

O/0723/25

CONSOLIDATED PROCEEDINGS

SUPPLEMENTARY DECISION ON COSTS

TRADE MARKS ACT 1994

IN THE MATTER OF APPLICATION NOS. 3698627 & 3906063

BY CLAUDIO LUIZ DE ALMEIDA HARRIS

AND

IN THE MATTER OF THE OPPOSITIONS THERETO

UNDER NOS. 431490 & 442503 BY

JOHN LEWIS PLC

1. On 7 July, I issued a decision in these proceedings (BL O/0617/25). The outcome was as follows:

“220. The opposition to the Lewis logo (Application No. 3698627) has failed. Subject to a successful appeal, the application may proceed to registration.

221. The opposition to the Lewis Magazine mark (Application No. 3906063) has failed. Subject to a successful appeal, the application may proceed to registration.”

2. I went on:

“222. The applicant has been successful and is entitled to a contribution towards his costs. Prior to the hearing, he had been sent a proforma to complete, indicating the number of hours that had been spent on various stages of these proceedings. The applicant did not return the proforma, but it was apparent that this was because he was uncertain how to deal with the consolidated proceedings. At the end of the hearing, I noted that, should the applicant be entitled to any costs, I would request the proforma at that point and then invite the opponent to make any submissions.”

3. The applicant was given a period of 14 days to submit two cost proformas, with the first covering the pleading stage of the opposition to the Lewis logo and the evidence rounds and hearing stage of the consolidated proceedings, and the second covering the pleadings stage of the opposition to the Lewis Magazine mark.

4. The applicant filed two proformas on 8 July 2025 and copied these to the opponent, which then had a period of 14 days in which it could make any submissions on the proformas. No submissions were made.

5. The applicant states that it has spent the following time on the consolidated proceedings:

Completing the Notice of Defence (Opposition No. 431490): 12 hours

Considering the forms filed by the other party (Opposition No. 413490): 8 hours

Completing the Notice of Defence (Opposition No. 442503): 10 hours

Considering the forms filed by the other party (Opposition No. 442503): 6 hours

Preparing witness statements and exhibits: 25 hours

Reviewing the opponent's evidence and preparing written submissions: 15 hours

Preparing for a hearing (drafting skeleton argument, authorities bundle, bundle of core documents): 10 hours

Preparing for a hearing (pre-hearing set-up, hearing, post hearing notes): 6 hours.

6. Section 5.2 of the Tribunal Manual states that the number of hours claimed is not binding on the Hearing Officer, *“who will continue to assess whether the time spent was reasonable in the circumstances of the case and who will retain a residual discretion in any event.”*

7. The opponent's Form TM7 in Opposition No. 431490 consists of 30 pages. Four earlier marks were relied upon under both the section 5(2)(b) and 5(3) grounds, although the pleadings were essentially the same for each of those earlier marks. I appreciate that litigants in person who may be unfamiliar with proceedings in this Tribunal and trade mark law in general are likely to require some time to understand the case that they have to answer. In my view, 8 hours is a reasonable amount of time, given the two grounds of opposition.

8. The applicant required two attempts to file an admissible Form TM8. Even so, it seems to me that 12 hours is an excessive amount of time to allow for completing the form, given that I have already found that I can make an award for 8 hours spent in considering the opponent's form. I note that the counterstatement continued onto additional sheets, and so I consider that 6 hours is a reasonable time to allow for completing this form.

9. Turning now to the forms for Opposition No. 422503, I see that the applicant has reduced his costs claim when compared to the other form. This time he claims 6 hours for considering the opponent's form. The applicant will not have been starting from scratch with this form in the same way as he was likely to have been in the earlier opposition. The grounds in this opposition were the same and two earlier marks were relied upon. In my view, 3 hours is a reasonable time to allow for considering the opponent's TM7.

10. The applicant required two attempts to file an admissible Form TM8 in this opposition. The amendment necessary related to the request for proof of use and the goods and services in respect of which proof was sought. The amendment should not have taken much additional time. The Form TM8 also included a counterstatement on additional sheets. I consider that it is reasonable to allow 4 hours for completing this form.

11. The applicant has claimed 15 hours for reviewing the opponent's evidence and preparing written submissions. The opponent's evidence was lengthy and so I find that this is a reasonable amount of time.

12. The applicant has claimed that it spent 25 hours on preparing witness statements and exhibits to support its defence. Some of this evidence was not material to the decision that I had to take. An example is the evidence pertaining to the demographic characteristics of the customers of the two parties. I consider that 15 hours is a reasonable amount of time for this activity.

13. In advance of the hearing, the applicant filed what he describes as a skeleton argument on 17 March 2025. The skeleton argument consists of 4 pages of submissions. The rest of the material filed comprised two witness statements and documentation relating to a contract between the applicant's company and a jewellery manufacturer. At the start of the hearing, both parties made submissions on whether this additional evidence should be admitted. For the reasons given in paragraphs 27-34 of my original decision, I refused to admit it. I consider that 4 hours is a reasonable amount of time for the production of the skeleton argument and other preparatory activity.

14. The hearing was scheduled for half a day. I will allow 3 hours to cover attendance at the hearing.

15. In summary, the time allowed is as follows:

Completing the Notice of Defence (Opposition No. 431490): 6 hours

Considering the forms filed by the other party (Opposition No. 413490): 8 hours

Completing the Notice of Defence (Opposition No. 442503): 4 hours

Considering the forms filed by the other party (Opposition No. 442503): 3 hours

Preparing witness statements and exhibits: 15 hours

Reviewing the opponent's evidence and preparing written submissions: 15 hours

Preparing for a hearing: 4 hours

Attending the hearing: 3 hours.

TOTAL: 58 hours

16. The sum awarded to litigants in person is analogous to that set out in the Civil Procedure Rules, Part 46, which is currently £19 an hour. This means that the amount payable is £1,102.00.

17. I therefore order John Lewis PLC to pay Claudio Luiz de Almeida Harris the sum of £1,102.00. 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 determination of the appeal proceedings.

18. The appeal period will commence from the date of this decision.

Dated this 1st day of August 2025

Clare Boucher

For the Registrar,

The Comptroller-General