

TRADE MARKS ACT 1994

SUPPLEMENTARY DECISION (COSTS)

**APPLICATION 84197 BY NUTTERS (HOLDINGS) LIMITED
FOR TRADE MARK REGISTRATION 2229000
IN THE NAME OF J & J CROMBIE LIMITED
TO BE REVOKED FOR NON-USE**

AND

**APPLICATION 2595856 BY NUTTERS (HOLDINGS) LIMITED
TO REGISTER THE TRADE MARK 'TOMMY NUTTER' IN CLASS 25**

AND

OPPOSITION 102935 BY J & J CROMBIE LIMITED

1. On 27th February 2013, I issued decision in relation to these proceedings. In these decisions I stated:

“COSTS

97. NH’s applications have succeeded and it is therefore entitled to a contribution towards its costs. Mr Wood tentatively asked for NH to be awarded costs off the usual scale in order to discourage what he considered to be Crombie’s attack on Mr Mason as an individual based on his past business record, which he characterised as “*muck spreading*”. In particular, Mr Wood asked for the full cost of Mr Mason’s attendance for cross examination.

98. Bad faith allegations almost always involve a personal element because it is people rather than businesses which act in good or bad faith. Although Crombie’s case failed, and the basis for its bad faith allegation could certainly have been made clearer, I consider that Crombie’s stance was more indignant than vexatious. I will therefore award costs on the usual basis. According to the published practice this includes:

“The reasonable travel and accommodation expenses for any witnesses of the successful party required to attend a hearing for cross examination.”

99. I will therefore order Crombie to pay Nutters (Holdings) Limited the sum of £3100 made up of:

£600 for filing the application for revocation and considering Crombie’s counterstatements (to include the official fee for a TM26N of £200).

£800 for filing Mr Mason’s witness statement and considering Crombie’s evidence.

£1500 for preparing for and attending the substantive hearing.

£200 towards the cost of the CMC.

100. In addition I will order Crombie to pay NH the reasonable travel and accommodation costs associated with Mr Mason’s attendance at the hearing, provided that a bill of such costs is provided within 21 days of the date of this decision.

101. I will issue a supplementary decision setting out the final award of costs and the timescale on which they must be paid.”

2. No further details of costs were provided and as such, the costs in these proceedings are awarded as set out above. I note that an appeal against the substantive decision has been filed by Crombie. As such, I order these costs are to be paid within seven days of the final determination of this case.

Dated this 20th day of May 2013

**Allan James
For the Registrar**