

O-198-10

REGISTERED DESIGNS ACT 1949 (AS AMENDED)

SUPPLEMENTARY DECISION

IN THE MATTER OF REGISTERED DESIGN NOS. 4008773-775

IN THE NAME OF HELEN ALLISON

AND

A REQUEST TO INVALIDATE (NOS. 16/08-18/08)

BY BEANBAG BAZAAR LTD

REGISTERED DESIGNS ACT 1949 (AS AMENDED)

**In the matter of registered design nos. 4008773-775
in the name of Helen Allison**

and

**a request to invalidate (nos. 16/08-18/08)
by Beanbag Bazaar Ltd**

1) On 25 May 2010 I issued a decision in relation to the three sets of proceedings identified above. In summary, Ms Allison was successful in relation to two of them, Bazaar was successful in relation to the other. In terms of costs, I stated at paragraphs 55-58 of my decision:

“55. Costs are awarded to provide a contribution towards the costs incurred by the successful party. I must bear in mind that Bazaar has failed with two of its requests but succeeded with one. This must be balanced out in terms of any costs award. I must also bear in mind that Ms Allison was professionally represented (Bazaar was not) and her costs would have been greater. I must also bear in mind that efficiencies were made by the filing of one set of evidence covering all three cases.

56. In respect of the two cases where Ms Allison was successful, she considered the request for invalidation, filed a counterstatement, filed evidence (and considered the other side’s evidence) and provided written submissions. Taking into account the efficiency savings, I consider an award of £600 per case to be appropriate.

57. In respect of the case where Bazaar was successful, it filed its request, it paid an official fee for doing so (£50), it considered Ms Allison’s statement, it filed evidence and considered the evidence of Ms Allison. I consider an award of £400 to be appropriate for this case.

58. The balance of the above sums is that Ms Allison is entitled to a sum of £800 as a contribution towards her costs. I hereby order Beanbag Bazaar Ltd to pay Ms Allison the sum of £800. The above sum should be paid within one month of the expiry of the appeal period or within one month of the final determination of this case if any appeal against this decision is unsuccessful.”

2) I noted in paragraph 55 that Bazaar was not professionally represented in these proceedings, and that this was a factor in my costs determination. However, it was quickly brought to my attention by Bazaar that my observation was incorrect. In actual fact, subsequent to filing its requests to invalidate (on 7 October 2008), Bazaar appointed Murgitroyd and Company to represent it. The appropriate form to record this representation was filed on 17 November 2008. In view of this, I wrote to the parties on 11 June 2010 informing them that I would treat my error as an irregularity in procedure under rule 38 of the Registered Design Rules 2006 and that I would issue a corrective supplementary decision. This is that decision. Against that

background, I hereby correct my decision by replacing the above paragraphs as follows:

“55. Costs are awarded to provide a contribution towards the costs incurred by the successful party. I must bear in mind that Bazaar has failed with two of its requests but succeeded with one. This must be balanced out in terms of any costs award. I must also bear in mind that efficiencies were made by the filing of one set of evidence covering all three cases.

56. In respect of the two cases where Ms Allison was successful, she considered the request for invalidation, filed a counterstatement, filed evidence (and considered the other side’s evidence) and provided written submissions. Taking into account the efficiency savings, I consider an award of £600 per case to be appropriate.

57. In respect of the case where Bazaar was successful, it filed its request, it paid an official fee for doing so (£50), it considered Ms Allison’s statement, it filed evidence and considered the evidence of Ms Allison. I consider an award of £550 to be appropriate for this case.

58. The balance of the above sums is that Ms Allison is entitled to a sum of £650 as a contribution towards her costs. I hereby order Beanbag Bazaar Ltd to pay Ms Allison the sum of £650. The above sum should be paid within one month of the expiry of the appeal period or within one month of the final determination of this case if any appeal against this decision is unsuccessful.”

3) The appeal period in relation to the substantive findings in my earlier decision remains the same. However, any appeal against my decision on costs is re-set and must be filed within 28 days of the date of this supplementary decision. The above sum must be paid within 7 days of the expiry of the appeal period of this supplementary decision or, in the case of any appeal, within 7 days of the determination of the appeal

Dated this 18 day of June 2010

**Oliver Morris
For the Registrar
The Comptroller-General**