

TRADE MARKS ACT 1994

**IN THE MATTER OF TRADE MARK REGISTRATION 2540311
IN THE NAME OF ALAN LOVELL
IN RESPECT OF THE TRADE MARK:**

THE SWINGING BLUE JEANS

IN CLASS 41

AND

**AN APPLICATION TO RECTIFY THE REGISTER (UNDER NO. 83820) BY
RAY ENNIS**

SUPPLEMENTARY DECISION ON COSTS

1) In my decision of 11 October 2012, in respect of rectification proceedings relating to the ownership of registration 2540311 (Decision BL O-392-12), the registered proprietor, Mr Alan Lovell was successful in that the applicant for rectification, Mr Ray Ennis, failed in his attempt to have the register amended to record himself as the registered proprietor.

2) I found that Mr Lovell was entitled to an award of costs. At the hearing, Mr Heald submitted, on behalf of Mr Lovell, that there should be no enhanced costs. I concur with this and at paragraph 37 of my decision I indicated that I intended to award costs in the normal way. However, in paragraph 38, I did allow 28 days for Mr Lovell to provide information and supporting documents to indicate the costs he incurred as a result of attending the hearing for cross examination.

3) Mr Lovell has chosen not to provide such information and consequently I consider costs in respect of his attendance for cross examination in the following way. The papers on file appear to show that Mr Lovell's home address is recorded as being in Slough. An open day return rail ticket from Slough to London is £14.30 (see <http://www.nationalrail.co.uk/>) and an "Anytime Day Travelcard" for Zone 1 of the London Underground is £8.80 (see <http://www.tfl.gov.uk/tickets/14416.aspx>). Therefore, I award £23.10 in respect of Mr Lovell's travel costs.

4) In respect of the time Mr Lovell spent travelling to, and attending the hearing, I estimate a total of two hours travel time and four hours for attending the hearing. In considering these specific personal costs, it is appropriate that, in the absence of specific guidance in the Trade Mark Rules 2008, I take account of the guidance provided in the Civil Procedure Rules ("the CPR"). In particular, I refer to Paragraph 52(4) of The Costs Practice Direction supplementing Parts 43 to 48 of the CPR that sets out that a litigant in person is allowed £18 an hour. Taking this guidance account, I award Mr Lovell a total £108 (6 hours x £18) for his time in attending the hearing.

5) Taking account of my comments in the above two paragraphs, the total award for Mr Lovell's attendance at the hearing for the purposes of cross examination amounts to a total of £131.10. In respect to his other costs associated with the proceedings, Mr Lovell is entitled to an award of costs, on a contributory basis and based upon the published scale (as set out in Tribunal Practice Notice 4/2007 and shown below).

Task	Cost
Preparing a statement and considering the other side's statement	From £200 to £600 depending on the nature of the statements, for example their complexity and relevance.
Preparing evidence and considering and commenting on the other side's evidence	From £500 if the evidence is light to £2000 if the evidence is substantial. The award could go above this range in exceptionally large cases but will be cut down if the successful party had filed a significant amount of unnecessary evidence.
Preparing for and attending a hearing	Up to £1500 per day of hearing, capped at £3000 for the full hearing unless one side has behaved unreasonably. From £300 to £500 for preparation of submissions, depending on their substance, if there is no oral hearing.
Expenses	(a) Official fees arising from the action and paid by the successful party (other than fees for extensions of time). (b) The reasonable travel and accommodation expenses for any witnesses of the successful party required to attend a hearing for cross examination.

6) Taking full account of this published scale, and of Mr Lovell's personal costs in attending the hearing, I award costs on the following basis:

Considering application for rectification and preparing counterstatement:	£300
Preparing and filing evidence and considering Mr Ennis' evidence:	£700
Preparing and attending hearing (other than Mr Lovell's personal costs):	£900
Costs associated with Mr Lovell's attendance at the hearing:	£131.10

TOTAL: £2031.10

7) I order Mr Ray Ennis to pay Mr Alan Lovell the sum of £2031.10. I note that an appeal to the substantive decision was filed on 7 November 2012. Therefore, these costs are to be paid within seven days of the final determination of this case (if the appeal is unsuccessful or if the appeal is subsequently withdrawn).

Dated this ... day of December 2012

**Mark Bryant
For the Registrar
The Comptroller-General**