

O/0416/26

TRADE MARKS ACT 1994

DECISION ON COSTS

IN THE MATTER OF REGISTRATION NO. UK00004051761

IN THE NAME OF LEEMARCUS MARTIN

FOR THE TRADE MARK:

Legende Paris

IN CLASS 25

AND

AN APPLICATION FOR A DECLARATION OF INVALIDITY THERETO

UNDER NO. CA000508960

BY LÉGENDE PARIS LIMITED

BACKGROUND

1. On 28 May 2025, Légende Paris Limited (“the cancellation applicant”) made an application to have the registered trade mark UK00004051761, owned by Leemarcus Martin (“the registered proprietor”), declared invalid under sections 3(6) and 5(4)(a) of the Trade Marks Act 1994 (“the Act”).
2. The registered proprietor filed no defence, and the Tribunal issued a decision dated 1 September 2025 declaring the registration invalid and deemed never to have been made.
3. On 15 January 2026, the cancellation applicant wrote to the Tribunal requesting off the scale costs as a result of:

“... the Respondent’s vexatious and unreasonable conduct in proceedings in accordance with Tribunal Practice Note (TPN) 1/2023: Costs in proceedings before the Comptroller. Details of the Respondent’s failure to engage with proceedings, thus prolonging this matter and causing the Applicant to incur substantial costs, can be found at paragraphs 24-26 of the Statement of Grounds enclosed with Form TM26(I) filed by the Applicant on 28 May 2025.”

4. The cancellation applicant sent the Tribunal an itemised bill on 18 February 2026 which was a breakdown of its legal representatives’ billable hours between 26 March 2025 and 12 September 2025, the total being £6497 plus VAT. The cancellation applicant stated that it was not seeking recovery of the VAT and further stated that it was only seeking costs for half of the total amount, which I calculate as £3248.50, rounded to £3249, the other half of the itemised costs being for a separate case between the parties¹ that was being worked on alongside the case before me.
5. The registered proprietor wrote to the Tribunal on 4 February 2026 as follows:

¹ CA000508961

“I write to formally object to the other party’s application for legal costs filed against me.

Under the Intellectual Property Office’s established practice, costs are awarded on a **scale** basis and are intended to be a **contribution to reasonable costs**, not a full indemnity. This approach is reflected in IPO Tribunal Practice Notice 2/2016 and the relevant procedural rules, which emphasise proportionality and reasonableness.

The costs claimed appear excessive and disproportionate to the nature, complexity, and conduct of the proceedings. The matter does not involve any exceptional circumstances that would justify a departure from the IPO’s standard scale of costs.

Further, it is already on record that I was involved in the business from its inception, and I hold contemporaneous documentation evidencing this involvement. In light of this, it was reasonable for me to defend my position in these proceedings, and my conduct should not be characterised as improper or unreasonable so as to justify an adverse or enhanced costs award.

Accordingly, I respectfully request that the claim for costs be refused, or alternatively limited strictly in accordance with the IPO’s standard scale and established costs principles.”

6. The registered proprietor wrote again to the Tribunal on 4 March 2026 reiterating his opposition to an off the scale costs award:

“I formally reject the claim for the alleged costs and dispute any liability for the amount stated. The basis of this claim is not accepted.”

7. The Tribunal wrote to the parties on 17 March 2026 to say that:

“It is the Tribunal’s preliminary view to refuse the off-the-scale request and award costs from the scale as there does not appear to be any unreasonable behaviour design to delay, frustrate or unreasonably increases the costs/burden on the other party in line with TPN 1/2023. Therefore, after reviewing the file, it is the preliminary view of the Registry that an award of £450 in favour of the applicant would be appropriate. This amount is reached as follows:

Filing of Form TM26	£250
Fee for filing Form TM26	£200
TOTAL	£450

If either party disagrees with the preliminary view, they should request a hearing within 14 days from the date of this letter; that is on or before **31 March 2026.**”

8. The deadline for requesting a hearing was subsequently extended to **16 April 2026.**

9. On 14 April 2026, the registered proprietor requested a hearing as follows:

“I write to confirm that I do not agree with the Tribunal’s preliminary view. In light of the comments submitted by both parties, I would like to formally request that the matter proceed to a hearing so that the issues can be considered in full.

Please treat this email as my request for a hearing within the permitted period ending 16 April 2026.”

10. In requesting a hearing, the registered proprietor was presumably objecting to a costs award of any kind being made against him, even one on the scale.

11. A date and time for a hearing was set. Subsequently the cancellation applicant confirmed its attendance, but in an unrepresented capacity.

HEARING

12. The hearing took place before me on Tuesday 5 May 2026 via a Microsoft Teams audio call.

13. Despite asking for a hearing, the registered proprietor did not attend.

14. The cancellation applicant, ordinarily represented by McDaniels Law, was self-represented at the hearing by Mr Jerome Mattis, a director of Légende Paris Limited.

15. As an unrepresented party, Mr Mattis was not expected to file skeleton arguments prior to the hearing, nor did he.

16. I asked Mr Mattis if he had anything to say in support of the view that costs should be awarded off the standard scale.

17. He said that the registered proprietor had been “very unresponsive” in respect of all of the cases relating to the trade marks that had been in dispute since April last year.

18. Mr Mattis was of the view that it was the registered proprietor’s intention to drive up his costs for obtaining the marks at issue.

19. Mr Mattis said that “We sent them a letter originally before I even started spending money just to try and meet in the middle and come to some sort of agreement over the marks, even though it was in bad faith and ... nothing has been responded to.”

20. Mr Mattis felt that the registered proprietor’s non-attendance at the hearing was representative of his conduct throughout.

21. I asked Mr Mattis whether, in terms of potentially settling the dispute prior to formal action taking place, whether he had written to the registered proprietor proposing a settlement.
22. Mr Mattis said that his solicitor wrote to the registered proprietor outlining their arguments, where they stood and where the registered proprietor stood, with a view to not prolonging the dispute. The registered proprietor did not respond to the letter.
23. I then asked Mr Mattis if the registered proprietor responded to the letters from the IPO at the appropriate time once the case got underway.
24. He thought that the registered proprietor had responded to the IPO, but not to his solicitor, with maybe one instance of matters getting “dragged out”.
25. I confirmed that I would be making a decision on whether the cancellation applicant should be awarded the off the scale costs it had requested, recalling that the Tribunal’s preliminary view was that costs should be awarded on the scale. I indicated that a decision would be issued within four weeks.
26. I then closed the hearing.

LEGISLATION AND GUIDANCE

27. Section 68 of the Act states 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.

[...]”

28. Rule 67 of the Trade Marks Rules 2008 provides:

“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.”

29. I also note the following statutory guidance from Tribunal Practice Notice (TPN)

1/2023: Costs in proceedings before the Comptroller:

“Off-scale costs

5. Notwithstanding the published scale, the Tribunal retains the discretion to award costs “off the scale” to deal proportionately with unreasonable behaviour. It is not possible to set out all the circumstances in which a Hearing Officer might depart from the scale. It is worth clarifying though that just because a party has lost, this in itself is not indicative of unreasonable behaviour. Some examples of what might constitute unreasonable behaviour include a party seeking an (avoidable) amendment to its statement of case which, if granted, would cause the other party to have to amend its statement or would lead to the filing of further evidence. Other examples include behaviour designed to delay, frustrate or unreasonably increase the costs/burden on the other party and/or repeated breaches of procedural rules. Off-scale costs may also be awarded if a losing party unreasonably rejected efforts to settle a dispute before an action was launched or a hearing held, or unreasonably declined the opportunity of an appropriate form of Alternative Dispute Resolution.”

DECISION

30. It is clear that the relevant legislation allows for the award of such costs as may be considered reasonable.

31. I have carefully considered Mr Mattis's comments at the hearing and I have also reviewed the papers before me, including the cancellation applicant's statement that "Details of the Respondent's failure to engage with proceedings, thus prolonging this matter and causing the Applicant to incur substantial costs, can be found at paragraphs 24-26 of the Statement of Grounds" and I reproduce these paragraphs below.

"24. It is the Applicant's position that the Registered Owner applied for the Registration not due to a genuine intent to use the same but to seek to prevent the Applicant from using and registering the Mark and/or to obstruct the Applicant in its business in bad faith.

25. The Registered Owner is a former shareholder and director of the Applicant and thus has detailed knowledge of the Mark's reputation and goodwill. The Registered Owner sold his interest in the Applicant to its other and now sole shareholder, Mr Jerome Mattis, in May 2022. Therefore, he no longer has any business interest in the Applicant and has no legal claim to any rights in the Mark. Any such rights were expressly relinquished in the share purchase agreement.

26. The Registered Owner and Mr Mattis are no longer on amicable terms following the Registered Owner's departure as director and shareholder from the Applicant. Pre-action correspondence was sent to the Registered Owner on 4 April 2025 in relation to the present matter and he has ignored the same in its entirety."

32. The reference above to 4 April 2025 is in accord with the stated invalidation notification date recorded at section 6 of the cancellation applicant's Form TM26(I).

33. Other than notifying the registered proprietor that it intended to take formal legal action, the cancellation applicant's legal representatives have not said what the content of its pre-action correspondence was. Mr Mattis has spoken of the aim of the letter being "to try and meet in the middle", but I am not privy to what form any

proposed settlement took. There is no suggestion that Alternative Dispute Resolution was proposed at any point.

34. The substantive case was concluded relatively swiftly with the decision that was dated 1 September 2025. As such, the registered proprietor cannot be said to have dragged out formal proceedings once they were initiated. However, his failure to reply to the letter before action meant that he closed off the possibility of a dialogue with the cancellation applicant that could have led to the matter being settled without the need for formal proceedings.

35. The registered proprietor has been generally unresponsive. He failed to file a defence and only engaged with the Tribunal when the prospect of his being liable for costs arose. Further, he requested a hearing on costs and then failed to attend the hearing.

36. While I do not consider that it would be proportionate to make an off the scale award for half the billable hours quoted by the cancellation applicant's legal representatives, totalling £3249 (the other half of the itemised costs being for a separate case between the parties (CA000508961)), I do consider it appropriate to make an award that contributes to the cancellation applicant's costs beyond what could be awarded on the scale.

CONCLUSION

37. The Tribunal's preliminary view is set aside.

38. Mr Mattis did not request any costs for his attendance at the hearing as an unrepresented party.

39. I award the cancellation applicant costs as follows:

Official fees:	£200
A contribution towards legal costs incurred:	£1000

Total:

£1200

40. I order Leemarcus Martin to pay Légende Paris Limited the sum of £1200. This sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings (subject to any order made by the appellate tribunal).

Dated this 14th day of May 2026

John Williams

For the Registrar