

O/1071/25

DECISION ON COSTS

TRADE MARKS ACT 1994

IN THE MATTER OF

UK REGISTRATION NO. 3440429

**IN THE NAME OF TANYA HARRINGTON, AMANDA LLOYD AND GEORGE
ROBINSON**

IN RESPECT OF THE FOLLOWING TRADE MARK

IN CLASSES

9, 25 AND 41

VISAGE

AND

AN APPLICATION FOR A DECLARATION OF THE INVALIDITY

THEREOF UNDER NO 507164

BY

RUSTY EGAN PRODUCTIONS LIMITED

1. On 18 March 2024, Rusty Egan Productions Limited (“**the Applicant**”) filed an invalidity action based on section 5(4)(a) and section 3(6) of the Trade Marks Act (“**the Act**”) against the UK trade mark number 3440429 represented on the cover page of this decision (“**the Contested Mark**”) and registered in the name of Tanya Harrington, Amanda Lloyd and George Robinson (“**the Proprietors**”).
2. On 24 June 2024, the Form TM26(I) was sent to the Proprietors. In the following months the Proprietors corresponded with the Office concerning the correct and timely receipt of the Form TM8 to which regard submissions and evidence were provided. Ultimately, the Office noticed that the Form TM26(I) had not been correctly served to the Proprietors, and a new defence period was set by way of official letter dated 24 April 2025. On 23 June 2025, the Proprietors filed their Form TM8 and counterstatement.
3. On 30 June 2025, the Office set a deadline for the Applicant to file evidence in support of their action and informed the Applicant that failure to do so by the due date may result in the cancellation application being deemed withdrawn. No evidence was filed within the deadline and on 9 October 2025 the Office confirmed the cancellation application was deemed withdrawn. On 29 October 2025, the Proprietors requested an award of costs, in line with the scale set out in Tribunal Practice Notice (TPN) 1/2023, as originally submitted in their TM8 filed on 23 June 2025.
4. I note that, in the months preceding the re-setting of the defence period, and prior to the evidence rounds, the Proprietors submitted evidence against the invalidity action. I find the filing of such evidence unnecessary at that time since it remained unclear whether the Proprietor had filed a timely defence. Accordingly, I will not take this evidence into account when making my costs award. However, I will award some costs for the evidence provided by the Proprietors to demonstrate that a timely TM8 had been filed, particularly given that the delay in resolving the matter resulted from the administrative error set out at paragraph [2].
5. Following the above considerations, I award the Proprietors costs in line with the published scale in Tribunal Practice Notice 1/2023 as follows:

Considering the other side's statement and preparing the counterstatement	£250
Preparing evidence to address procedural matters	£200
Total	£450

6. I therefore order Rusty Egan Productions Limited to pay Tanya Harrington, Amanda Lloyd and George Robinson the sum of **£450**. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the final determination of the appeal proceedings. The appeal period for this decision starts from the date shown below.

Dated this 18th day of November 2025

Andrea Rossi

For the Registrar