

O-011-13

TRADE MARKS ACT 1994

CONSOLIDATED APPLICATIONS 16176, 16177, 16178, 84185 & 84190

BY JENSEN CARS LIMITED

FOR THE REVOCATION OF UK TRADE MARKS 908667 & 982086

AND INTERNATIONAL REGISTRATIONS M827093, M828078 & M832629

IN THE NAME OF HEALEY SPORTS CARS SWITZERLAND LIMITED

BECAUSE OF NON-USE

BACKGROUND

1. On 7 December 2012, I issued a decision revoking five trade marks in the name of Healey Sports Cars Switzerland Limited and ordering that party to pay Jensen Cars Limited the sum of £3500. The part of the decision covering costs is set out below.

“55. JCL having succeeded, it is entitled to a contribution towards its costs. I therefore order Healey Sports Cars Switzerland Limited to pay Jensen Cars Limited the sum of £3500. This is made up of:

£2000 for filing 5 applications for revocation and considering Healey’s counterstatements (including £1000 in official filing fees).

£1500 for considering Healey’s evidence and responding to it.

£1000 towards the cost of the hearing, including preparation of a skeleton argument.

56. This to be paid within 14 days of the end of the period allowed for appeal.”

2. It has been drawn to my attention that there is an arithmetical error in the first part of paragraph 55. As is clear from the remainder of that paragraph, my intention was to award Jensen Cars Limited the sum of £2000 plus £1500 plus £1000, which of course equals £4500 (not £3500 as stated).

3. Rule 74 of the Trade Mark Rules 2008 provides as follows.

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 proceeding 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.

4. The error in the main decision was clearly an irregularity in procedure. And it is clear from the wording of Rule 77(5) that this term covers errors made by the Registrar. Therefore I give notice that I intend to correct the irregularity by substituting the following for paragraph 55 of my earlier decision.

“55. JCL having succeeded, it is entitled to a contribution towards its costs. I therefore order Healey Sports Cars Switzerland Limited to pay Jensen Cars Limited the sum of £4500. This is made up of:

£2000 for filing 5 applications for revocation and considering Healey's counterstatements (including £1000 in official filing fees).

£1500 for considering Healey's evidence and responding to it.

£1000 towards the cost of the hearing, including preparation of a skeleton argument."

5. Unless I receive good reasons to take a different course by 13 January, this substituted order will come into effect on 14 January 2013.

6. In accordance with Rule 74(2)(b), the period allowed for appealing the amended costs order (but not the decisions on the substantive matters) will then be extended to 11 February 2013 and the period for paying the revised costs extended to 25 February 2013.

Dated this 10th Day of January 2013

**Allan James
For the Registrar**