O/1139/23

TRADE MARKS ACT 1994

SUPPLEMENTARY DECISION ON COSTS

IN THE MATTER OF TRADE MARK REGISTRATION NO. 2599069

STANDING IN THE NAME OF

HORIZONS GROUP (LONDON) LTD

FOR THE TRADE MARKS

Royal Dragon Vodka

ROYAL DRAGON VODKA

IN CLASS 33

AND APPLICATION FOR RECTIFICATION THERETO

UNDER NO. 84836

BY

CAPITAL DISTRIBUTION & CONSULTING INC.

Background

1. On 26 May 2023, I issued a decision in respect of rectification proceedings relating to the ownership of registration no. 2599069 (Decision BL O/0485/23), the outcome of which was in favour of Capital Distribution & Consulting Inc ("CDC").

2. In relation to costs, I stated:

> **"**98. The above decision concludes my determination of the substantive issues in these proceedings. It will take effect as a decision when the question of costs is decided, and at that point but not before, the provisions relating to the right of appeal will come into operation. In line with the submissions at the hearing, the parties are invited to make submissions as to the costs of these proceedings and a letter accompanying this decision sets out the procedure for submissions in writing."

3. Subsequent to the hearing, the parties filed their submissions on costs. It was common ground between them, that when I came to finally determine the matter I should consider awarding off scale costs to the successful party, taking into account the nature of the proceedings.

4. On this basis, I directed that any submissions should be accompanied by a detailed breakdown of the time spent on any given task. It is to be noted that whilst a breakdown has been filed by both parties, these have on the whole been outlined only in general terms.

Statutory provision

5. Section 68 of the Trade Marks Act 1994 ("the Act") 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 Mark Rules 2008 sets out as follows:

> **"Costs of proceedings; section 68**
>
> 67. 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."

7. Tribunal Practice Notices ("TPN") 2/2000 and 4/2007 are also relevant. TPN 2/2000 referred to the leading case of *Rizla Ltd's Application* [1993] R.P.C. 365 which states:

> "5. In light of *Rizla*, the office considers that the existing legislation provides the power to operate a nominal cost regime or a full cost recovery regime – or anything in between – and that no legislative change is necessary to put in hand any revision of that sort."

8. And furthermore in TPN 4/2007 in so far as off scale costs are concerned it states:

> "5. TPN 2/2000 recognises that it is vital that the Comptroller has the ability to award costs off the scale, approaching full compensation, to deal proportionately with wider breaches of rules, delaying tactics or other unreasonable behaviour. Whilst TPN 2/2000 provides some examples of unreasonable behaviour, which could lead to an off scale award of costs, it acknowledges that it would be impossible to indicate all the circumstances in which a Hearing Officer could or should depart from the published scale of costs. The overriding factor was and remains that the Hearing Officer should act judicially in all the facts of a case. It is worth clarifying that just because a party has lost, this in itself is not indicative of unreasonable behaviour
>
> 6. TPN 2/2000 gives no guidance as to the basis on which the amount would be assessed to deal proportionately with unreasonable behaviour. In several cases since the publication of TPN 2/2000 Hearing Officers have stated that the amount should be commensurate with the extra expenditure a party has incurred as the result of unreasonable behaviour on the part of the other side. This "extra costs" principle is one which Hearing Officers will take into account in assessing costs in the face of unreasonable behaviour.

7. Any claim for cost approaching full compensation or for "extra costs" will need to be supported by a bill itemizing the actual costs incurred.

8. Depending on the circumstances the Comptroller may also award costs below the minimum indicated by the standard scale. For example, the Comptroller will not normally award costs which appear to him to exceed the reasonable costs incurred by a party."

9. Section 68 and Rule 67 provide me with wide discretion to award costs. As Anthony Watson Q.C. stated in *Rizla*, when considering a very similar provision under the Patents Act 1977:

> "The wording of section 107 could not in my view be clearer and confers on the Comptroller a very wide discretion with no fetter other than the overriding one that he must act judicially."

10. In so far as off scale costs are concerned, they are not automatic even where there is unreasonable behaviour. *Rizla* underlines that the correct question for determining costs is whether the conduct is so exceptional that an award on the standard scale is unreasonable. I recognise that one of the instances identified in *Rizla* as potentially giving rise to compensatory costs is where an action is brought without a bona fide belief that it is soundly based. I shall address this further when dealing with CDC's claim for off scale costs.

11. I start by saying that the proceedings were complicated by both the background and history of the case which involved the impact of Hong Kong law on the operation of a company subject to winding up, its officers and the authority upon which they were able to act for that company. This was complicated further by the ongoing insolvency proceedings in Hong Kong and the parallel proceedings to remove the previous directors for breaching their fiduciary duties and their misappropriation of assets. The fact that a case is complex, however, does not necessarily of itself lead to a finding that all the costs of the proceedings should be taken as off scale. The run of the mill filing of evidence/submissions and general preparation and reviewing evidence, for example, are not generally off scale matters. Nevertheless, even where matters are to be determined as on scale, I recognise that the limits of the scale are too restrictive to constrain costs in a case as complex as this, involving matters that are not ordinarily dealt with by the tribunal. Thus any award should not necessarily be constrained by

the limits of the published scale but adapted to reflect the work undertaken to prepare, produce and review the large volume of evidence and submissions in relation to the novel points of law that this case highlighted. Consequently, where I do not consider it reasonable to award off scale costs, then I consider that it is necessary to go above the published scale, not for reasons of fully compensating the parties but, rather, in order to award, what I believe to be an appropriate contribution to their costs and to reflect the work required to prosecute/defend the case and to produce and consider the evidence filed by each.

Horizon Group (London) Ltd's ("HGL") cost claim

12. The proceedings were originally listed for final hearing on 21 June 2022 ("June hearing") but for the reasons I have already outlined in my substantive decision, this hearing was adjourned. CDC accepted that the adjournment was as a result of its application to file additional evidence relating to the impact and operation of Hong Kong law and in order to establish that the shareholders who were the signatories to the June deed of assignment were not properly appointed. CDC conceded that it would bear HGL's wasted costs for that aborted hearing. I shall, therefore, consider HGL's claim for these costs first.

13. HGL's claim for costs (excluding VAT) are set out as follows:

Preparing evidence and considering and commenting on the other side's evidence	£750
Preparing for and attending hearing on 21 June 2022 and debrief	£3,675

14. HGL provided a further breakdown of those costs, itemised as follows:

Description	**Claim (excluding VAT)**
1st June Follow up on Hiro's visit to Brandsmiths – Royal Dragon Vodka ("RDV") - call with Aaron, Review of skeleton, provide additional evidence and argument	£300

7th June – RDV - call with Aaron and Hiro to discuss hearing	£150
8th June – RDV - Review of evidence from other side and rebuttal preparations	£450
10th June – RDV - hearing and follow up calls	£525
June – Aaron's costs for everything so far	£3,000
Total[1]	**£4,425**

15. In addition to the above, HGL also claims an off scale award of costs for having to deal with a "voluminous amount of evidence" filed by CDC for the final hearing on 29 September 2022 ("final hearing") which it submits contained a large quantity of irrelevant and unnecessary material. It claims that its costs for preparing skeleton arguments, preparing and attending at the final hearing amounted to £4,200 and that it estimates it should be entitled to a quarter of those wasted costs which it calculates at £1,050 (excluding VAT) for having to deal with this unnecessary evidence.

16. In total HGL claims £5,475 in costs thrown away (excluding VAT).

17. In response to HGL's claim, Mr Zweck submits that only a proportion of its costs should be awarded given that a great deal of the costs of preparing evidence and skeleton arguments were not thrown away, since they were all ultimately useful preparation for the final hearing. Accordingly, any award should be reduced by 30%. Further, the preparation figure of £750 for the June hearing should be disallowed in its entirety as that was also all work of use for the later hearing. In so far as the remaining costs sought, CDC accepts the figure claimed of £525 (for attending the hearing and follow up calls) and counsel fees of £3000 (less a 30% deduction as aforementioned). Mr Zweck considers that HGL should only be awarded a fraction of the costs claimed

[1] Reference is made to other costs which I have not included as they do not appear to relate to these proceedings and do not appear to be included in the amount being claimed by HGL.

totalling no more than £1,425 for its wasted costs thrown away as a result of the June hearing not going ahead, calculated as follows:[2]

HGL Costs incurred	Amount
1. Counsel preparing for oral submissions and attendance at the hearing	£900
2. Sanderana attending the hearing	£525
TOTAL	£1,425

18. Further Mr Zweck submits that CDC's claim for costs of attending the June hearing should be equally reduced by 30% from its total claim as it accepts that there would be an overlap in its preparation time for both the June and September hearings. Mr Zweck suggests that CDC's fees should be reduced by approximately £3,500.

19. CDC claims that the combined costs thrown away as a result of the June hearing being adjourned for both CDC and HGL's costs would total £4925.78 this sum to be 'potentially deducted' from its overall claim of approximately £104,000.

20. I do not entirely follow the arguments and calculations submitted by Mr Zweck, as the figures do not correlate with the submissions as to what he considers is a fair and reasonable award to be made to HGL. Nevertheless, I accept that there would have been some duplication in HGL's preparatory work for the June hearing which overlapped with the preparatory work for the September hearing (which would also apply to CDC and to which I shall refer later). The June hearing ultimately only dealt with the application to file additional evidence and the consequence of me granting that application, but would have included preparation time and the filing of additional submissions arising from the late filed evidence. I consider that a small deduction of 10% is, therefore, appropriate, to account for the duplication in preparation for the two hearings. The costs of preparation, attending at hearing, instructing counsel and debriefing have all been reasonably incurred by HGL, subject to the aforementioned deduction.

[2] Para 24 CDC's submissions on costs

21. I consider a reasonable award to be made to HGL is £3,982.50 (excluding VAT).

22. In relation to the additional costs claimed by HGL for the "voluminous unnecessary and irrelevant evidence" I reject the argument that this is recoverable, for reasons that I will address when dealing with CDC's claim for costs.

My approach re the costs payable to HGL

23. I propose that the costs award that would have been payable to HGL for costs of the June hearing thrown away, shall be deducted from the final costs award payable to CDC.

CDC's costs

24. CDC claims that it should be awarded off scale costs in the sum of over £104,000 excluding VAT, as a result of what it claims is HGL's unreasonable conduct and gross abuse of the Registry's proceedings. The breakdown of those costs of the work undertaken are set out at paragraph 14 of Mr Zweck's submissions and are as follows:

	Incurred costs	**Amount**
1.	BDB Pitmans fees 29/11/2021 to 01/02/2022	£8,826
2.	BDB Pitmans fees 01/02/2022 to 30/05/2022	£9,178
3.	BDB Pitmans fees 01/06/2022 to 29/09/2022	£23,000
4.	Counsel fees for 10 June 2022 hearing	£7,000
5.	Counsel fees for 29 September 2022 hearing	£14,900
6.	Hill Dickinson – Hong Kong law advice and evidence preparation to 30 June 2022	£4,863.99
7.	Hill Dickinson – Hong Kong law advice and evidence preparation to 21 September 2022	£16,268.59
8.	Grant Thornton – liquidators – legal advice on liquidation issues	£16,305.21
9.	BDB Pitmans fees on costs submissions (not yet invoiced)	£2,375
10.	Counsel fees on costs submissions	£2,000
	TOTAL	**£104,716.79**

25. To accompany these submissions and to support the figures claimed, Mr Zweck also filed 4 annexes, containing a number of invoices and computer printouts. Mr Zweck submits that in light of the complex legal and factual issues in this dispute and the volume of evidence that was required to be filed this warrants off scale costs.

26. Particularly in relation to HGL's behaviour, Mr Zweck argues that HGL put into issue a Hong Kong law assignment but did not provide anything in the way of supporting documentation to prove matters such as shareholdings or directorships. CDC was therefore put to the cost of seeking Hong Kong law advice and investigating the background of the liquidation, in order to establish the facts by reference to the liquidators and the contemporaneous documents, the filing of which it is said was entirely reasonable and proportionate.

27. Furthermore in support of CDC's claim for off scale costs, Mr Zweck submits that:

- HGL was unreasonable in its conduct of the proceedings overall.
- Right up until the final hearing HGL ran its case that the June Deed was effective because it was signed by the requisite number of shareholders.
- CDC were put to proof and demonstrated by the evidence they were required to file that the shareholders were not legal shareholders, a point only conceded at the final hearing.
- The relevant provisions of Hong Kong law and the JVA defined a shareholder as being a registered shareholder, it was unreasonable therefore for HGL to run a case contrary to this preposition.
- Mr Kodimyala was not a director when he signed the June deed. CDC was put to proof to rebut this claim, again this point only being conceded at the final hearing.
- As a result of Mr Bharwani's contradictory evidence in what was filed before the tribunal as opposed to what he filed in the parallel proceedings before the Hong Kong courts, it was clear that both he and his associates knew in September 2019 that there had been no earlier assignment to HGL and that HGL must have known this at all times. Furthermore, at no time was the June assignment mentioned in proceedings before the Hong Kong courts, HGL proceeded on the basis that the mark was still the rightful property of Dragon Spirits Limited

("DSL"). In earlier proceedings before the tribunal, HGL relied on a September deed with again no mention of the June assignment. Mr Bharwani's associate requested to purchase the mark at issue in May 2021 clearly demonstrating that he believed that it was still the property of DSL. The June deed was only relied on after receiving correspondence from the liquidators, pointing out the inadequacies of the September deed.

- In light of these facts, and the sequence and timing of the other events, it was unreasonable for HGL to run a case before the tribunal that the mark had been assigned in June, when the other evidence produced clearly showed that it had not.

28. In essence Mr Zweck argues that the HGL defended an action in reliance on a document "knowing full well that that [the June deed] was not effective to assign the mark, and never having believed that it was effective to do so." It is argued that this fact is "grossly unreasonable" and "an abuse of the Tribunal's process" justifying not only an off scale costs award but costs on a full indemnity basis. By putting CDC to the expense of correcting the register to obtain legal title to an asset to which it was the rightful owner (following the winding up proceedings in Hong Kong) it was submitted that it was unreasonable to force CDC to pursue proceedings in the first place. I am asked, therefore, to draw an adverse inference from HGL's conduct, in effect concluding that HGL pursued a case without a bona fide belief that it was soundly based.

Decision

29. It is incumbent on me to assess whether in defending the action that HGL has acted unreasonably. Firstly the fact that it defends the ownership of a valuable asset is not necessarily in itself unreasonable. I am asked to take an inference as to HGL and Mr Bharwani's (its controlling mind) conduct which in effect intimates that there has been some impropriety or dishonesty on their part and puts into question the veracity of the June deed and to award costs accordingly. However CDC's case was not run on the basis of fraud or dishonesty. Neither did they question the contemporaneous existence of the June deed in the substantive proceedings. CDC's case was ran on the basis of the June deed's validity as an instrument of assignment

and challenged the capacity and the authority upon which the shareholders executed that document. My decision was ultimately determined on the construction of the terms of the June deed which led me to find that it was not the instrument upon which title passed. I do not consider that it is now open to me to take an inference in the way as suggested by Mr Zweck when assessing the award of costs, where I made no such finding in my substantive decision. To my mind the position regarding the construction of the June deed and the decision was far from straight forward and just because I ultimately found in CDC's favour does not mean that HGL's case was not one that it should not have legitimately pursued or that it had no reasonable prospect of success.

30. I do not find that it is unreasonable for a party to defend its position and challenge the ownership of a mark which is clearly a valuable asset. Furthermore, other than the above and the complexity of the case, I am not told of anything in particular regarding HGL's conduct throughout the duration of the proceedings, such as delaying the proceedings or filing unnecessary documents, which would justify off scale costs across the board. I do not find, overall, that HGL have acted unreasonably in the way that they defended the action and therefore consider that for the most part, on scale costs (subject to the aforementioned caveat at paragraph 11) would be appropriate. However, there are certain aspects of HGL's conduct which I believe was unreasonable and which would justify costs being awarded off scale, I shall refer to these in greater detail later in my decision.

31. With this in mind, I shall go through CDC's costs claim in turn.

32. In so far as the costs incurred by BDB Pitman they amount to over £41,000 between 29 November 2021 to 29 November 2022. Those costs are shown to have been incurred by a partner, a consultant, a trade mark attorney and a trade mark assistant, totalling over 137 hours (as set out below) for preparation of documents, correspondence, instructing counsel, conference calls with counsel and the client, advice and considering HGL's evidence and submissions. As stated I do not consider that the run of the mill costs in giving advice and in the general preparation of the case warrant actual or off scale costs.

Invoice number 1255154 dated 01/02/2022	**Worked**	**Discounted**		**Invoiced**	
Advice for the period 29/11//2021 to 28/01/2022					
Partner - 11.50 hours @ £525 per hour	£6,037.50	£5,521.39			
Trade mark attorney 18.10 hours @ £195 per hour	£3,529.50	£3,227.79			
Trade Mark assistant- 0.80 hours at £105 per hour	£84.00	£76.82			
Sub-Total	£9,651.00	£8,826.00	£8,826.00	**£8,826.00**	
Invoice number 1261380 dated 30/05/2022					
Advice for the period 1/02/2022 - 25/05/2022 relating to Rectification					
Partner - @ £525 per hour	£2,362.50	£2,362.50			
Consultant @ £350 per hour	£7,280.50	£7,280.50			
Trade mark attorney @ £195 per hour	£2,362.50	£2,362.50			
Sub-total	£11,378.00	£11,378.00	£11,378.00	**£9,178.00**	See note 1
Invoice number 1269348 dated 29/11/2022					
Advice, preparation and attending Rectification Hearing					
Partner - 16.59 hrs @ £429.87 per hour (discounted)	£9,579.50	£7,608.70			
Consultant - 53.60.25 hrs @£287.17 per hour (discounted)	£19,378.00	£15,391.30			
Sub-total	£28,957.50	£23,000.00	£23,000.00	**£23,000.00**	
Fees for costs submissions	£2,375.00			**£2,375.00**	

33. I am not entirely clear what work was undertaken by the consultant over and above that undertaken by the partner and trade mark attorney. The records produced at annex 1 show that the consultant, partner and trade mark attorney all attended the various conferences and hearings together and were all involved at various points in drafting and reviewing the documents. I do not find it reasonable for costs to be awarded for all three, where it would be sufficient for one person to undertake this work. It appears that this work is duplicative. Furthermore, I also note that both the partner and consultant attended the final hearings. In light of counsel being instructed I do not consider that it was necessary or reasonable to claim for both to attend as a junior member of staff could have been engaged to sit alongside counsel and take notes.

34. In so far as the application for rectification, the TM26R form was very brief and no more than a tick box exercise. This would not have taken more than 15-30 mins to complete. The accompanying statement set out the complex background and history of the case but again was not particularly lengthy.

35. In so far as the evidence filed in this case and the preparation and reviewing time, of the four witness statements filed by CDC, two were prepared by a partner from Hill Dickinson and invoiced separately. Ms Nga's statement was 6 pages in length and

whilst accompanied by 19 exhibits these included documents relating to the parallel Hong Kong proceedings. BDB would have incurred costs in considering HGL's defence and evidence/submissions but those filed by Mr Bharwani were not particularly lengthy only 5 and 4 pages long respectively. The exhibits largely consisted of material already in CDC's possession.

36. I note that a witness statement was filed by Mr Sajjad Khan who refers to himself as a consultant. I presume therefore that the breakdown of time attributable to a consultant in annex 1 is the work undertaken by Mr Khan. I note that costs appear to have been itemised separately for Hill Dickinson, who I was led to believe were the consultants engaged to give advice and prepare statements in relation to the issues regarding the impact of Hong Kong law. I shall deal with their claim separately below.

37. Mr Khan's statement was 1.5 pages long and included 3 exhibits. The exhibits largely consisted of statements already prepared and filed for the parallel Hong Kong proceedings and documents already filed by other parties. Mr Khan acknowledged that the material was voluminous involving "some duplication" and stated that it was preferable to include the documents as a whole given their obvious relevance. The time claimed as preparation and drafting of the witness statement therefore appears to have largely consisted of compiling and photocopying documents. As stated, other than drafting the witness statement I am not entirely clear what additional work was undertaken by Mr Khan over and above that which was undertaken by the trade mark attorney or partner.

38. In so far as the breakdown provided by BDB identified as "Grant Thornton liquidators legal advice on liquidation issues" these costs do not appear to directly relate to these proceedings and therefore are not recoverable. I therefore disallow the costs claimed of £16,305.21.

39. BDB Pitman claim £2,375 of fees for the preparation of costs submissions. The submissions on costs appear to have been prepared by Mr Zweck. The document is 8 pages in length and is accompanied by print outs of records and invoices taken from computer records held by BDB Pitman and their agents. Mr Zweck also claims an additional £2,300 for the work undertaken in drafting these submissions on costs. The total costs claimed for preparing submissions amount to £4,375 plus VAT. I do not consider that the costs of drafting the submissions would warrant an off scale award

of costs on a compensatory basis. I consider that no more than 3-5 hours would have been expended by Mr Zweck in drafting these submissions and since the records produced by BDB Pitman appear to have been computer generated, I consider that £800 is a reasonable figure for the preparation of these costs submissions, to cover the work undertaken, given that these submissions were not dealt with at the final hearing.

40. In so far as Mr Zweck's fees for attending the hearings, preparing skeleton arguments and any advice regarding the preparation of the case, Mr Zweck's fees amount to £21,900 in total. They are not broken down with any indication of the time taken on any given task, the hourly rate charged or what advice and assistance was provided at any given stage. Notwithstanding the novel points of law that arose in the case and the related research which inevitably would have been undertaken, Mr Zweck is an experienced commercial and trade mark barrister and therefore the purpose of instructing counsel is so that a party may benefit from that expertise and knowledge. I note that the final hearing was no more than 4/5 hours in length and the June hearing no more than 3 hours. There were no witnesses called or cross examined. The submissions put forward at the final hearing largely followed those set out in the respective parties' skeleton arguments. Whilst it was entirely reasonable for counsel to be instructed on such a case, I consider a reasonable figure to be £15,000.

41. In so far as the costs claimed by HGL related to the "voluminous unnecessary and irrelevant evidence" I consider that this comment relates to the two witness statements of Ms Pui Ying Yvette Yu and work undertaken by Hill Dickinson regarding the impact and operation of Hong Kong law. I do not accept Mr Pearson's arguments that this work was irrelevant or unnecessary. I note that Mr Bharwani put CDC to proof of its claim and required it to show that the shareholders were not registered shareholders and therefore had no legal title to the shares when they signed the June deed. The law and its relevance to the proceedings, as set out by Ms Yu in her witness statements was not conceded until the final hearing. Mr Pearson only accepted that the legal title had not passed to the shareholders at the final hearing. He also raised fresh unpleaded claims that the shareholders had a beneficial interest entitlement which arose through a constructive trust. Neither of these arguments had been raised by HGL prior to Mr Pearson's skeleton argument filed in the days before the final

hearing. Furthermore, it was only at the final hearing that it was conceded that Mr Kodimyala was not a director at the time the June deed was executed.

42. At the conclusion of the June hearing I directed that the parties file a 'facts in issue facts disputed document' in order to narrow the issues of dispute as between the parties. Whilst I note that Mr Zweck filed a case summary document to this effect, nothing was received by HGL. It does not appear that HGL accepted any matters prior to the final hearing. Had this been done in so far as the status of the shareholders regarding their legal entitlement to the shares and when the legal title passed, then this may have avoided CDC having to be put to proof to support its claims regarding the shareholders' entitlement. Ms Yu's statements were detailed and thorough, outlining the provisions and operation of Hong King law and the impact on the validity of the June deed. I therefore consider that the costs expended by CDC in this regard was as a direct result of HGL's stance, which I find was unreasonable in the circumstances and that the recovery of these costs for the work undertaken by Hill Dickinson are recoverable in full, as off scale costs (subject to taxation). Consequently, I reject HGL's claim that this evidence was unnecessarily voluminous and irrelevant. I award the costs expended by Hill Dickinson as outlined in full, subject to a small deduction for the trainee fees which appear duplicative.

43. Taking these matters into account and my aforementioned comments I award costs to CDC on the following basis:

Preparation of Rectification Application, statement and considering the defence:	£2,000
Drafting evidence and considering HGL's evidence:	£6,000
Attendance at hearing June 2022:	£800
Attendance at September hearing:	£1,600
Hill Dickinson's costs:	£20,500
Counsel's fees:	£15,000
Drafting costs submissions:	£800
Total	**£46,700**

Less wasted costs payable to HGL	£3,982.50
Total payable to CDC	**£42,717.50**

44. I order Horizons Group (London) Ltd to pay Capital Distribution & Consulting Inc. the sum of £42,717.50 (excluding VAT).[3] This sum to be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

APPEAL PERIOD

45. The appeal period, as set out by the Rules, in relation to both this decision on costs and the substantive decision issued on 26 May 2023 begins from the date of this supplementary decision.

Dated this 29th day of November 2023

Leisa Davies

For the Registrar

[3] I note that the parties each made a claim for VAT. VAT is not normally awarded in proceedings before the IPO and therefore without any further information that it is recoverable, I make no award in this regard.