

O/013/12

TRADE MARKS ACT 1994

SUPPLEMENTARY DECISION

IN THE MATTER OF APPLICATION NO 2527523

FOR THE TRADE MARKS (A SERIES OF TWO):

LAKES TV

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IN THE NAME OF MURRAY LEWIS

IN CLASSES 35, 38, 39 AND 41

AND

THE OPPOSITION THERETO

UNDER NO 100094

BY

LAKES TV LTD

1) On 2 December 2011 the substantive decision was issued in these proceedings. In relation to costs the following was stated:

“39) Mr Lewis having been successful is entitled to a contribution towards his costs. Mr Lewis is a litigant in person. In BL O/160/08 Mr Richard Arnold QC, sitting as the appointed person, stated:

“32. Secondly, counsel for the opponent submitted that, if CPR r. 48.6 was applicable, the hearing officer had misapplied it. In support of this submission he pointed out that CPR r. 48.6(4) provides:

The amount of costs to be allowed to the litigant in person for any item of work claimed shall be-

(a) where the litigant can prove financial loss, the amount that he can prove he has lost for time reasonably spent on doing the work; or

(b) where the litigant cannot prove financial loss, an amount for the time reasonably spent on doing the work at the rate set out in the practice direction.

The Part 48 Practice Direction provides at paragraph 52.4 that the amount which may be allowed to a litigant in person under rule 46.8(4) is £9.25 per hour. Counsel submitted that the hearing officer appeared to have awarded the applicant two-thirds of the scale figure which he would have awarded a represented party, and that this could not be justified since the opponent had not proved any financial loss and was very unlikely to have spent over 160 hours on the matter.....

36. In my judgment the approach which should be adopted when the Registrar is asked to make an award of costs in favour of a litigant in person is as follows. The hearing officer should direct the litigant in person pursuant to r. 57 of the 2000 Rules to file a brief schedule or statement setting out (i) any disbursements which the litigant claimed he has incurred, (ii) any other financial losses claimed by the litigant and (iii) a statement of the time spent by the litigant in dealing with the proceedings. The hearing officer should then make an assessment of the costs to be awarded applying by analogy the principles applicable under r. 48.6, but with a fairly broad brush. The objective should be to ensure that litigants in person are neither disadvantaged nor overcompensated by comparison with professionally represented litigants.”

(Under the current practice direction the amount allowed to a litigant in person is £18 per hour.)

40) Mr Lewis should furnish, within two weeks of the date of issue of this decision, a brief schedule of costs as indicated above in the decision of Mr Arnold. A supplementary decision on costs will then be issued.”

2) Mr Lewis has not provided the brief schedule of costs required. Consequently, it not possible to consider the amount of costs that should be awarded. Therefore, no award of costs will be made.

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

Dated this 18th day of January 2012

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