

**O-0715-23**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF** an Appeal to the Appointed Person

**AND IN THE MATTER OF**

UK Trade Mark Application No. 3639136 “TRUE SKIN”, in the name of Bora Creations S.L, Inc (the “Respondent”).

**AND IN THE MATTER OF**

Opposition No 427253 thereto by True Skincare Limited (the “Appellant”).

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**DECISION**

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1. This was to be an appeal brought by True Skincare Limited against the decision of the Registrar’s Hearing Officer dated 14 February 2023.
2. The appeal was due to be heard before me today, 18 July 2023. By email sent on the 11 July 2023, the Appellant sought agreement from the Respondent to suspend the hearing of the appeal for a period of three weeks. The Appellant’s reasons for seeking to suspend the appeal were stated in the following terms:

Our client has been dealing with a serious family illness for the past several months, and as a result we have been unable to obtain our client’s further instructions regarding this matter.
3. The Respondent did not agree to the period of suspension sought. Therefore, by an email to the UKIPO dated 13 July 2023 the Appellant sought to a) to withdraw the appeal and b) that no order be made against it in relation to the costs of the Appeal.
4. The Respondent now seeks costs in relation to preparing its skeleton of argument for the defunct Appeal. The sum claimed is £750. This sum equates to the upper end of the scale of costs set out in Annex A of the Tribunal Practice Notice (TPN) of 1/2023 for *“preparing a statement and considering the other side’s statement”*.

5. Both parties have agreed I can determine this matter on the papers. I have received in submissions writing relating to costs from the Respondent. The Appellant's solicitors have indicated that they are unable to give any assistance on this issue beyond providing the relevant inter partes correspondence (for which I am grateful). I note that it has not been suggested that the Appellant is now acting in person.
6. In my view the Respondent is entitled in principle to its costs of preparing its skeleton. My reasons for this conclusion are as follows:
  - a. the Appellant's reason for seeking to suspend the appeal related to a problem that had been ongoing for several months prior to 11 July 2023. There is no suggestion that matters materially altered on, or immediately before, 11 July 2023;
  - b. the Appellant gave no indication prior to 11 July that it might seek to suspend or abandon its appeal;
  - c. by the 11 July the Respondent had largely prepared its skeleton. Given skeletons were due very shortly thereafter, it was inevitable that it had done so;
  - d. nothing in materials before me explains (let alone justifies) why the Appellant failed to give adequate notice that it intended to seek to suspend or withdraw its appeal;
  - e. if the Appellant had given proper notice the Respondent's costs of preparing its skeleton could have been avoided.
7. I have not been provided with the details of the actual costs incurred by the Respondent in the preparation of its skeleton. However, given the issues that would have been involved on the appeal, I see no reason to depart from the sum in scale costs sought by the Respondent. I will therefore make an award in the sum of £750. This is in addition to the costs ordered by the Hearing Officer which amount to £800.
8. I therefore order that True Skincare Limited pay Bora Creations S.L the sum of £1550. Such sum is to be paid within 21 days of the date of this decision.

GEOFFREY PRITCHARD  
The Appointed Person  
25 July 2023

The Appellant was represented by Bird & Bird

The Respondent was represented by Squire Patton Boggs

The Registrar took no part in the Appeal.

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