

## **ADDENDUM TO DECISION**

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS IN THE MATTER OF:

- 1) NICHOLAS DEAKINS LIMITED'S OPPOSITION (NO 98234)  
TO A TRADE MARK APPLICATION (NO 2489547)  
BY MR JUSTIN DEAKIN TO REGISTER THE TRADE MARK:

**DEAKIN**

AND

- 2) MR JUSTIN DEAKIN'S OPPOSITION (NO 98759) TO A TRADE MARK  
APPLICATION (NO 2501575) BY NICHOLAS DEAKINS LIMITED TO  
REGISTER THE TRADE MARK:

**DEAKINS**

AND

- 3) NICHOLAS DEAKINS LIMITED'S OPPOSITION (NO 100434)  
TO A TRADE MARK APPLICATION (NO 2534122)  
BY MR JUSTIN DEAKIN TO REGISTER THE TRADE MARK:

MASTER  
**DEAKIN**  
SON OF MR. DEAKIN

AND COSTS IN RELATION TO:

NICHOLAS DEAKINS LIMITED'S APPLICATION TO INVALIDATE MR JUSTIN  
DEAKIN'S TRADE MARK 2443925

JUSTIN  
**DEAKIN**

## **Background**

1. These proceedings were the subject of an appeal by Mr Justin Deakin (“JD”) against a decision I issued on 16 April 2012. The appeal was dealt with by Mr Hobbs QC, sitting as the Appointed Person. In his decision, Mr Hobbs dismissed the appeal in the most part.
2. My decision determined three sets of consolidated proceedings. However, there was a fourth proceeding which concerned an application for invalidation by Nicholas Deakins Limited (“NDL”) against one of Justin Deakin’s trade marks (no. 2443925). This was due to be heard and determined along with the other three, but NDL withdrew its application shortly before the hearing. At the hearing JD made submissions on costs in relation to the withdrawn proceedings to reflect the time and money expended on it; NDL did not resist this, accepting that some form of costs award should follow the event.
3. I had intended to factor the costs of the withdrawn proceedings into my decision on the other three proceedings, but, unfortunately, this was overlooked. Therefore, after dealing with the substantive matters on appeal, Mr Hobbs directed that I issue an addendum to my decision dealing with costs in relation to the withdrawn application. This is that addendum.

## **Costs**

4. As was noted at the original hearing, the withdrawal of the application was left late in the day. However, I must still bear in mind that the withdrawn proceedings were part of the consolidated group and, thus, some cost savings would have been achieved in terms of evidence filed and the required counter-statement. Nevertheless, the lateness of the withdrawal will also have had an impact on costs in the lead up to the hearing and the resulting unnecessary preparation. All things considered, I award £300 as a proportionate contribution for the statement of case and evidence and, additionally, £200 for any costs incurred in the lead up to the hearing. The total is, therefore, £500. This award is separate from the costs arising from my first decision and from Mr Hobbs’ appeal decision.
5. I therefore order Nicholas Deakins Limited to pay Mr Justin Deakin the sum of £500. This is to be paid within seven days of the expiry of the appeal period of this addendum or within seven days of the final determination of this matter if any appeal against this addendum is unsuccessful.

**Dated this 16th day of December 2014**

**Oliver Morris  
For the Registrar,  
The Comptroller-General**