

O-066-14

**TRADE MARKS ACT 1994**

**Supplementary decision on costs**

**In the matters of application no 2601593**

**by Rackit Ltd**

**to register the trade mark:**

**RACKIT**

**and the opposition thereto under no 103156**

**by Redirack Limited**

**and**

**application no 2611356**

**by Redirack Limited**

**to register the trade marks (a series of two):**

**RackIt**

**RACKIT**

**and the opposition thereto under no 103667**

**by Rackit Ltd**

1) On 11 December 2013 the substantive decision, BL O/500/13, was issued in these proceedings. In that decision the following was stated:

“94) Irvine is entitled to reasonable expenses for the presence of Messrs Ferguson, Yates and Young at the hearing for cross-examination. Irvine should furnish within four weeks of the date of the issue of this decision a breakdown of the costs of the witnesses in respect of transport and subsistence for attendance at the hearing. The breakdown should be supported by receipts. A copy of the documentation should be sent to Redirack, which will have two weeks from the date of the sending of the documentation to make any submissions that it wishes in relation to the claim.

95) A supplementary decision in relation to costs will be issued and the period for appeal in relation to the substantive decision will run concurrently with the period for appeal in relation to the costs awards.”

2) Rackit Ltd, referred to as Irvine in the above decision, has since filed material in relation to the expenses of its witnesses. The total expenses claimed, including transport, meals and accommodation, amounted to £1,205,91. The expenses incurred are reasonable and the award of costs will fully compensate for them.

3) On 27 January 2014 the representatives of Redirack Limited advised that the company had appointed administrators. They suggested that, consequently, the proceedings should be suspended to allow the administrators to provide instructions. The administrators should be in a position to know what the costs award is and so the proceedings will not be suspended. However, it is open for the representatives of Redirack Limited to request an extension of the appeal period if they have not received instructions from the administrators by the time that it expires.

4) Costs are awarded upon the following basis:

Official fee	£200
Preparing statements and considering Redirack Limited's statements:	£600
Preparing evidence and considering Redirack Limited's evidence	£2,000
Preparing for and attending a hearing:	£1,500
Expenses for attending hearing:	£1,205.91
Total:	£5,505.91

**Redirack Limited is ordered to pay Rackit Ltd the sum of £5,505.91. 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.**

**The appeal period for this decision and for the substantive decision are to run concurrently.**

**Dated this 7th day of February 2014**

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