

O-263-07

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. 2367246 BY
CCC OUTDOORS LIMITED TO REGISTER A
TRADE MARK IN CLASSES 20 AND 22**

AND

**IN THE MATTER OF OPPOSITION NO. 93006
BY MR CRAIG PIERCY**

TRADE MARKS ACT 1994

**IN THE MATTER OF Application No 2367246
by CCC Outdoors Limited to register a trade mark
in Classes 20 and 22**

and

**IN THE MATTER OF Opposition No 93006 by
Mr Craig Piercy**

1. On 20 July 2007 I issued my decision in these proceedings following a hearing held on 12 June 2007. The opponent was successful under Section 5(4)(a) of the Act but failed under Section 3(6). Mr Piercy, the opponent, attended the hearing to be cross-examined.

2. I indicated at paragraphs 92 and 93 of my decision that I would issue a supplementary decision on costs in the proceedings taking account of Mr Percy's expenses in presenting himself for cross-examination.

3. The Registry's scale of costs indicates that:

“Where a party appears in person or where attendance of a party's witnesses is required by the opposite party, allowance will be made for general expenses and travelling, but the allowance for general expenses will not normally exceed £250 per person per day

4. W P Thompson & Co, Mr Piercy's professional representatives, subsequently submitted documentary evidence substantiating that his travel and accommodation costs had amounted to £221.50 in total. W P Thompson's letter also asks me to take into account the fact that Mr Piercy was unable to work on the day in question. So far as this latter point is concerned, the £250 daily expenses allowance is intended solely to cover the reasonable expenses associated with attending as a witness. It is not intended to cover other costs such as the notional cost of time spent away from the witness's business.

5. The applicant's solicitors, Irwin Mitchell were given an opportunity to comment on the expenses claim but indicated that they would not be making submissions 'at this stage'. However, they reserved the right to do so 'should the need arise'. As no formal submissions have been received arguing against the expenses claim or suggesting that it is unreasonable, I propose to allow the sum of £221.50 referred to above. In doing so I have had regard to the fact that Mr Piercy was cross-examined on aspects of his business activities which in essence went to the Section 5(4)(a) ground on which he was ultimately successful.

6. Taking into account the above expenses, the award that Mr Percy is in any case entitled to as the successful party and also the fact that the Section 3(6) was fully but unsuccessfully argued I order the applicant to pay the opponent the sum of £1821.50.

7. As I understand this case is currently the subject of an appeal, this sum is to be paid within seven days of the final determination of this case if that appeal is unsuccessful.

Dated this 12th day of September 2007

**M Reynolds
For the Registrar
The Comptroller-General**