

O/0798/26

TRADE MARKS ACT 1994

SUPPLEMENTARY DECISION ON COSTS

**IN THE MATTER OF
CONSOLIDATED PROCEEDINGS BEING
TRADE MARK APPLICATION NO. 3684680 IN THE NAME OF FAY BOSWELL
AND
OPPOSITION NO. 431080 IN THE NAME OF DENTON LAMBERT**

AND

**TRADE MARK APPLICATION NOS. 3738381, 3738382, 3738384 & 3738379
IN THE NAME OF DENTON LAMBERT
AND
OPPOSITION NOS. 432838, 432840, 433489 & 433490
IN THE NAME OF FAY BOSWELL**

BACKGROUND

1. On 21 April 2026, I issued my decision in the above identified proceedings. The outcome of the decision was some measure of success on both sides, although Mr Denton Lambert had the greatest share of the success in his oppositions.

2. I did not set an appeal period in the substantive decision as in relation to costs, I stated the following:¹

“94. Trowers & Hamlin LLP on behalf of DL, emailed the Tribunal in advance of the hearing on 1 December 2025 with regard to costs. It stated that due to the complex nature of the proceedings, it was proposed that it may be more appropriate for me to issue the substantive decision first and defer the costs element into a separate decision once submissions had been sought from both sides. For her part, FB filed her costs proforma and associated documents on 1 December 2025, reflecting both the periods for which she was professional represented and subsequently self-represented.

95. I agreed at the hearing that I would take the approach advocated by Trowers & Hamlin LLP. Therefore I will not set an appeal period for the substantive decision at this point but instead will invite DL to file submissions on costs within two months of the date of this decision and thereafter invite FB to respond strictly on the costs submission. Once submissions have been received, I will consider the costs and issue a separate supplementary decision. Once that decision is issued then I will set an appeal period for this substantive decision.”

3. I have subsequently received all the submissions from the parties on costs and I will now give the supplementary decision on costs and set the appeal period for the substantive decision.

¹ During the course of my substantive decision I used the initials DL for Mr Denton Lambert and FB for Ms Fay Boswell. I shall continue that arrangement in this supplementary decision.

SUPPLEMENTARY DECISION

Preliminary issue

4. DL's submissions, dated 22 June 2026, refers to Tribunal Practice Notice ("TPN") 1/2003. This particular TPN 1/2003 refers to "Appeals to the Court from the Comptroller" and has no reference to costs. I believe this is a typographical error on DL's part and the TPN he meant to refer to was 1/2023 which deals with "Costs in proceedings before the Comptroller". However for opposition proceedings which commenced prior to 1 February 2023, the relevant TPN on costs is 2/2016. For this decision I will reference the scale of costs published in TPN 2/2016.

Costs

5. The power to award costs is provided for by section 68 of the Trade Marks Act 1994 ("the Act"), which states as follows:

"68 (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."

6. Rule 67 of the Trade Marks Rules 2008 ("the Rules") 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 what parties they are to be paid."

7. In DL's submissions the seeking of off scale costs was ruled out,² which I consider to be appropriate. The submissions also set out the grounds which were successful and unsuccessful in the substantive decision, where DL was the opponent and where he was the applicant and have proposed the following costs:³

"On his opposition—

(1)	Official fees:	£200
(2)	Preparing TM7 and considering TM8:	£750
(3)	Evidence:	£2,600
(4)	First CMC and preparation (half day):	£950
(5)	Second CMC and preparation (half day):	£950
(6)	Main hearing and preparation:	£1,900.
TOTAL:		£7,350

In responding to the FB oppositions (80% recovery) on the basis that while there were 4 oppositions, the issues were essentially the same on each—

(1)	Considering TM7 forms and responding:	£750 x 80% = £600
(2)	Evidence:	£2,600 x 80% = £2,080
(3)	First CMC and preparation (half day):	£950
(4)	Second CMC and preparation (half day):	£950

² Paragraph 19.

³ DL Costs Submissions, paragraphs 18 & 19.

(5) Hearing and preparation: £1,900 x 80% = £1,900

TOTAL: £6,480".

8. FB, for her part, has rebutted DL's cost submissions and has asked for them to be dismissed in their entirety. In the alternative, FB has also requested that either no costs are awarded or that her request for off scale costs is awarded in her favour.⁴

I reiterate that DL was, on balance, the party who enjoyed the greater degree of success and is, therefore, entitled to a costs award. So whilst allowances may be made to reduce his entitlement, on the basis of the single ground where he was unsuccessful, there is no basis for a suggestion that no costs be awarded or that off scale costs are awarded in FB's favour.

9. Overall the costs proposed above by DL total £13,830. I can see why DL has chosen to separate out costs in this way. However these proceedings have been consolidated since the evidence rounds commenced in August 2022, the aim of which is to reduce costs and the administrative work involved in dealing with multiple set of proceedings. Whilst I accept that a great deal of evidence was filed in these proceedings, it remains the case that consolidation allows for evidence to be provided by the parties more efficiently to cover all aspects of the pleaded cases. Therefore I consider it is unreasonable to have two separate requests for costs which relate to evidence. The same consideration regarding consolidation will apply to the preparation and attendance at the two Case Management Conferences ("CMC") and the substantive hearing.

10. Therefore using the scale in TPN 2/2016, I find the following costs to be reasonable and factoring in the full success where DL was the opponent and the partial nature of DL's success where he was the applicant.

Official fee for TM7 Notice of Opposition: £200

⁴ Fay Boswell costs submission dated 26 June 2026.

Preparing statements and considering the other sides statement:	£650
Preparing evidence and considering the other side's evidence:	£2000
Preparing for and attending CMCs:	£700
Preparing for and attending a hearing:	£1600
Total:	£5150

11. I therefore order Fay Boswell, to pay Denton Lambert the sum of £5150. This sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an unsuccessful appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 3rd day of September 2026

June Ralph

For the Registrar