1,200, calculated as follows:

Preparing a statement and considering the other side's statement	£200
Preparing evidence and considering the other side's evidence	£700
Preparing submissions in lieu of a hearing	£300

**Total**

**£1,200**

40. I therefore order Charles Ross & Son Company to pay ROSS INDUSTRIES, Inc. the sum of £1,200. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the final determination of the appeal proceedings.

**Dated this 14th day of December 2022**

**E FISHER (née VENABLES)**

**For the Registrar**