o/710/22

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NOS.
UK00003565331 AND UK00003566932
IN THE NAME OF BIBIMONEY GLOBAL LIMITED
TO REGISTER THE FOLLOWING TRADE MARKS:

AND

IN CLASSES 9 AND 42

AND

IN THE MATTER OF OPPOSITIONS THERETO
UNDER NOS. 425580 AND 425586
BY BIBBY LINE GROUP LIMITED

BACKGROUND

1. On 8 December 2020, Bibimoney Global Limited ("the applicant") applied to register the following trade mark shown on the cover page of this decision in the UK:

(The First Application)

2. On 11 December 2020, Bibimoney Global Limited also applied to register the following trade mark shown on the cover page of this decision in the UK:

(The Second Application)

3. The applicant applied to register the marks for goods and services in classes 9 and 42.

4. Both trade mark applications were published for opposition purposes on 16 April 2021.

5. On 16 July 2021, Mathys & Squire LLP filed a Form TM7 ("Notice of Opposition and statement of grounds") on behalf of Bibby Line Group Limited ("the opponent") opposing both trade mark applications in full on the basis of sections 5(2)(b), 5(3) and 5(4)(a) of the Trade Marks Act 1994 ("the Act").

6. I note that the original notices of opposition that were filed by the opponent both required amendments before being accepted. The opponent was made aware of this requirement by way of two letters from the Registry, dated 20 July 2021 and 21 July 2021.

7. Amended notices of opposition were filed on 21 July 2021. On 22 July, the Registry served the TM7's on the applicant. The deadline for the applicant to file its Form TM8 ("Notice of defence and counterstatement") for both oppositions was 22 September 2021, communicated by the Registry in both of its the serving letters. The Registry's letters included the following:

> "Rule 18(1) and 18(3) of the Trade Marks Rules 2008 require that you must file your notice of defence and counterstatement (Form TM8) within **two months** from the date of this letter. Alternatively, if both parties wish to negotiate to resolve the dispute, they may request a "cooling off period" by filing a Form TM9c, which will extend the 2 month period in which to file a Form TM8 by up to a further seven months. Form TM9c is also available on the IPO website (above). Please note both parties must agree to enter into cooling off.
>
> **IMPORTANT DEADLINE: A completed Form TM8 (or else a Form TM9c) MUST be received on or before 22 September 2021**
>
> Rule 18(2) of the Trade Marks Rules 2008 states that "*where an applicant fails to file a Form TM8 within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned*." **It is important to understand that <u>if the deadline date is missed</u>, then in almost all circumstances, <u>the application will be treated as abandoned</u>."** (original emphasis)

8. On the 5 October 2021, and the 6 October 2021, the Registry wrote to the applicant again, stating:

> "The official letter dated **22 July 2021** invited the applicant to file a TM8 and counterstatement on or before **22 September 2021.**
>
> As no TM8 and counterstatement has been filed within the time period set, Rule 18(2) applies. Rule 18(2) states that the application:

"…….shall, unless the registrar otherwise directs, be treated as abandoned."

The registry is minded to deem the application as abandoned as no defence has been filed within the prescribed period.

If you disagree with the preliminary view you **must** provide full written reasons and request a hearing on, or before, **19 October 2021.** This **must** be accompanied by a Witness Statement setting out the reasons as to why the TM8 and counterstatement are being filed outside of the prescribed period."

9. On 18 October 2021, the applicant filed its Form TM8 for both oppositions which included a witness statement. However, as noted by the Registry and outlined in its letter sent out on 23 November 2021, the witness statement was not filed in the correct format and therefore inadmissible in the proceedings.

10. On 23 November 2021, the applicant refiled the witness statement in both oppositions which were in an acceptable format. I note that the following reason was provided as to why a Form TM8 had not been filed for both oppositions:

"Our key staff have been on furlough and only returned to work on the 1st October, so prior to this date, we were not in a position to get the TM8 and counterstatement filed within the prescribed period"

11. In an official letter dated 13 January 2022, sent to both parties, for both of the oppositions, the Registry stated:

"The Registry's letter dated 22 July 2021 informed the applicant that a form TM8 and counterstatement or form TM9c must be received on or before 22 September 2021, this was sent by email. In addition, the letter outlined the consequences, that the application may be deemed abandoned if either of these forms were not received within the time period specified. Although the form TM8 has now been filed, the discretion available to the Registrar when deciding whether to accept a late filed TM8, is narrow and there must be

"extenuating circumstances" and "compelling reasons" sufficient to warrant the exercise of such discretion.

In this instance, you have not provided any reasons sufficient to explain the failure to file the TM8 within the set period and, therefore, the Registrar cannot proceed to exercise any discretion in the matter. You are referred to the following decisions of the Appointed Persons in this regard: Kickz AG and Wicked Version Limited (BL-O-035/11) and Mark James Holland and Mercury Wealth Management Limited (BL-O-050/12). Copies of these decisions can be found on the IPO website at:

https://www.ipo.gov.uk/t-challengedecision-results.htm.

As a consequent of the above, it is therefore considered that there are no grounds on which to allow the exercise of the Registrar's discretion in this case."

12. In the same official letters, the parties were given until 27 January 2022 to request a hearing if they wished to challenge the preliminary view.

13. On 26 January 2022, the applicant asked the Registry to reconsider its preliminary view in light of the following:

"As stated in our submitted form TM9c, our TM8 was not submitted in time because I was on furlough.
We are a small tech start-up with limited resources and as company secretary, all applications and correspondence with the Intellectual Property Office- IPO are dealt with by me, so all emails and correspondence are sent to my email address only, and we do not have anyone else to pick up the slack.
Furthermore, the address your letters are sent to is an old address. We moved from those premises at Luton to the following address-
358-362 Goswell road, London EC1V 7LQ, which can be verified at Companies House.
We had a Royal Mail redirection service set up, but this has since expired and no mail from the IPO was received.

I am not aware of the procedure to change the correspondence address on the IPO website, as this would have meant that one of the directors could have arranged for the post to be picked up regularly during furlough and acted quickly on letters received from the IPO.

In addition, the rules regarding employee work state that an employee cannot engage in providing services of any kind whilst on furlough.

As a result, I did not have any access to my email account to pick up your emails until October 2021, which I came off furlough."

14. In light of the new information provided by the applicant, the Registry, on 16 March 2022, overturned its preliminary view and admitted the late TM8 and counterstatement into the proceedings. The parties were given until the 30 March 2022 to request a hearing if they wished to challenge this.

15. On 30 March 2022, the opponent wrote to the Registry highlighting that they had not been copied into the applicant's correspondence dated 16 January 2022. On 4 April, the Registry allowed the opponent a further period of time, until 18 April 2022, in order to file written submissions if it deemed necessary.

16. On 19 April 2022, the opponent requested an extension of time, until 26 April 2022, in order to make their written submissions. The Registry granted this request on 21 April 2022.

17. On 26 April 2022, the opponent made detailed submissions on why the acceptance of the late filed defence in both oppositions was incorrect. I note the main arguments made in this letter:

- The applicant has been through the application and opposition process with 2 previous applications. Mr Fafowora has provided witness statements for both of these.
- In previous proceedings the applicant has allowed the case to proceed through the entire process to withdraw the case days before a hearing.
- In one opposition, the applicant failed to file a TM8.

- Therefore, the applicant and Mr Fafowora are more familiar with the processes and requirements of the UKIPO. The opponent submits that “he and the Applicant are therefore aware of the deadline driven procedures and the importance to adhere to timelines”.
- The applicant is a small company however, “whilst furlough requirements are that no income earning activities can be conducted, as an officer of the company Mr Fafowora would have been able to attend fiduciary/procedural or statutory duties. In any case one might expect a person of crucial standing within an organisation such as a Company Secretary to ensure that duties and responsibilities are adequately covered and monitored during the period of absence”.
- Mr Fafowora would have known the applications were on file, pending and therefore could be opposed. Therefore it seems remiss in his absence that he did not refer this issue to an attorney or leave them in care of another colleague.
- “If the email address used was directly to Mr Fafowora surely the business had followed normal and diligent practice in having incoming correspondence to furloughed staff diverted”.
- The fact that the applicant is a small company, and they didn’t have anyone to “pick up the slack” (the exact wording in Mr Fafowora’s letter dated 26 January 2022) “is simply not acceptable. There were other Directors at the very least who must have been expecting to oversee the duties of the Company Secretary”.
- The opponent submits that the change of the applicant’s physical address “actually took place in 2018”. I note that this is supported by evidence from Companies House which shows their address changed to the Goswell Road address as far back as 17 October 2018. Therefore “there has been ample time for the Applicant to record that change. Indeed Mr Fafowora filed the applications in suit in December 2020 and clearly recited an incorrect address. Ensuring accurate contact detailed is a basic responsibility”.
- Therefore, failing to update your details over a two year period “points to a lack of diligence and disregard for the process” and does not constitute as an extenuating circumstance or compelling reason.

- The opponent highlights that there is no proof or corroborating evidence that Mr Fafowora was on furlough.

18. On 4 May 2022, the Registry wrote out the following to the parties:

> "Having considered the Witness Statement by Mr Fafowora and the Submissions by the opponent dated 26 April 2022, it is the Registry's preliminary view to refuse the filing of the form TM8. In reaching this view, both parties' comments have been considered and it is the Tribunal's view that the applicant hasn't provided any evidence to support its claim that the failure to meet the deadlines was because he was on furlough.
>
> If either party disagrees with the preliminary view, a period of 14 days is allowed to request a hearing, that is on or before **18 May 2022.**
>
> Please note, if the Hearing Officer maintains the preliminary view, the applicant may be required to contribute to the other party's costs. This is not intended to dissuade you from requesting a hearing, but merely to inform you of the potential consequences should you be unsuccessful in overturning the preliminary view."

19. On 18 May 2022, the applicant emailed the Registry containing private and confidential payslips for August and September 2021 as proof that Mr Fafowora was on furlough. However, as noted in the letter (incorrectly) dated 14 June 2022 from the Registry, "the payslips are issued by Soriahview Ltd and not Bibimoney. Therefore, the Registry maintained its preliminary view that the late filed TM8 could not be admitted into proceedings. The applicant had until the 21 June 2022 if they wished to challenge this.

20. On 15 June 2022, the applicant sent an email challenging the preliminary view and requested a hearing.

21. A hearing was scheduled for 5 July 2022, the details of which were sent by the Registry to both parties in an official letter dated 17 June 2022. The opponent notified

the Registry that they would not attend the hearing. The applicant confirmed attendance.

THE HEARING

Representation

22. The hearing took place before me, via telephone, on 5 July 2022. The applicant represented himself.

Hearing discussion

23. Mr Fafowora explained that "the capacity which I am basically engaged with Bibimoney is as self-employed. I am self-employed and an employee of Soriahview contracted out to Bibimoney. That is the basis of my relationship with them". I note that Soriahview Ltd has contracted Mr Fafowora out to Bibimoney since 2017. His responsibilities covered doing their annual accounts and secretarial services.

24. At the hearing, I wanted clarification on Mr Fafowora's role and duties in relation to the applicant's trade mark applications. I asked Mr Fafowora whether the responsibilities for which he is contracted for covers trade mark applications. The following conversation was engaged:

> "Mr Fafowora: It covers trade mark applications obviously. Responses to trade mark applications are obviously my responsibility. I deal with that, I have a separate email account that was set up for that purpose, which I did not have access to throughout the time in question until obviously my response in October.
>
> The Hearing Officer: For example, I read in the opponent's submissions that Bibimoney has been engaged with other applications, so all of those applications, including the two in question today, you would have been using that separate email set up for that specific purpose; correct?

Mr Fafowora: Yes."

25. Therefore, the above made it inherently clear that Mr Fafowora was responsible for past and present trade mark applications, and only he could access a specific email which was created to engage in communications with the Registry.

26. However, during COVID 19, Mr Fafowora explained that the applicant was not earning any income and therefore they could not afford Mr Fafowora's services until the company could start working again in October. Mr Fafowora clarified that there was a backlog of items to deal with when he returned in October, and that he "consulted with the director and he, obviously, gave me access to all the emails, the email accounts which had been basically discontinued when we all had to go on furlough".

27. Consequently, I wanted Mr Fafowora to clarify whether his responsibilities, which would have included his trade mark application duties, were covered or if any procedures were put in place whilst he was on furlough. When asked this question, Mr Fafowora responded:

"Not that I am aware of, no."

28. I also questioned Mr Fafowora on the companies address, which as highlighted by the opponent, changed in 2018 and the Registry was not made aware of this. Mr Fafowora at the hearing stated multiple reasonings as to why it was not changed, including:

- "The procedure for doing that I was not able to find on the IPO website in terms of changing of the company details".
- "In as much as changing the address of the company within it, I was not quite sure how to go about that. I stated that in one of my responses to you on this issue. I cannot remember when I did state it, but it was something I was not aware of having to do".

- “There was also the issue we received correspondence by email, so if anything was to be sent by post it was usually followed up by email which someone picked up and, obviously, I picked up as well from my inbox, my Bibimoney inbox, so it was not a burning issue that I felt that I needed to inform the trade mark offices that their business premises had changed because I did not think it was relevant because you already had a means of contacting the company which is via email”.

29. I furthermore highlighted that on both TM8 forms, dated 18 October 2021, the applicants were still using the old Luton address. Mr Fafowora clarified that it was the old address and that the “tenants there now are not very quick off the mark in sending us -- I mean, the redirection service that we arranged had expired and subsequently any mail basically it meant the directors, one of the directors had to physically go to Luton to see if there was any mail, and by the time they obviously turned up, some mail might be pretty urgent or might be in terms of the response might be quite late in getting a response out, so that is the way it went on, as it were”.

30. Overall, he summarised that the fact they had communications with the IPO via email was enough, and so they didn’t need to have a copy of the letter to respond to.

31. At the conclusion of the hearing, I reserved my judgement to give me an opportunity to reflect on the submissions made at the hearing. However, in my post hearing letter, dated 5 July 2022, I gave Mr Fafowora additional instructions with regards to his submissions at the hearing i.e.:

- Mr Fafowora was to file a witness statement containing the nature of his relationship, and Soriahview’s relationship, with the applicant.
- The witness statement could also include exhibits of evidence to support Mr Fafowora’s submissions on this relationship.
- Mr Fafowora had 14 days from the date of this letter to complete this, being the 19 July 2022.
- The opponent would have 14 days from receipt of Mr Fafowora’s witness statement to make any comments they deemed necessary on the above.

- Only then I would be in a position to issue a decision on whether the filing of the late TM8 would be allowed.

Post hearing

32. On 19 July 2022, Mr Fafowora filed a witness statement and 3 exhibits (SVL01-SVL03) as directed at the hearing. I note that the witness statement states that his company, Soriahview limited, has been engaged by the applicant "for the provision of accounting and other professional services which include company secretarial services since 2017". I note that exhibit SVL01 is a Consultancy Agreement between Stephen Fafowora and Bibimoney Global Limited dated 1 January 2016. Exhibit SVL02 are excerpts of pages from Companies House showing the submitted statutory accounts of Bibimoney, highlighting that its accountants are Soriahview limited, and its secretary is S Fafowora. Lastly, exhibit SVL03 contains the payslip evidence, which was provided earlier in the proceedings, demonstrating that Mr Fafowora was on furlough from July 2021 to September 2021.

33. I also note that Mr Fafowora's witness statement provided the same context that was given at the hearing. That his secretarial duties "such as fulfilling statutory duties sometimes includes responding to IPO queries", and that the applicant during the pandemic was not earning any revenues and therefore his services were suspended. This unfortunately coincided with the period in July 2021 when the need to file a TM8 arose. I shall return to the content of the witness statement later in this decision.

34. On 8 August 2022, the opponent responded to the applicant's above witness statement. Their position still remained that there were no exceptional circumstances to warrant the late filing of the defence on the basis that it had been 18 months since the pandemic had hit and therefore by 2020, businesses had adapted or put plans in place with to cope with the restrictions imposed and the furlough on many staff. I also note that the opponent submits that the applicant had "not diligently managed its affairs or placed sufficient importance on the documentary requirements of the UKIPO in the absence of one individual".

35. On 15 August 2022, the applicant filed a witness statement in response to the opponent's above submissions. On 17 August 2022, the Registry replied and made it clear that "the opponent was always entitled to make submissions on the applicant's evidence. Once the opponent had submitted its submissions, this drew the matter to a close and it is not open for either party to be making further submissions in response at this stage".

36. However, even though the above made it clear that it wasn't open for either party to be making further submissions, I did look at, and consider, the submissions that were made in the applicant's witness statement dated 15 August 2022. However, I note that the submissions don't make any material difference.

DECISION

37. The filing of a Form TM8 and counterstatement in opposition proceedings is governed by rule 18 of the Trade Marks Rules 2008 ("the Rules"). The relevant parts read as follows:

> "18. (1) The applicant shall, within the relevant period, file a Form TM8, which shall include a counter-statement.
>
> (2) Where the applicant fails to file a TM8 or counter-statement within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, **unless the registrar otherwise directs**, be treated as abandoned."

38. The combined effect of rules 77(1), 77(5) and Schedule 1 of the Rules mean that the time limit in rule 18, which sets the period in which the defence must be filed, is non-extensible other than in the circumstances identified in rule 77(5) which states:

> "A time limit listed in Schedule 1 (whether it has already expired or not) may be extended under paragraph (1) if, and only if—

(a) the irregularity or prospective irregularity is attributable, wholly or in part, to a default, omission or other error by the registrar, the Office or the International Bureau; and

(b) it appears to the registrar that the irregularity should be rectified."

39. There is no suggestion that there has been any irregularity on the part of the Registry. Consequently, the only basis on which the applicant may be allowed to defend the opposition proceedings is if I exercise in his favour the discretion afforded to me by the use of the words "unless the registrar otherwise directs" in rule 18(2).

40. In approaching the exercise of discretion in these circumstances, I take into account the decisions of the Appointed Person in *Kickz AG v Wicked Vision Limited* (BL O-035-11) and *Mark James Holland v Mercury Wealth Management Limited* (BL O-050-12) i.e. I have to be satisfied that there are extenuating circumstances which justify the exercise of the discretion in the applicant's favour.

41. In *Music Choice Ltd's Trade Mark* [2005] RPC 18, the Court indicated that a consideration of the following factors (underlined below) is likely to be of assistance in reaching a conclusion as to whether or not discretion should be exercised in favour of a party in default. That is the approach I intend to adopt, referring to the parties' submissions to the extent that I consider it necessary to do so.

<u>The circumstances relating to the missing of the deadline including reasons why it was missed and the extent to which it was missed;</u>

42. As noted above, the stipulated deadline for the filing of the applicant's Form TM8 and counterstatement was 22 September 2021. The Form TM8 and counterstatement was filed by the applicant on 18 October 2021. Therefore, the deadline was missed by 26 days. The applicant's explanation as to why the deadline was missed was due to Mr Fafowora being on furlough. Whilst on furlough, nothing was put in place to cover Mr Fafowora's responsibilities which included dealing with all of the applicant's trade mark applications.

The nature of the opponent's allegations in its statement of grounds;

43. The oppositions are brought under sections 5(2)(b), 5(3) and 5(4)(a) of the Act. There is nothing to suggest that the oppositions are without merit.

The consequences of treating the applicant as defending or not defending the opposition;

44. If the applicant is permitted to defend both oppositions, the proceedings will continue with the parties given an opportunity to file evidence and the matters will be determined on their merits. However, if the applicant is not allowed to defend, its applications will be treated as abandoned and the applicant's first application will lose its filing date of 8 December 2020 and the applicant's second application will lose its filing date of 11 December 2020.

Any prejudice caused to the opponent by the delay;

45. No submissions were made by either party regarding prejudice to the opponent.

Any other relevant considerations such as the existence of related proceedings between the parties;

46. There do not appear to be any other relevant considerations.

CONCLUSIONS

47. In reaching my decision, I recognise that if the discretion is not exercised in the applicant's favour, the application will be treated as abandoned and the applicants will lose its filing date for its mark. I further recognise that it may be that the applicants will simply re-file his application and that this may, once again, be opposed by the opponent resulting in opposition proceedings arising at some point in the future. However, as the loss of priority and possibility of further proceedings on much the same basis is often the consequence of a failure to comply with the non-extensible

deadline to file a Form TM8, these are not factors that, in my view, are particularly compelling, at least not in isolation. I must consider the specific circumstances at hand.

48. Firstly, at paragraph 6 of Mr Fafowora's witness statement, he states the following:

> "Given the typically irregular correspondence from the IPO, that did not represent a critical and immediate income stream, and against the backdrop of the unprecedented income diminish effects of the pandemic, it was deemed by the Applicant- my client- Bibimoney, a carefully calibrated and acceptable risk to suspend Soriahview's engagement with Bibimoney, which included suspending access to the email account – stephenf@bibimoney.com which is my means of obtaining correspondence relating to my work with the Applicant – Bibimoney. It is the primary means of receiving any correspondence from the IPO and has served me quite well despite the Applicant's change of address in 2018. In any case, receiving correspondence via post was quite challenging due to the various restrictions on movement placed by the government at various times at the height of the pandemic. Subsequently, Soriahview, facing similar challenges on the revenue front, also placed me on furlough".

49. During the hearing, Mr Fafowora was unable to give an adequate explanation as to why when filing the applications on the 8 December and 11 December 2020, the applicant's address was recorded as the Luton address when the applicant had ceased to be in occupation at that address for over 2 years (since 2018). The only reasons given was that Mr Fafowora did not know how to notify the Registry of the change of address, and that he also believed that it wasn't important to notify the Registry because they could still respond via email. I also note that Mr Fafowora, in paragraph 6 of in his witness statement above, states that "receiving correspondence via post was quite challenging due to the various restrictions on movement placed by the government at various times at the height of the pandemic". In this instance, I fail to see the relevance of this statement. The applicant simply did not receive post from the Registry on the basis that they had changed address 2 years before the pandemic, and did not notify the Registry of its change of address.

50. I have not been provided any compelling reasons as to why the applicant filled out their Form TM8 using the wrong address. I note that it is a requirement that a party provides an up to date address and that the onus is on the party to ensure that they have a method in place to receive post if the address provided is not one which they are residing at. In this instance, it is clear that no such mechanism was put in place.

51. Albeit Mr Fafowora was receiving the email correspondence from the Registry, via an email address which was created specifically for their trade mark applications, it was made abundantly clear that whilst he was on furlough he did not have access to this email. It was also made clear at the hearing that the email account "had been basically discontinued when we all had to go on furlough". There was nothing at all put in place by either Mr Fafowora or the applicant to cover Mr Fafowora's duties, including those which looked after their trade mark applications.

52. Furthermore, it was made clear at the hearing that Mr Fafowora had dealt with their previous applications. Therefore, he would have been aware of the process, and that if an application is opposed there is a strict deadline to file a Form TM8 to defend their application. Despite this, nothing was put in place to monitor the specific email account which was used to correspond with the Registry.

53. If the Registry had been informed of the applicant's new address, the applicant and its directors may have been notified sooner that they needed to defend their application. However, again, the applicant had not taken action to change the address or to adequately monitor incoming postal correspondence received at the old address.

54. As highlighted in paragraph 6 of Mr Fafowora's witness statement above, the applicant believed it was "acceptable risk to suspend Soriahview's engagement with Bibimoney, which included suspending access to the email account". I do not have any submissions or evidence as to what made the applicant conclude it was an "acceptable risk". However, as I have set out above, I consider that the applicant was mostly likely aware, especially as having been through the opposition process before, that by suspending use of the email address, which was the only way in which they were receiving correspondence from the Registry, that this could cause them to miss important deadlines.

55. Therefore, this is not the case where the procedure in place broke down or failed as a result of human error (for example the deadline being erroneously recorded) or other extenuating circumstance; it failed as a result of there being a lack of an adequate formal procedure being in place. The responsibility of keeping the applicant's address up to date and for monitoring its specific email for its trade mark applications falls squarely with the applicant. Whilst I appreciate that Mr Fafowora was on furlough, and therefore unable to check this email address, there was nothing put in place for or by the directors, for example, to cover his responsibilities. It was the applicant's responsibility, and the applicant appears to have chosen to take risk in suspending the only (correct) way of means of communication with the Registry. In this regard I find that Mr Fafowora and the applicant were clearly the authors of their own misfortune.[1]

56. Both of the applicant's late filed TM8s are therefore not admitted into proceedings and consequently as the opposition against the applications at hand are deemed as undefended. The applications will, subject to any appeal, be treated as abandoned.

COSTS

57. As my decision terminates the proceedings, I must consider the matter of costs. The opponent did not attend the hearing, however, in its email dated 1 July 2022, the opponent asked, "that the Hearing officer considers the cost implications for the Opponent which has already had to deal with several rounds of correspondence and submissions surrounding the Applicant's failure to file a defence".

58. While I appreciate that the opponent issued separate oppositions, I note that the oppositions were very highly similar. I have taken this into account in reaching my costs conclusion.

59. The relevant scale is contained in Tribunal Practice Notice 2/2016. In the circumstances, I award the opponent the sum of **£800** as a contribution towards the costs of the proceedings. The sum is calculated as follows:

[1] Para 15 *Kix Trade Mark* O/035/11

Official fee (x2)	£400
Preparing the statement of case	£400
Total	**£800**

60. I therefore order Bibimoney Global Limited to pay Bibby Line Group Limited the sum of £800. This sum is to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 23rd day of August 2022

L FAYTER

For the Registrar