

O/0842/25

SUPPLEMENTARY DECISION

TRADE MARKS ACT 1994

IN THE MATTER OF TRADE MARK REGISTRATION

UK00002551566

Les Cousins

IN THE NAME OF MARK PAVEY

AND

APPLICATION 508573

BY DIANA MATHEOU

**FOR A DECLARATION THAT THE AFOREMENTIONED TRADE MARK
REGISTRATION IS INVALID**

Background

1. On 31 July 2025, the Registry issued an interim decision in these proceedings, published under BL O/0536/25 ('the Decision').
2. These proceedings relate to an application for a declaration of invalidity ('the Application') brought by Diana Matheou, the Cancellation Applicant ('the CA') against trade mark number UK00002551566, registered in the name of Mark Pavey, the Registered Proprietor ('the RP'). The Decision struck out the entirety of the Application on the basis that it was inadmissible. The effect of this is that, subject to any successful appeal against the Decision, the RP's mark will remain registered in the UK.
3. Prior to the Decision, the parties had not had the opportunity to file submissions on the matter of costs. I, therefore, granted fourteen days within which they could do so, setting a deadline of 14 August 2025. The fourteen-day period has now expired and so I make this Supplementary Decision to deal with the matter of costs.

DECISION

4. Only the RP filed submissions. The RP requested an award of costs in their favour, in line with the published scale in Tribunal Practice Notice 1/2023, as follows:

Activity:	Sum requested:
Review of pleadings:	A sum towards the upper end of the scale (scale: £250 - £750)
Preparation for and attendance at the hearing of 9 July 2025: Representative's fee for 2 hours 40 minutes of preparation and attendance at an hourly rate of £150, plus VAT (£150 x 2 hours 40 minutes	£400, ex VAT)

(VAT at 20%	£80)
	£480

5. The RP has provided the following reasons in support of their request, which can be summarised as follows:

- It had been necessary for the RP to review three iterations of the CA's Form TM26(I)¹; the content of which was lengthy, 'complex and difficult to interpret'.
- It had been necessary for the RP to raise two matters with the Registry:
 - i. the CA's inclusion of 'Without Prejudice' material;
 - and
 - ii. the erroneous acceptance by the Registry, on 25 April 2025, of the CA's third-filed Form TM26(I).
- Given the CA's references to the Trade Marks Manual during the hearing of 9 July 2025, the CA should have been aware of the following:
 - i. that 'Without Prejudice' material is inadmissible;
 - and
 - ii. that, in launching a legal action which is wholly unsuccessful, the losing party would be subject to a costs order in favour of the other side.
- The Registry's apparent acceptance of the CA's Form TM26(I) meant that (at least until the Registry acknowledged its oversight) the RP had no choice but to spend time trying to interpret an 'insufficiently clear and incoherent' pleading in order to try to understand the case against them.
- The hearing to challenge the Preliminary View of the Registry that the CA's pleading was wholly inadmissible was at the request of the CA.

¹ Application to declare invalid a registration or a protected international trade mark (UK).

Although the RP was not obliged to attend, they deemed it necessary to attend.

- There were repeated failures on the part of the CA to copy in the RP to correspondence sent to the Registry. It was, therefore, necessary for the RP to spend time contacting the Registry to request copies.

6. As set out in my interim decision, the RP has been the successful party and is, therefore, entitled to a contribution to their costs. In the absence of submissions from the CA on this matter, I have only the RP's submissions to consider when assessing the appropriate level of the costs award. The level of the award requested is within the published scale. Taking all relevant matters into account, I consider the RP's request to be entirely reasonable. I, therefore, award the RP the following costs, in line with the published scale in Tribunal Practice Notice 1/2023:

Consideration of various iterations of the CA's proposed claim:	£600
Preparation for and attendance at the hearing of 9 July 2025:	£480
Total:	£1,080

7. I, therefore, order Diana Matheou to pay to Mark Pavey the sum of £1,080. 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.
8. As indicated in my interim decision, the appeal period will commence from the date of this supplementary decision.

Dated this 15th day of September 2025

N. R. Morris

For the Registrar