

O/0215/26

DECISION ON COSTS

TRADE MARKS ACT 1994

IN THE MATTER OF UK REGISTRATION NO. 4119889

IN THE NAME OF MUHAMMAD MASOOD

IN RESPECT OF THE FOLLOWING TRADE MARK



AND

AN APPLICATION FOR A DECLARATION OF THE INVALIDITY

THEREOF UNDER NO. 508509

BY ON SALE LTD

BACKGROUND

1. Trade Mark No. 4119889 shown on the cover page of this decision stands registered in the name of Muhammad Masood (“the registered proprietor”). It was applied for on 2 November 2024 and registered on 7 February 2025 for goods and services in Classes 3, 35 and 44. The following disclaimer was entered in the Register: *“Registration of this mark does not give right to the exclusive use of hair.”*

2. On 25 February 2025, On Sale Ltd (“the applicant”) filed an application to have this trade mark declared invalid. The claim was initially made under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”), which is relevant in invalidation proceedings under section 47 of the Act. However, the applicant sought to rely on a mark that had a later filing date than that of the contested mark. The Registry therefore wrote to the applicant on 18 March 2025 to inform it that this mark was not an earlier mark and so could not be relied on under section 5(2)(b). A period of 14 days was allowed for comments and the letter stated that, should no comments be received, the application would be deemed to have been withdrawn.

3. As no comments were received, the Registry wrote to the parties on 15 April 2025 to notify them of the withdrawal of the application.

4. On the same day, the applicant’s representative, Daniel Dimov, contacted the Registry. The text of his email is as follows:

“We amended the form and the continuation sheets on the 19th of March and sent them to you on the same date. However, due to some technical issues, you have not received it and the email stayed in our drafts. Evidence is attached. I am sending to you both the amended continuation sheets and the amended form. Please kindly do not withdraw the proceedings. We duly replied in time and do not know why you have not received the correspondence. We are replying now just minutes after your email informing us about the withdrawal of the proceeding.”

5. Attached to this email was a copy of an email dated 19 March 2024 09:34 which said that:

“The form TM26 and the continuation sheets have been amended in such a way as to rely on passing off [section 5(4)(a) of the Act]. Please find attached the amended documents. Please confirm that the cancellation will proceed accordingly.”

6. On 29 April 2025, the Registry wrote to the parties, giving a preliminary view to reinstate the proceedings, which would now be based on section 5(4)(a) and the unregistered sign **NOVA HAIR** which the applicant claimed to have first used in the UK on 17 September 2024 for a variety of different hair preparations which were listed on the amended Form TM26(I). A period of seven days was allowed for the parties to challenge the preliminary view.

7. On 30 April 2025, the registered proprietor wrote to the Registry requesting copies of the original and amended forms and any correspondence, in order, he said, to assess whether to request a hearing to challenge the preliminary view. He claimed that the applicant had failed to copy relevant correspondence to him on 19 March, 15 April and 28 April 2025, all of which dates were referred to in the registered proprietor’s email. On 1 May 2025, the Registry apologised that the documents on file had not been attached to the letter of 29 April 2025, sent them, and extended the deadline to request a hearing.

8. No request for a hearing was received and the Registry proceeded to examine the amended application. On 27 May 2025, it wrote to the applicant drawing its attention to the absence of the required signature and requesting an amended form, which was received on the same day. The form was served on the registered proprietor, who was given a deadline of 19 August 2025 to file a defence. This was received on 3 August 2025, along with a counterstatement, an exhibit bundle consisting of 43 pages and two supporting video files. The defence was served on the applicant, which was given a deadline of 13 October 2025 to file the evidence required to support its claim.

9. On 13 October 2025, the applicant’s representative filed a request for an extension of time of two months to the deadline for filing evidence. The reason given was that, unbeknownst to Mr Dimov, the applicant was dissolved on 22 July 2025. Mr Dimov said that as soon as he had become aware of this development, he had begun the arrangements for restoring the company to the register. At present, a witness

statement could not be signed as the company technically did not exist. A period of two months was requested *“as the UK Company House may take some time to reinstate the company”*.

10. On 23 October 2025, the Registry gave a preliminary view to refuse the request as it did not meet the requirements of Tribunal Practice Notice (“TPN”) No. 2/2011. The applicant’s representative objected to the preliminary view but, instead of requesting a case management conference (“CMC”), it wished the matter to be dealt with papers. I was content to agree to this, although I noted that it was possible that the registered proprietor might request a hearing. It did not.

11. I had before me written submissions from the applicant’s representative dated 2 November 2025 and written submission from the registered proprietor dated 5 November 2025. I considered both sets of submissions and wrote to the parties on 18 November 2025 as follows:

“ ...

2. Mr Dimov, on behalf of the applicant, stated that all the required evidence has been collected and a witness statement drafted. These were attached to his written submissions. The reason for the delay is that the cancellation applicant is currently dissolved and so it is not possible for an individual to sign the witness statement as director of the company. He explained that an application has been made to Companies House to reinstate the company and that the witness statement will be filed as soon as this has been done. He did not give any details as to when this application had been made and, although a two-month extension had been requested, Mr Dimov indicated that a further extension might be required should there be any delay in the process of reinstatement. He submitted that the applicant had acted promptly and responsibly in engaging the services of a company restoration service and that it would be unfair and unreasonable to hold it responsible for any delays at Companies House.

3. Mr Masood, the registered proprietor, submitted that the preliminary view should be upheld. He argued that the applicant had demonstrated ‘a

consistent pattern of administrative and procedural neglect' and supplied a timetable sourced from the records of Companies House:

7 May 2024	First Gazette notice for compulsory strike-off
15 June 2024	Strike-off action discontinued
6 May 2025	Second First Gazette notice for compulsory strike-off
22 July 2025	Final Gazette notice: company dissolved

He added that the applicant had waited until nearly three months after the dissolution before submitting the request for an extension of time.

4. Where a party seeking to cancel an intellectual property right has been dissolved, the Registry needs to weigh the inconvenience and cost to the proprietor if the case continues against the public interest in determining the matters at hand. The action here is based on relative grounds, where only the parties themselves are affected. It is also an invalidation request which, unlike an opposition, may be brought at any time. This means that, should the request for an extension of time be refused and the application be deemed withdrawn, a party is not estopped from making a further application should it be in a position to do so.

5. In *Siddiqui's Application*, BL O/481/00, the Appointed Person said it was incumbent upon the party requesting an extension to a deadline to put forward facts which merited the exercise of discretion. He said:

'In a normal case this will require the applicant to show clearly what he has done, what he wants to do and why it is that he has not been able to do it. This does not mean that in an appropriate case where he fails to show that he has acted diligently but that special circumstances exist an extension cannot be granted. However, in the normal case it is by showing what he has done and what he wants to do and why he has not done it that the Registrar can be satisfied that granting an indulgence is in accordance with the overriding objective and that the delay is not being used so as to allow the system to be abused.'

6. While I accept that the applicant has now explained what has been done, what needs to be done and why they have not been able to do it, I am not persuaded that an extension of time is justified. To begin with, the request is potentially open-ended. In addition, I am unconvinced by Mr Dimov's submissions that the applicant acted promptly and responsibly in relation to the notice for compulsory strike-off. First, following the second notice of 6 May 2025, it had a period of two months in which to persuade Companies House that strike-off was not appropriate. Indeed, this is what it had done the previous year. Secondly, there was a period of nearly three months between the date of the Final Gazette notice and the request for an extension of time to file evidence.

7. I therefore uphold the preliminary view. For the sake of clarity, I would also add that had I not done so, I would have been minded to issue a preliminary view to strike out the cancellation application on the grounds that the proceedings are without purpose, given the dissolution of the applicant.

8. The applicant is therefore deemed under Rule 42(4) of the Trade Marks Rules 2008 to have withdrawn the application.”

THE REQUEST FOR COSTS

12. The registered proprietor wrote to the Tribunal on 19 November 2025 requesting that costs be awarded in his favour. Attached to the email was a document containing submissions. The Registry sent the registered proprietor a costs pro-forma on 23 January 2026, and this was completed and returned on 25 January 2026. The applicant's representative responded on 2 February 2026, to which the registered proprietor replied on 8 February 2026.

13. Section 68 of the Act is as follows:

“(1) Provision may be made by rules empowering the registrar, in any proceedings before him under this Act-

(a) to award any party such costs as he may consider reasonable, and

(b) to direct how and by what parties they are to be paid.

(2) Any such order of the registrar may be enforced-

(a) in England and Wales or Northern Ireland, in the same way as an order of the High Court,

(b) in Scotland, in the same way as a decree for expenses granted by the Court of Session.

...”

14. The relevant rule is Rule 67 of the Trade Marks Rules 2008. It says:

“The registrar may, in any proceedings under the Act or these Rules, by order award to any party such costs as the registrar may consider reasonable, and direct how and by what parties they are to be paid.”

15. TPN No. 1/2023 is the most recent Tribunal Practice Notice concerning costs. It explains that costs are awarded on a contributory, not a compensatory, basis and a scale is used to provide transparency. In the case of unrepresented parties, such as the registered proprietor, the following practice applies (with my emphasis):

“4. Unrepresented parties generally incur lower costs because they do not have to pay legal or other professional fees. If the scale of costs were applied to unrepresented parties, they might receive costs in excess of what they may reasonably have incurred, which would undermine the contribution-not-compensation approach and the indemnity principle. Therefore, unless a Hearing Officer directs otherwise, unrepresented parties will be sent a proforma at the end of proceedings inviting them to set out the number of hours spent on the various steps of the proceedings. If an award is to be made in favour of an unrepresented party, Hearing Officers will consider the information provided when determining the sum to be awarded. The number of hours claimed will not, however, be binding on Hearing Officers, who will continue to assess whether the time spent was reasonable in the circumstances of the case and who will retain a residual discretion in any event. The sum to be awarded per hour will be analogous

to that set out in the Civil Procedure Rules, Part 46, which is currently [£24] per hour. The total amount awarded should, though, not exceed the maximum amount payable on the scale of costs (unless off-scale costs are sought). ...”

16. Section 5.4 of the Tribunal Manual is also relevant. This states that:

“... in proceedings concluded without reaching a final decision, the Tribunal will only consider making an award if a specific request is made to it within a reasonable time. Costs will not usually be awarded until both parties have had the opportunity to comment. If a request for costs is received, within a reasonable time, the other party in the dispute will be sent a letter informing them of the claim and inviting comments. They will be allowed 14 days from the date that notification of the claim is sent to them by the Tribunal Section. If by this date a response has not been received the award will be decided from the papers on the file.”

17. In some circumstances, it is appropriate to issue a preliminary view on costs. However, given the complexity of the procedural history of this case and the detail of the submissions, I consider that it is not practical to address those submissions appropriately and make a thorough calculation of any award by means of a preliminary view. As both parties have filed detailed submissions on costs, it is my view that it is appropriate to issue this decision.

18. Before assessing the claim made by the registered proprietor and the submissions of both parties, I need to explain that, because dissolved companies may still have assets, it is the practice of the Registry to award costs either in their favour or against them in the usual way. It is then up to the party with the order to decide whether they think it worthwhile to undertake the steps necessary to claim against the assets of the company concerned. It is possible to restore a dissolved company in order to realise its assets.

The registered proprietor's submissions

19. In his first submissions of 19 November 2025, the registered proprietor argues that the applicant's behaviour has been unreasonable and so a higher award would be

justified. The reasons given are as follows: (i) the initial filing of the cancellation application on the defective section 5(2)(b) ground (see paragraph 2 above); (ii) missed deadlines (see paragraphs 3-5 above); (iii) acting without legal capacity while dissolved (see paragraph 9 above); (iv) a lack of any evidence that an application to restore the company had been made; (v) the attempt to delay the case by up to four months; and (vi) a significant unnecessary burden incurred by the registered proprietor. The sum requested was £1900, calculated as follows:

- £450 for preparing and filing a counterstatement;
- £550 for reviewing and compiling evidence;
- £550 for preparing submissions opposing the granting of the extension of time request; and
- £350 for additional work caused by “*procedural misconduct*”.

20. The times recorded on the proforma, filed approximately two months later, are set out below:

Notice of Defence <i>Drafting counterstatement; reviewing grounds</i>	5 hours 0 minutes
Considering forms filed by the other party <i>Review of TM26(l), amended grounds, correspondence</i>	3 hours 35 minutes
Preparing evidence/written submissions and considering and commenting on the other side's evidence <i>Preparing written submissions, evidence collation, drafting witness statements/declaration, reviewing applicant's submissions, responding to TM9 extension request, preparing procedural objections</i>	14 hours 00 minutes

Preparing and filing costs request	2 hours 30 minutes
Coordination, preparation, and finalisation of customer witness declarations and supporting documentation	6 hours 00 minutes
Preparation of written submissions in lieu of a hearing and responding to the IPO's preliminary view [on the TM9 request]	3 hours 00 minutes
Other Expenses <i>Administrative time for collation of evidence, printing of exhibits, and electronic filing</i>	3 hours 00 minutes
TOTAL	37 hours 05 minutes

21. The registered proprietor submits that the time recorded is reasonable and proportionate.

The submissions on behalf of the applicant

22. Mr Dimov submits that both the sum of £1900 requested and the time recorded are unreasonable and suggests that an attempt has been made to inflate the time recorded and thus maximise the costs award. In addition, he alleges that it is possible that the registered proprietor used AI-assisted tools to prepare documents. If this had been the case, the times recorded in the proforma would be significantly higher than the time genuinely spent on these activities. He concluded by calling on the Tribunal to treat the time entries with caution and adjust any award to reflect reasonable effort necessary to conduct the defence.

The registered proprietor's submissions in response

23. The registered proprietor claims that each time category reflected real work done on the case and sets out some more detail on the nature of these activities. I shall refer to these as appropriate in due course. He submits that Mr Dimov's reference to the use of AI was speculative, unsupported, irrelevant, legally improper and procedurally abusive. He notes that there are no rules prohibiting the use of such tools to assist with

drafting and repeats his view that any procedural complexity was caused by the applicant. He requests that the Tribunal accepts the costs pro-forma as a reasonable assessment. I shall therefore not consider the first request for an award of £1900.

DECISION

Notice of Defence

24. The registered proprietor states that the work involved under this heading consisted of legal analysis of the grounds; structuring evidence references; reviewing the amended TM26(I), responding to the changing legal bases; and procedural compliance with IPO rules.

25. The counterstatement filed by the registered proprietor is six pages long. As noted in paragraph 8 above, it was accompanied by an exhibit bundle, which I shall consider later in this decision. The counterstatement begins with a denial that the contested trade mark has not been put to genuine use in the United Kingdom within the relevant period. The registered proprietor denied a claim that had not been made in the proceedings, this being an application for an invalidation of the contested mark rather than a revocation on the grounds of non-use. The first three pages list the exhibits filed to support use of the contested mark. It is only on page 4 that the applicant's claims under section 5(4)(a) are addressed. This section consists of half a page. The rest of the counterstatement deals with the procedural issues about the grounds on which the action was brought, the alleged rebranding by the applicant to use another sign and claims about the foreign control of the applicant. Only a small part of this counterstatement is relevant to these proceedings. In particular, no evidence was required to be filed at this point.

26. The registered proprietor refers to responding to the changing legal bases. The first correspondence that the registered proprietor received in this matter was the letter of 18 March 2025 which informed the applicant that it could not rely on section 5(2)(b). There was therefore no need for the registered proprietor to spend time reviewing the initial TM26(I) and understanding the grounds pleaded, as claimed in Part 1 of the submissions of 25 January 2026.

27. I consider that 3 hours is a reasonable period of time for researching the section 5(4)(a) ground and drafting the relevant parts of the counterstatement.

Considering the forms filed by the other party

28. The registered proprietor states that the work involved under this heading consisted of reviewing the following: “*multiple versions of filings*”; Registry correspondence; procedural letters; reinstatement notices; evidence directions; timetable changes.

29. I have already dealt with the first TM26(1). The only difference between the second and the third was that the second was missing the required signature. Consequently, I do not consider that much time was required to review multiple versions of filings. I come to the same conclusion on Evidence directions, as the only directions given were to the applicant. I shall therefore allow a period of time for reviewing the section 5(4)(a) claim made by the applicant and the correspondence regarding withdrawal and reinstatement. I note at this point that the registered proprietor had the opportunity to object to the preliminary view to reinstate the proceedings, but did not do so.

30. I consider that 2 hours is a reasonable period of time for this activity.

Preparing evidence/written submissions and considering and commenting on the other side’s evidence

31. The registered proprietor states that this covered the following activities: Responding to the request for an extension of time to file evidence; making legal objections under TPN 2/2011; research and analysis of the legal consequences of dissolution; Companies House verification; procedural law research; drafting structured submissions; Registry correspondence; evidence referencing.

32. I understand that all these activities relate to the request for an extension of time and the reason given for requesting it, namely, the dissolution of the applicant. I accept that this will have required the registered proprietor to undertake research and prepare submissions, which were accepted in lieu of a CMC. These submissions were 5 pages long, with 5 pages of annexes. In my view, 14 hours is slightly longer than appears to

me justified from the content of the submissions. I consider that 10 hours is a reasonable period of time for this activity.

Preparing and filing costs request

33. The registered proprietor has not given me any further detail on the content of this activity. It is not the usual practice of the Registry to award costs in relation to the preparation and filing of a costs request. Consequently, I decline to make an award for this step of the proceedings.

Coordination, preparation and finalisation of customer witness declarations and supporting documentation

34. The registered proprietor states that this involved the following activities: Contacting witnesses; explaining legal requirements; verification; structuring declarations; evidence consistency; document collation; formatting; submissions preparation. However, none of this was necessary at the stage that the proceedings had reached. Consequently, I decline to make an award for this block of activities.

Preparation of written submissions in lieu of a hearing and responding to the IPO's preliminary view on the TM9 request

35. The registered proprietor states that this involved preparation for a potential CMC; written submissions in lieu of a hearing; responding to preliminary views; and procedural positioning. However, I have already accounted for this work under "Preparing evidence/written submissions" above and it would not be reasonable to make a second award in relation to that activity.

Other Expenses

36. The other expenses relate to "*Administrative time for collation of evidence, printing of exhibits, and electronic filing*". I have already said that the evidence was not required and I agree with Mr Dimov that an award of time to cover printing is not justified, as all documents were filed electronically. I do not consider a separate award for electronic filing is justified, either. If this refers to electronic filing of documents at the Registry, this is unlikely to have taken a noticeable amount of time; if it refers to any electronic

document management system applied by the registered proprietor, that would be a matter for him and many of the documents filed at the Registry were not necessary.

OUTCOME

37. I consider that a reasonable amount of time as a basis for a costs award is 15 hours. The current hourly rate for a litigant in person is £24. This means that the total costs award is £360.

38. Reflecting the comments made in paragraph 18 above, I therefore order On Sale Ltd to pay Muhammad Masood the sum of £360. This sum is to be paid within 21 days of the expiry of the appeal period or within 21 days of the determination of this case if any appeal against this decision is unsuccessful.

Dated this 13th day of March 2026

Clare Boucher
For the Registrar,
Comptroller-General