

o/1149/24

DECISION ON COSTS
CONSOLIDATED PROCEEDINGS

TRADE MARKS ACT 1994

IN THE MATTER OF
TRADE MARK APPLICATION NOS. 3651505, 3651498 & 3651504
IN THE NAME OF ACER INCORPORATED
TO REGISTER AS TRADE MARKS

VERO; ACER VERO; AND ASPIRE VERO

AND

IN THE MATTER OF OPPOSITIONS THERETO
UNDER NUMBERS 428607, 428608 & 428614
BY VERO UK LIMITED

AND

IN THE MATTER OF UK REGISTRATION NO. 910995397
IN THE NAME OF VERO UK LIMITED

AND THE APPLICATION FOR REVOCATION
THEREOF
UNDER NO. 506187
BY ACER INCORPORATED

BACKGROUND

1. There are four actions involved in these consolidated proceedings, namely:

- (i) Three oppositions brought by Vero UK Limited (“Vero”) against three trade mark applications filed by Acer Incorporated (“Acer”); and
- (ii) One application for the revocation of a trade mark registration owned by Vero, brought by Acer.

(i) The opposition

2. On 4 June 2021, Acer applied to register respectively the three trade marks shown on the cover page of this decision, in the United Kingdom. The applications were each accepted and published for opposition purposes on 27 August 2021, each in respect of goods in class 9.

3. On 29 November 2021, Wynne-Jones IP Limited filed forms TM7 (“Notice of opposition and statement of grounds”) against each of the marks on behalf of Vero. In all three proceedings, Vero relies upon its UK trade mark registration numbers 910995397 and 3704049 and the oppositions are each directed against all of the goods in each of the applications. Each of the proceedings were subject to an extended cooling off period with the expiry date of 9 June 2023 for OP428608 and the same expiry date of 10 July 2023 for OP428607 and OP428614.¹

(ii) The application for revocation

4. On 9 June 2023, Swindell & Pearson Ltd on behalf of Acer filed an application seeking to revoke Vero’s trade mark numbered 910995397 on the grounds of non-use under sections 46(1)(a) and 46(1)(b) of the Trade Marks Act 1994 (“the Act”). Under section 46(1)(a) of the Act, Acer claims non-use of all of the registered goods in the five year period following the date on which the mark was registered, i.e. 6 January 2014 to 5 January 2018, with an effective date of revocation of 5 January

¹ As confirmed by the registry in individual letters each dated 13 September 2022.

2018. Revocation is also sought under section 46(1)(b), where Acer claims non-use of all goods for the following periods: 3 June 2016 to 2 June 2021 with an effective date of revocation of 3 June 2021; 3 June 2017 to 2 June 2022 with an effective date of revocation of 3 June 2022; and 9 June 2018 to 8 June 2023, with an effective date of revocation 9 June 2023.

5. On 28 September 2023, Vero filed form TM8(N) (Notice of defence and counterstatement for the use in revocation on the grounds of non-use) in which it stated that “The Proprietor intends to file evidence to support its defence during the further two-month period, following the filing of this Form TM8(N).”.

6. In a letter dated 10 October 2023, the registry confirmed to the parties that having considered the nature of the claims in the individual cases, it considered it appropriate to consolidate the cross-proceedings. The parties were each given until 11 December 2023 by which to file evidence and/or written submissions in the consolidated proceedings.

7. On 28 March 2024, pursuant to rule 38(7) of the Trade Mark Rules 2008, the Tribunal wrote to the parties in which it gave the preliminary view that as no evidence of use had been filed within the prescribed period, the registry was minded to treat the proprietor (i.e. Vero) as not opposing the application for revocation. The Tribunal’s letter contained the following:

“If you disagree with the preliminary view you must provide full written reasons and request a hearing on, or before, **11 April 2024. (Original emphasis)**”

If no response is received the registry will proceed to issue an undefended decision on the failure to comply with the Rules governing the filing of evidence.”

8. As no response to the preliminary view was received by the registry, on 3 June 2024 the Tribunal issued the decision that, as the proprietor had not responded to the allegations made that the trade mark was not in use during the periods set out by the cancellation applicant in its application for revocation, it was inferred that the

allegations were admitted. Therefore, in accordance with section 46(6)(b) of the Act, UK00910995397 was revoked with effect from 5 January 2018, being the earliest date requested.

9. With regard to the remaining consolidated opposition proceedings, on 18 January 2024 the Tribunal wrote to the parties to confirm that, as set out in the aforementioned letter dated 10 October 2023, as neither party had filed any evidence or sought additional time within which to file it, the evidence rounds were concluded. The letter included the following information:

“What to do next

If you want a hearing, **you must request one in writing by 1 February 2024**, copying your request to the other side. ...

If neither side requests a hearing, a “decision from the papers” will be issued. Before the decision is reached, **you can provide written submissions by 15 February 2024**, copying them to the other side.” (Original emphasis)

10. Acer subsequently filed written submissions in lieu of a hearing on 15 February 2024.

11. On 16 February 2024, Vero sent a written request to withdraw its opposition to all three of the consolidated opposition proceedings. The withdrawal of the oppositions was confirmed by the Tribunal in a letter to the parties dated 27 February 2024, with each of the opposed applications becoming registered on 24 May 2024.

12. On 1 July 2024, Acer requested that as they had been successful in all of the consolidated actions, they be awarded costs. It provided a breakdown of the costs sought for each of the individual actions, totalling £4,200, as follows:

Dealing with the simplest matter first which is Non-Use Cancellation No. CA000506187.

Party B filed to revoke on the basis of non-use UK Trade Mark Registration No. UK00910995397 under Section 46(1) a and Section 46(1)b via Form TM26(N) dated 9 June 2023.

The Registrant filed a TM8(N) on 28 September 2023.

The deadline for filing evidence was set as 11 December 2023. No evidence was filed. No proper reasons for non-use were filed under Section 46(1)a.
Per Section 46(6).

The Applicant to cancellation should be entitled to full costs for filing the cancellation action and the official fees for reviewing the TM8(N) and for filing the pleadings of 15th February 2024.

These are

Fees for filing cancellation action = £200.

Preparing a statement and considering the other side's statement (defence) = £750.

preparation of submissions, if there is no oral hearing = £350.

Total for Cancellation No. CA000506187 = £200+£750+£350= £1300.

Party B's costs for Opposition Nos. OP000428607 and OP000428608 and OP000428614 are set out below

Opposition No. OP000428607 Preparing a statement (defence) and considering the other side's statement (notice of Opposition) £750.

Opposition No. OP000428608 Preparing a statement (defence) and considering the other side's statement (notice of Opposition) £750.

Opposition No. OP000428614 Preparing a statement (defence) and considering the other side's statement (notice of Opposition) £750.

Opposition Nos. OP000428607 and OP000428608 and OP000428614 were then conjoined.

Party B's pleadings in lieu of a Hearing on 15th February 2024 did cover three oppositions and the level of £650 for preparation of this single set of submissions is appropriate as it required effort as the details of the three oppositions were different and the pleadings for the three oppositions differed.

The total costs claimed for Opposition Nos. OP000428607 and OP000428608 and OP000428614 = £750+£750+£750+£650= £2900.

The total costs claimed for Cancellation No. CA000506187 are £1300.

The total costs claimed for Cancellation No. CA000506187 and for Opposition Nos. OP000428607 and OP000428608 and OP000428614 = £1300+£2900=**£4200**.

Party B, Acer Incorporated, requests a cost order against Party A Vero UK Limited of **£4200** in Cancellation No. CA000506187 and in Opposition Nos. OP000428607, OP000428608 and OP000428614 and does so per Annex A of TPN 1/2023. These are scale costs claimed.

13. In a letter dated 17 July 2024, the Tribunal invited Vero to comment on the request by Acer prior to any award of costs being issued.

14. Vero responded on 31 July 2024 disagreeing with the overall amount requested as being “excessive and unjustified”. In relation to the application for revocation, it did not dispute the calculation for filing the cancellation action at £200 or the request for £350 for the preparation of submissions in lieu of a hearing, but it did dispute the £750 requested for preparing a statement and considering the other side’s statement. In relation to the three oppositions which were later withdrawn, Vero submitted that based on the basic nature of the statements and the fact that the oppositions were consolidated, a request for a maximum on-scale costs award was unjustified. In response,² Acer justified the amount requested, adding that it was both “fair and reasonable”.

15. In a letter dated 2 September 2024, the Tribunal explained that as the cases were now being treated as individual cases, the cost request for each must be filed on its own merit rather than as the previously consolidated group and a deadline of 9 September 2024 was given accordingly to file individual cost requests. Acer duly filed individual requests on 11 September 2024, although the total (combined) amount was the same as set out in the original request.³

16. On 9 October 2024, The Tribunal issued a preliminary view on what it considered to be an appropriate award of costs to Acer for each of the actions, amounting to a total award of £1,900 covering all four actions. In the letters, it stated that “if either party disagrees with the preliminary view they should request a hearing within 14 days from the date of this letter; that is on or before **23 October 2024**”. (**original emphasis**). For convenience, an extract from each letter issued detailing the breakdown of the individual awards of costs as specified by the preliminary views have been replicated for each case under Annex A of this decision.

17. On 23 October 2024, Acer, disagreeing with the preliminary view, requested to be heard.

² Sent by email sent on 31 July 2024,

³ While I note that the individual requests were filed two days after the given deadline, as the costs requested for each individual case replicated the breakdown given in the original (combined) request for costs, I do not consider this to have an adverse impact on the decision before me.

18. A hearing was scheduled for 20 November 2024, the details of which were sent by the Tribunal to both parties in an official letter dated 25 October 2024. Swindell & Pearson Ltd confirmed attendance on behalf of Acer; Wynne-Jones IP as representatives of Vero confirmed that to minimise costs, their client did not intend to participate in the hearing but requested that the initial decision be upheld regarding the award of costs. Given the circumstances of the case and the earlier submissions of both sides, skeleton arguments were considered unnecessary.

THE HEARING

19. The hearing took place before me, via Microsoft TEAMS telephone conference, on 20 November 2024. Kieron Taylor of Swindell & Pearson Ltd represented Acer, and as previously confirmed, Vero were unrepresented at the hearing.

20. At the commencement of the hearing, I confirmed that I had read all the relevant documents to the case before me, including Vero's letter of 31 July 2024 disagreeing with the amount initially requested by Acer.

21. Mr Taylor began by acknowledging that costs awarded by the Tribunal were not equal to those that might be awarded by the High Court and agreed that costs in these proceedings were intended to be contributory rather than compensatory. That being said, he submitted that the actual costs to his client were much higher than those found at the top of the scale costs provided by the relevant Tribunal Practice Notice ("TPN"), although he did not consider that an off-scale costs award was merited on this occasion.

22. In relation to the revocation proceedings, Mr Taylor stated that in its email of 31 July 2024, Wynne-Jones IP on behalf of Vero had not disputed Acer's request for £200 as the official fee for filing the cancellation action, nor the request for £350 for the preparation of submissions if there is no oral hearing (although I note that it did dispute the request for £750 for preparing a statement and considering the other side's statement (defence) as unjustified). Aside from the costs of the statutory fee of £200, Mr Taylor submitted that the preliminary view ("PV") of the Tribunal that an award of £300, broken down as £200 for the filing (i.e. preparing) of form TM26(N)

and £100 for considering the TM8(N) and counterstatement, was not proportionate with the actual work involved in the successful revocation action, which he felt was worthy of the requested contribution of £750 for the combined actions of preparing a statement and considering the other side's statement. Further, the PV made no award in relation to the (non-disputed) filing of written submissions in lieu of a hearing.

23. With regard to the three opposition actions, Mr Taylor submitted that in spite of an overlap in some of the information provided on each of the individual defences, they were by no means identical and each had its own level of complexity that needed to be addressed and that it wasn't just a case of copying and pasting the same details on each form TM8 and counterstatement. He reminded me that his client had not asked to be opposed and had been entirely successful in the outcome following the withdrawal of all three oppositions by the other side and therefore should not be penalised by what he considered to be a low award of costs as proposed in the PVs. He also mentioned the amount of time and effort that it had taken to prepare the written submissions in lieu of a hearing for the consolidated proceedings which had been filed the day before Vero withdrew the oppositions, and he questioned the timeliness of the withdrawal by the other side. He added that consideration had to be given to the three different marks and the fact that they shared some similarities made it more difficult rather than easier to address in the combined submissions. Mr Taylor submitted that the request for costs at the top of the scale was justified by the time and effort exerted to defend each of the albeit consolidated cases, each of which he considered to be complex in nature in its own right.

24. I acknowledged that while the marks in each of the opposition proceedings were different, the opposed goods were virtually identical under each mark and that I felt that there was a large degree of overlap between the three individual counterstatements. I also explained to Mr Taylor that while the scale of costs outlined in TPN 1/2023 were relevant to the revocation proceedings as the action had been filed after the TPN came into play on 1 February 2023, because the three opposition proceedings were launched prior to this on 29 November 2021, TPN 2/2016 applied. As such, the top of the scale for preparing a statement and considering the other side's statement is £650 and not £750. I also mentioned that as the deadline for Vero to file its evidence to support the defence of the revocation action against it had been

missed, leading to the view that the action was undefended and that therefore registration of the mark should be revoked, strictly speaking it had been unnecessary for Acer to file submissions in this regard. Further, these submissions consisted of only five paragraphs included within the submissions in lieu of a hearing pertinent to the consolidated oppositions and were of little substance.⁴

25. At the end of the hearing, I reserved my judgement in order to reflect on the submissions made by Mr Taylor as well as those contained in Vero's email of 31 July 2024 in response to the initial costs request by Acer. I confirmed that my decision would be issued in writing in due course, and I clarified that although the Tribunal had asked for Acer to submit separate requests for each individual case, and that I intended to provide a breakdown of costs for each one, my overall decision would cover all four actions. Consequently, I will direct an appropriate award for each of the proceedings, with the total award for all four actions given at the end of this decision.

DECISION

26. Section 68 of the Act reads as follows:

“(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.”

27. Rule 67 of the Trade Mark Rules 2008 provides:

“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.”

⁴ Other than to say that as the deadline for filing evidence had passed and no evidence had been filed, the registration should be revoked from the earliest date requested and could no longer be a basis for the conjoined oppositions.

28. Both parties are professionally represented. As such, Annex A of Tribunal Practice Notice (“TPN”) 2/2016 sets out the scale of costs applicable in proceedings commenced on or after 1 July 2016, while Annex A of TPN 1/2023 sets out the revised scale of costs applicable in proceedings commenced on or after 1 February 2023. As the opposition proceedings by Vero against the three applications by Acer were each commenced on 29 November 2021, TPN 2/2016 will apply; in relation to the application for revocation by Acer against Vero’s registration, which was filed on 9 June 2023, TPN 1/2023 will apply.⁵ In all cases, I remind myself that any award of costs should be based on contribution not compensation, meaning the award is not intended to fully cover the winning party’s overall costs, and should be commensurate with the complexity of, for example, the statements of case, evidence and/or the submissions made.

29. I take into account the comments of Geoffrey Hobbs QC (as he then was), sitting as Appointed Person in the *Amaro* trade mark costs decision, BL O-257-18, who stated that:

“17. ... As I have already pointed out, an award of costs is required to reflect the effort and expenditure to which it relates without inflation for the purpose of imposing a financial penalty by way of punishment on the paying party. The determination of a ‘reasonable’ amount to award must depend on the nature and circumstances of the case at hand.”

30. I will begin with the three oppositions. I agree that as a result of Vero withdrawing the oppositions, Acer is entitled to be regarded as the successful party and as such is within its rights to request a contribution towards its costs. The scale given in Annex A of TPN 2/2016 is as follows:

⁵ See also the earlier TPNs in relation to costs, being 2/2000, 4/2007 and 2/2015.

Annex A

Scale of costs applicable in proceedings commenced on or after 1st July 2016

Task	Cost
Preparing a statement and considering the other side's statement	From £200 to £650 depending on the nature of the statements, for example their complexity and relevance.
Preparing evidence and considering and commenting on the other side's evidence	From £500 if the evidence is light to £2200 if the evidence is substantial. The award could go above this range in exceptionally large cases but will be cut down if the successful party had filed a significant amount of unnecessary evidence.
Preparing for and attending a hearing	Up to £1600 per day of hearing, capped at £3300 for the full hearing unless one side has behaved unreasonably. From £300 to £550 for preparation of submissions, depending on their substance, if there is no oral hearing.
Expenses	(a) Official fees arising from the action and paid by the successful party (other than fees for extensions of time). (b) The reasonable travel and accommodation expenses for any witnesses of the successful party required to attend a hearing for cross examination.

31. It is clear from the above table that the amount for preparing a statement and considering the other side's statement at the top of the scale is £650 and not the £750 claimed by Acer, who have inadvertently referred to TPN 1/2023 rather than 2/2016 which is applicable to the three opposition proceedings. Nonetheless, I must assess whether a top of the scale award fairly reflects the efforts of Acer in this regard.

32. Acer have requested a top of scale award for preparing a statement and considering the other side's statement for each individual opposition as these were filed individually prior to consolidation, as well as a further sum of £650 for the preparation of a single set of submissions in lieu of a hearing to cover the consolidated proceedings, taking into account the effort of preparing one set of submissions for all cases. Mitigating for the top of scale costs at £650 rather than the erroneously requested £750, that would mean a total costs request of £2,500 for the combined opposition actions (rather than £2,900). This is broken down as 3 x £650 for preparing each individual statement and considering the other side's statements, plus £550 (adjusted from £650 as per TPN2/2016) for the preparation of the combined submissions in lieu of a hearing.

33. I have compared the content of each individual statement and counterstatement and while I note Mr Taylor's comments on copying and pasting, I find there is considerable overlap between the three individual sets of statements from both sides. While the opposed marks are obviously different in each case, the two earlier marks relied upon are identical in every case, although I acknowledge that the grounds of opposition for OP428607 are under section 5(1) and 5(2)(a) in relation to the earlier UK3704049 mark, rather than section 5(2)(b) as is the case for the other marks. Further, in the space which invites the opponent to supply any further information about why a likelihood of confusion is considered, the information provided is identical in every case, and is short and to the point, as follows:

Earlier mark UK3704049

The Applicant's Mark is similar to the Opponent's Mark. The Applicant's goods, insofar as they relate to software, are identical to the Opponent's Goods. The Applicant's goods, insofar as they relate to hardware, are similar to the Opponent's goods since they share the same purpose, method of use, they are complimentary, purchased by the same consumers, and produced by the same companies. Owing to the similarity between the marks and the identity or similarity between the respective goods, there is a likelihood of confusion since consumers will believe that the respective goods are offered by the same companies or economically linked companies.

Earlier mark UK910995379

The Opponent's Mark is similar to the Applicant's Mark. The Applicant's goods, insofar as they relate to software, are identical to the Opponent's Goods. The Applicant's goods, insofar as they relate to hardware, are similar to the Opponent's goods since they share the same purpose, method of use, they are complimentary, purchased by the same consumers, and produced by the same companies. Owing to the similarity between the marks and the identity or similarity between the respective goods, there is a likelihood of confusion since consumers will believe that the respective goods are offered by the same companies or economically linked companies.

34. The respective counterstatements for OP428607 and OP428614 both consist of 22 points, while the counterstatement for OP428608 consists of 26 points. Although there are differences between all three, especially in regard to the comparison of the marks in each case, several of the points made are either highly similar or identical in all three counterstatements, in particular points 16 – 21 in OP428607 and OP428614, which correspond to points 20 – 25 in OP428608.

35. I accept that not all the submissions made within the three counterstatements have merely been copied and pasted from one to the other, however given the similarity and identity of some of the information presented within each one, I do not

consider I can justify a top of scale award in each case. I do not consider that the (repeated) points made on the three form TM7 Notices of opposition and statements of grounds as to why the opponent felt there to be a likelihood of confusion to be particularly complex to consider, although Acer’s counterstatements in defence were far more substantial. As such, I consider that an award of £400 in each case for preparing a statement and considering the other side’s statement to be a fair award commensurate with the complexity of the statements. Taking account the substance of the submissions in lieu of a hearing which covered the consolidated proceedings, albeit that some of the points made in the individual counterstatements were repeated therein, I consider that the sum of £550 for the submissions in lieu of a hearing to be a reasonable award. This will, of course, only be applied once and I will therefore factor this in to the award for what was the lead file only, being OP428607.

36. Turning to the application for revocation under CA506187, I refer to the scale of costs outlined in TPN 1/2023, as is applicable to these proceedings, as follows:

Annex A

Scale of costs in proceedings commenced on or after 1 February 2023

Task	Costs
Preparing a statement and considering the other side’s statement	From £250 to £750 depending on the nature of the statements, for example their complexity and relevance
Preparing evidence and considering and commenting on the other side’s evidence	From £600 if the evidence is light to £2600 if the evidence is substantial. The award could go above this range in exceptionally large cases but will be cut down if the successful party had filed a significant amount of unnecessary evidence
Preparing for and attending a hearing (including procedural hearings) or submissions-in-lieu	Up to £1900 per day of hearing, capped at £3900 for the full hearing unless one side has behaved unreasonably. From £350 to £650 for preparation of submissions, depending on their substance, if there is no oral hearing
Expenses	(a) Official fees arising from the action and paid by the successful party (other than fees for extensions of time) (b) The reasonable travel and accommodation expenses for any witnesses of the successful party required to attend a hearing for cross examination

37. The award of £200 to cover the official fee for filing the form TM26(N) is not disputed. Acer request a top of scale award of £750 for preparing a statement and considering the other side's statement, and a further £350 for the preparation of submissions in lieu of a hearing. As brought to my attention by Mr Taylor during the hearing, the amount of £350 for the written submissions in lieu was not disputed by the other side. Conversely, Vero also submitted that in relation to the oppositions, they felt that Acer's submissions in lieu were unnecessary. I consider this to be the wrong way around as given that Vero provided no evidence of use in relation to the application for revocation, which was ultimately considered undefended, in my view it was unnecessary for Acer to provide any submissions in this regard. Further, Acer provided its submissions in lieu of a hearing by the given deadline, unaware that Vero would subsequently withdraw the oppositions in all three cases. However, this is of little consequence, given that I have already factored in to my decision that the submissions in lieu covered the consolidated proceedings which include the application for revocation, and that I consider the sum of £550 to be a fair award overall for the complexity of the submissions made in relation to all four cases. As already stated, this award will be applied to OP428607, rather than allocated pro-rata across the four individual cases.

38. Having considered the details of the filed form TM26(N) and form TM8(N), I do not agree with Mr Taylor that the work involved in the successful revocation action to be worthy of the requested contribution of £750 for the combined actions of preparing a statement and considering the other side's statement. In *Delta Air Lines, Inc v Ontro Ltd* [2021] RPC 21, [22], the AP stated that:

"it is possible to make the objection entirely by completing the boxes on TM7. There is no need to file a separate Statement of Grounds. Of course, where certain things are alleged a Statement of Grounds will be needed, for instance where enhanced distinctiveness is claimed. Nevertheless, an Opponent has a fully pleaded claim based on the completion of the boxes on Form TM7 alone."

I consider the same to be true for form TM26(N) and in fact, I note that in this instance only the essential information, being the applicable dates from which revocation was

sought, was included at section A and section B of the completed form TM26(N), and that section C of the form, being the (optional) supporting statement, was left blank:

SECTION C: Supporting statement [Optional]

You may provide a statement to support your claim for revocation on the grounds of non-use.

(Use a continuation sheet if necessary)

39. Further, the counterstatement by the defendant was particularly brief, as replicated below:

8. Counterstatement by defendant: If a defence is based on "proper reasons for non-use" then this should be clearly set out in the counterstatement

The counterstatement should state the reason(s) why the proprietor opposes the application for revocation for non-use. The counterstatement should say which goods/services you have used the mark for.

Please use a continuation sheet if not enough space.

The Registered Proprietor has used its' trade mark in the United Kingdom. The UK trade mark registration subject to this application for revocation on grounds of non use was originally a European Union trade mark registration, entered on the UK IPO record as a comparable trade mark in accordance with the Withdrawal Agreement, and use of the mark was made in the European Union prior to the exit date, which constitutes use for the purposes of these proceedings.

Where the mark has not been used in the visual style in which it is registered, it has been used in a style which does not alter the distinctive character of the mark.

40. Given that only the minimum details required were provided on form TM26(N) and the brevity of the counterstatement filed by the other side, I consider the preliminary view that a cost award of £300 for the combined actions of preparing a statement and

considering the other side's statement to be reasonable and I uphold the preliminary view that an overall cost award of £500 to also take into account the official fee of £200 to be a fair award commensurate with the complexity of the statements.

41. As a final point, I have taken into consideration Mr Taylor's comments regarding the timeliness of the withdrawal of the oppositions the day following the submissions in lieu of a hearing were filed. I accept that had Vero withdrawn the oppositions earlier in the proceedings it may have saved Acer the time and effort of preparing written submissions and the associated costs accrued in doing so. However, I also acknowledge that although Acer had a period of one month in which to file the written submissions in lieu, it elected not to file them until the day of the given deadline, although it was of course within its right to do so. In both cases, the timeliness of the actions of either party does not suggest to me that the behaviour of either side was unreasonable and I do not consider a higher (or lower) award of costs can be justified in this respect.

OUTCOME

42. Taking all of the above into consideration, I consider the following individual costs award to be fair to both parties:

OP428607, based on TPN 2/2016	
Preparing the statement of case, and considering the other side's statement:	£400
Preparing written submissions in lieu of a hearing:	£550
Total:	£950
OP428608, based on TPN 2/2016	
Preparing the statement of case, and considering the other side's statement:	£400
Total:	£400

OP428614, based on TPN 2/2016	
Preparing the statement of case, and considering the other side's statement:	£400
Total:	£400
CA506187, based on TPN 1/2023	
Official fee:	£200
Preparing a statement, and considering the other side's statement:	£300
Total:	£500

OVERALL COSTS COVERING ALL FOUR ACTIONS

43. To sum up, the total award of costs covering all four proceedings is as follows:

Official fee for filing of Form TM26(N):	£200
Preparing a statement, and considering the other side's statement X 4:	£1,500
Preparing written submissions in lieu of a hearing (combined to cover the 4 consolidated cases):	£550
Total:	£2,250

44. I therefore order Vero to pay Acer the sum of £2,250. This sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 29th day of November 2024

**Suzanne Hitchings
For the Registrar,
the Comptroller-General**

Annex A

Preliminary Views issued on costs award

CA506187

Trade Mark No: UK00910995397

Owner: Vero UK Limited

Cancellation No: CA000506187

Cancellation Applicant: Acer
Incorporated

Please quote your Cancellation ID Number in all correspondence

***If you wish to correspond by email please reply to
Tribunalsection@ipo.gov.uk and ensure your email is copied to the other
party.***

Dear Sirs,

The Registry has considered the request for costs, and after reviewing the file, it is the preliminary view of the Registry that an award of **£500** in favour of the **Cancellation Applicant** would be appropriate. This amount is reached as follows:

Filing of Form TM26(N)	£200
Statutory Fee	£200
Considering TM8(N) and Counterstatement	£100
Total	£500

If either party disagrees with the preliminary view they should request a hearing within 14 days from the date of this letter; that is on or before **23 October 2024**

OP428607

Trade Mark No: UK00003651505 Applicant: Acer Incorporated

Opposition No: OP000428607 Opponent: Vero UK Limited

Please quote your Opposition ID Number in all correspondence

If you wish to correspond by email please reply to Tribunalsection@ipo.gov.uk and ensure your email is copied to the other party.

Dear Sirs,

The Registry has considered the request for costs, and after reviewing the file, it is the preliminary view of the Registry that an award of **£500** in favour of the **Applicant** would be appropriate. This amount is reached as follows:

Considering TM7 and Statement of Grounds	£100
Filing TM8 and Counterstatement	£200
Filing Submissions In Lieu Of A Hearing	£500
Total	£800

If either party disagrees with the preliminary view they should request a hearing within 14 days from the date of this letter; that is on or before **23 October 2024**

OP428608

Trade Mark No: UK00003651498

Applicant: Acer Incorporated

Opposition No: OP000428608

Opponent: Vero UK Limited

Please quote your Opposition ID Number in all correspondence

If you wish to correspond by email please reply to Tribunalsection@ipo.gov.uk and ensure your email is copied to the other party.

Dear Sirs,

The Registry has considered the request for costs, and after reviewing the file, it is the preliminary view of the Registry that an award of **£300** in favour of the **Applicant** would be appropriate. This amount is reached as follows:

Considering Opposition and Statement of Grounds	£100
Filing TM8 and Counterstatement	£200
Total	£300

If either party disagrees with the preliminary view they should request a hearing within 14 days from the date of this letter; that is on or before **23 October 2024**.

OP428614

Trade Mark No: UK00003651504

Applicant: Acer Incorporated

Opposition No: OP000428614

Opponent: Vero UK Limited

Please quote your Opposition ID Number in all correspondence

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