

O/1173/25

TRADE MARKS ACT 1994

SUPPLEMENTARY DECISION

IN THE MATTER OF APPLICATION NO. UK00003939558
BY AMG ASSET MANAGEMENT LTD TO REGISTER:

myfitnesswater

AS A TRADE MARK IN CLASS 32

AND

IN THE MATTER OF THE OPPOSITION THERETO
UNDER NO. 444199 BY
LUCOZADE RIBENA SUNTORY LIMITED

BACKGROUND AND PLEADINGS

1. In my decision O/1088/25, issued on 26 November 2025 (“my original decision”), I found that the opposition brought by Lucozade Ribena Suntory Limited (“the opponent”) failed against application number 3939558 by AMG ASSET MANAGEMENT LTD (“the applicant”). In my original decision, I stated:

“COSTS

94. The applicant has been successful and it is, therefore, entitled to a contribution towards its costs. In the present case, I note that the applicant is unrepresented so in order to claim costs, it was required to file a costs proforma. While that may be the case, I note that the applicant has not been provided with a costs proforma and, as a result, I am unable to deal with the issue of costs at this stage.

95. A copy of the costs proforma will be provided to the applicant upon the issuance of this decision. The applicant is hereby directed to file a completed costs proforma to the Tribunal within 14 days of the date of this decision. Once this is received, I will issue a supplementary decision dealing with the issue of costs. In the event that the applicant fails to file a costs proforma within 14 days of the date of this decision, it will not be permitted to recover any costs for these proceedings. Even if no costs proforma is received, I will still issue a supplementary decision dealing with the issue of costs.”

2. The applicant was provided with a copy of the costs proforma with my original decision and it filed a completed copy of the same on 8 December 2025. The applicant claimed that it spent a total of 150 hours on these proceedings and, at the prescribed rate of £19.00 (more on this rate below), it seeks costs in the sum of £2,850. The claim is broken down as follows:

Forms

Notice of Defence: 19 hours

Considering the forms filed by the other party: 5 hours

Preparing evidence/written submissions

Reviewing the opponent's evidence: 31 hours

Analysing the opponent's evidence: 22 hours

Preparing written submissions in response: 17 hours

Preparing final written submissions: 15 hours

Legal research: 12 hours

Preparing for hearing

Reviewing complete case file and preparing for potential hearing/decision on the papers: 8 hours

Other expenses

Professional consultancy – internal legal review strategic planning, expert advice: 11 hours

Administrative and documentation costs – document preparation, filing and correspondence management: 4 hours

Research database access – access to law databases, legal research materials: 6 hours

Total: 150 hours

3. I appreciate that the tasks outlined above would have required more of a time commitment on the part of the applicant on the basis that it is unrepresented. However, I am of the view that the time spent on the above tasks are on the excessive side. I say this for the following reasons:

- a. While the applicant did file submissions, it filed just one set in lieu of a hearing. It did not file any submissions during the evidence rounds as the above table appears to suggest. In considering the submissions it did file, they covered just over 3 pages of content. Therefore, to claim 32 hours in respect of preparing one set of limited submissions is, plainly, excessive.
- b. I appreciate that the applicant would have been required to consider the evidence filed by the opponent. However, this was less than 100 pages in length and, all things considered, was fairly straightforward evidence of use. I consider that 53 hours reviewing and analysing the same to be excessive.
- c. The costs associated with 'legal research' are, in my view, recoverable under the heading of other costs covered by these proceedings. For example, time a party spends considering the legal principles of a case are taken into account when considering the time associated with the preparing of a notice of defence or considering the opponent's claim, for example. This is on the basis that litigants in person will inevitably be required to conduct research in respect of the case during those tasks.

- d. No hearing was requested so I fail to see how the preparation for this are costs that are recoverable. On this point, I will say that the opponent did file submissions in lieu and whilst no further action was required from the applicant, it would have spent time reviewing the same. As such, I will award costs in respect of this task, however, I will re-allocate this to the sub-heading of 'preparing evidence/written submissions'. While that may be the case, I do not consider 8 hours for reviewing the same is reasonable and this will be reflected in my reduction of the costs below.
- e. The 'other expenses' claimed are not recoverable on the basis that a litigant in person is not entitled to recover internal costs for administration, costs for obtaining expert advice or costs associated with considering 'access to research'. In respect of the latter point, any costs associated with research will be taken into account when considering the costs associated with other tasks.
4. In light of what I have said above, I consider a costs award for the following number of hours to be reasonable:

Forms

Notice of Defence: 5 hours

Considering the forms filed by the other party: 8 hours

Preparing evidence/written submissions

Reviewing/analysing the opponent's evidence: 12 hours

Preparing final written submissions: 5 hours

Considering the opponent's submissions in lieu: 3 hours

Total: 33 hours

5. In relation to the hours expended, I note that the Litigants in Person (Costs and Expenses) Act 1975 (as amended) sets the minimum level of compensation for litigants in person in Court proceedings at £19.00 an hour (which is the amount referred to by the applicant in the cover letter of its costs proforma as discussed at paragraph 2 above)¹. I see no reason to award anything other than this. I therefore award the opponent the sum of £627.00 (33 hours at £19 per hour) in respect of its costs proforma.

6. I hereby order Lucozade Ribena Suntory Limited to pay AMG ASSET MANAGEMENT LTD the sum of £627.00. The above sum should be paid within 21 days of the expiry of the appeal period (which runs from the date of this supplementary decision and not my original decision) or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

Dated this 16th day of December 2025

A COOPER
For the Registrar

¹ It is noted that the costs have recently been increased to £24 per hour for costs incurred after 1 October 2025. In the present case, all costs were incurred prior to this date so the previous rate of £19 applies to these proceedings.