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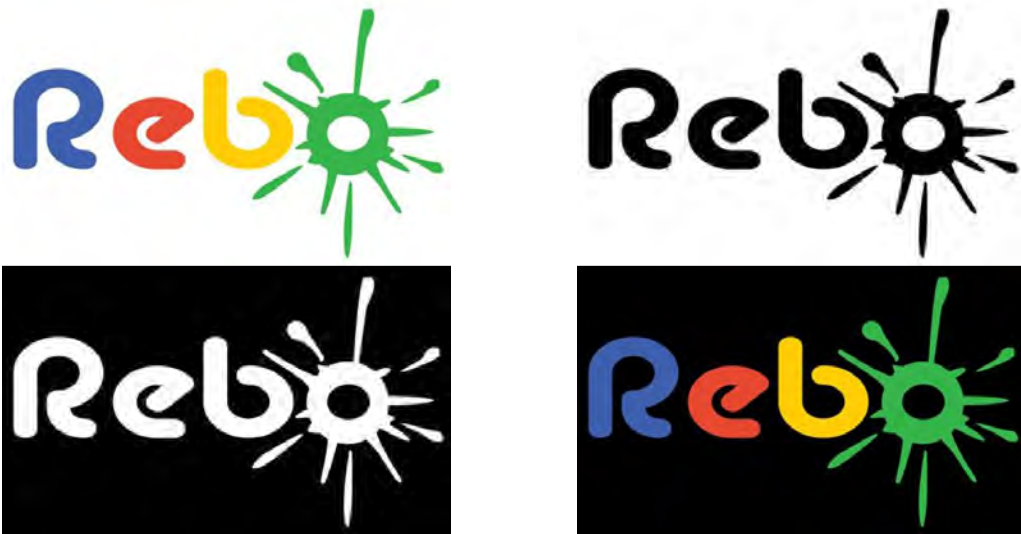
TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NO 2506778

BY

JAMES OWEN

TO REGISTER THE TRADE MARKS (A SERIES OF 4):



IN CLASSES 12, 28 AND 35

AND

THE OPPOSITION THERETO

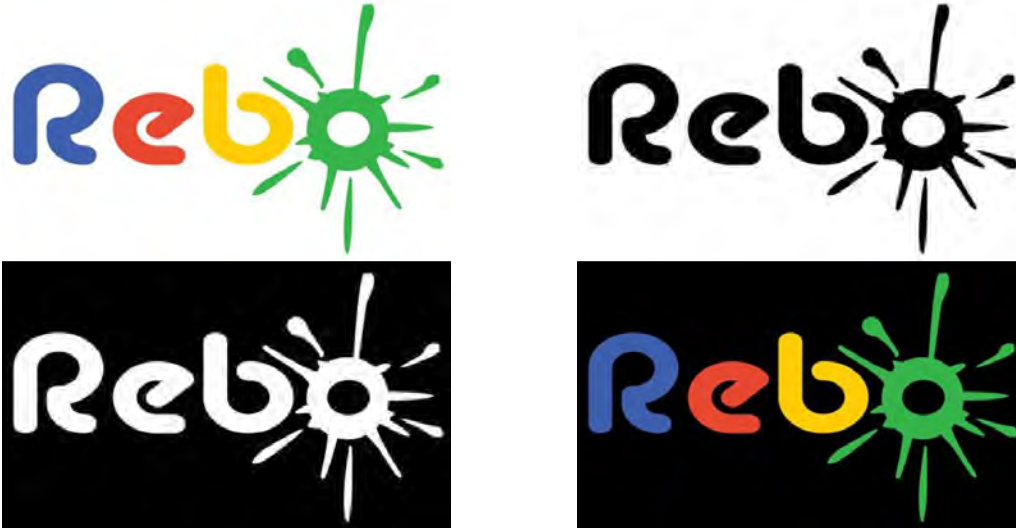
UNDER NO 99252

BY

REEBOK INTERNATIONAL LIMITED

Trade Marks Act 1994

**In the matter of application no 2506778
by James Owen
to register the trade marks (a series of 4):**



**in classes 12, 28 and 35
and the opposition thereto
under no 99252
by Reebok International Limited**

1) On 15 March 2011 a decision on the substantive issues of the case was issued under BL O/103/11. In relation to costs the following was decided:

“67) Ms McFarland wanted the costs award to take into account that a large part of the evidence of RIL was not pertinent to the grounds of opposition.

68) RIL put in clearly defined grounds of opposition and then filed evidence that for the most part was not pertinent to its case. Sorting the wheat from the chaff is likely to have taken a large amount of time, especially in relation to the extensive exhibits, very few of which related to the issues in play. On the basis of the pleaded case and the counterstatement, all that RIL had to do was establish a goodwill in relation to bicycles and trampolines. Its evidence certainly was not focused upon this.

69) It is considered appropriate to make an award of costs outwith the scale as far as considering the first witness statement and exhibits of Mr Behean. Mr Owen is allowed two weeks from the date of issue of this decision to give a breakdown of the costs involved in the consideration of

this first witness statement and exhibits. A copy of this breakdown should be copied to RIL who will have two weeks from the date that it is sent to it to make any submissions on the sum of the costs, **and the sum of the costs only.**

70) Following the receipt of the breakdown of the costs and any submissions from RIL, a supplementary decision on costs will be issued. The period for appeal in relation to this decision will run from the issue of the supplementary decision.”

2) On 28 March 2011 a letter was received from Silverman Sherliker LLP (Silverman), the representative of Mr Owen. A schedule of costs was attached to the letter. In the schedule of costs 15.9 hours of work was identified to a partner, 9.3 hours to assistant solicitors and 20.4 hours to trainee solicitors. This amounted to a total of £9,387 (ex VAT). £5,000 (ex VAT) was also claimed in respect of fees for counsel. The costs are identified by reference to the period from when the first witness statement of Mr Behean was received to 27 March 2011. They list a large variety of matters that are outwith the parameters set in the decision. Listing the costs since the receipt of the first witness statement is in no way synonymous with identifying the costs in relation to the work involved in considering this statement. Silverman has not complied with the requirement in the decision.

3) J A Kemp & Co (Kemp), the representative of RIL, filed a response to the schedule of costs. In essence Kemp argued that the costs claimed vastly exceeded those incurred in relation to a consideration of the witness statement. Kemp also requested Silverman to furnish it with copies of the invoices in respect of the costs listed in the schedule. Kemp submitted that consideration of the witness statement should have taken no more than 2-3 hours of counsel's time, 2-3 hours of a junior attorney's time and no more than one hour of a patent attorney's time. Kemp suggests an award of £1,000 would be appropriate.

4) On 25 May 2011 Silverman responded. It stated that it had not sent copies of invoices to Kemp. Included in the submissions in the letter, Silverman suggested that the costs should be based upon the following basis:

a) a determination of Mr Owen's costs entitlement within the normal scale provided for opposition proceedings.

b) the application of discretion to select an appropriate percentage of the total costs in the schedule that is deemed attributable to RIL's irrelevant evidence.

c) to award Mr Owen the sum of a and b.

5) As stated above, Silverman has not complied with the requirement set out in the decision. There is no indication as to the time spent on considering the first

witness statement of Mr Behean. In the absence of compliance with the requirement in the decision, it is considered appropriate to follow the submission of Kemp and award £1,000 in respect of the work involved with the first witness statement.

6) Costs are awarded to Mr Owen upon the following basis:

Preparing a statement and considering the statement of RIL :	£400
Preparing evidence and considering the evidence of RIL:	£500
Additional costs in relation to the first witness statement of Mr Behean:	£1,000
Preparation for and attendance at hearing:	£1,500
Total:	£3,400

Reebok International Limited is to pay James Owen the sum of £3,400. This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

7) The period for appeal against the substantive decision runs concurrently with the period for appeal against this supplementary decision.

Dated this 09 day of June 2011

**David Landau
For the Registrar
the Comptroller-General**