

O-368-11

TRADE MARKS ACT 1994

APPLICATION No. 2535492 BY THE ORIGINAL BUCKS FIZZ

TO REGISTER THE TRADE MARK

'THE ORIGINAL BUCKS FIZZ' IN CLASS 41

AND

OPPOSITION No. 100772 BY HEIDI MANTON

AND

APPLICATION No. 83877 BY THE ORIGINAL BUCKS FIZZ

TO REVOKE THE TRADE MARK 'BUCKS FIZZ'

REGISTERED UNDER No. 2137010

DECISION ON COSTS

1. On 18 August 2011, I issued a decision on behalf of the Registrar of Trade Marks in which I rejected application No. 83877 by The Original Bucks Fizz to revoke trade mark registration No. 2137010 in the name of Heidi Manton. In the same decision I upheld opposition No.100772 by Heidi Manton against an application by The Original Bucks Fizz to register those words as a trade mark.

2. Because Heidi Manton was not represented, I invited her to provide a breakdown of her costs. The purpose of doing so was to ensure that awarding costs on the Registrar's usual scale did not over compensate her for the cost of the proceedings.

3. I subsequently received a breakdown of costs, which showed that Heidi Manton and her partner, Robert Gubby, had spent 186 hours of time between them on this matter. They had also incurred £65 on travelling and postage, and spent £200 on official fees.

4. I received an e-mail from the legal representative of The Original Bucks Fizz indicating that the amount time claimed to have spent on the matter was not disputed, but reserving The Original Bucks Fizz's position on the amount of costs to be awarded in respect of this time.

5. If the successful party had been represented, I would have awarded her £2615 scale costs. These would have been made up of:

- i) £600 for considering the revocation, filing a defence, preparing a notice of opposition and considering the defence;
- ii) £1000 for filing evidence and considering the other side's evidence;
- iii) £750 for the hearing and skeleton arguments;
- iv) £265 for official fees and expenses.

6. Heidi Manton's estimated hours indicates that I would have to compensate her at a rate of £12.63 per hour in order for the costs to fall within the scale costs. The Litigants in Person (Cost and Expenses) Act 1975 sets the minimum level of compensation for litigants in person in court proceedings at £9.25. That would indicate an award of £1720 plus £265 costs, making £1985 in total.

7. Taking this into account, I have decided to order Mike Nolan, Rita Stround and Jay Aston to pay Heidi Manton the sum of £1985 as a contribution towards the cost of these proceedings.

8. I understand that the substantive decision has been appealed. Subject to any different order from the court, the above sum should therefore be paid within 21 days of the date of the final resolution of the appeal.

Dated this 26th Day of October 2011

**Allan James
Hearing Officer**