

O-299-15

**TRADE MARKS ACT 1994
IN THE MATTER OF APPLICATION NO 2652922
BY TOURISM WORLD LIMITED TO REGISTER THE TRADE MARK**



IN CLASS 41

**AND IN THE MATTER OF OPPOSITION
THERE TO UNDER NO 400459
BY MISS WORLD LIMITED**

**SUPPLEMENTARY DECISION INCLUDING SUPPLEMENTARY DECISION ON
COSTS**

O-299-15

1) In my provisional decision issued on 16 December 2014 under the BL number O-540-14, I concluded as follows:

75) The opposition is provisionally successful in respect of the Section 5(2)(b) grounds based upon the opponent's earlier CTM 4984928 MISS BIKINI WORLD. It fails in all other respects.

76) It is normal for costs to follow the event. In this case the final outcome of the proceedings is unknown and will remain pending until such time as the fate of the opponents CTM registration for MISS BIKINI WORLD is known. Consequently, I will reserve my order in respect of costs until such time as this is known and my decision can become final.

77) The parties are directed to inform the Registry of the outcome of the outstanding proceedings at the OHIM in respect of CTM 4984928 MISS BIKINI WORLD as soon as the outcome is known. Once this is known, I will issue a supplementary decision confirming the outcome of the proceedings, making the order as to costs and setting the start of the appeal period.

2) In accordance with my directions in paragraph 77 of that decision, the opponent's representative, Bear & Wolf wrote on 24 June 2015 informing the Registry that the invalidation action against its earlier CTM 4984928 MISS BIKINI WORLD was rejected in its entirety and that no appeal was lodged against that decision. As a result, my provisional decision is now made final and **I confirm that the opposition against the application succeeds in its entirety** in respect of the grounds based upon Section 5(2)(b) of the Act insofar as the opponent relied upon CTM 4984928.

3) The case was consolidated with opposition 400629 MISS MILLIONAIRE and the parties filed a single set of evidence for both sets of proceedings and a single hearing was held. The cases were only un-consolidated after this because of the different considerations required in each and the potential for the delay in issuing the final decision in the current case. Therefore, and as I stated in paragraph 67 of my decision in BL O-541-14 MISS MILLIONAIRE, the costs should be spread across both cases.

4) Mr Heritage, for the opponent, submitted at the hearing that costs should be awarded at the top end of the scale citing the large number of grounds needed to be asserted, the numerous attempts by the applicant before it successfully filed its Form TM8 and counterstatement and because the opponent's evidence had to cover much historical information. I dismiss these submissions. There is nothing about the conduct in, or complexity of this case that justifies anything other than normal scale costs. In light of my comments in the previous paragraph, I award costs on the same basis as in my decision in BL O-541-14 but, of course, in reverse as the successful party in these proceedings is different to that in decision BL O-541-14. Therefore, I award costs on the following basis:

O-299-15

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| Preparing statement and considering counterstatement | £300 |
| Official fee | £200 |
| Evidence | £350 |
| Preparing and attending hearing | £400 |
| Total: | £1250 |

5) I order Tourism World Limited to pay Miss World Limited the sum of £1250 which, in the absence of an appeal, should be paid within 14 days of the expiry of the appeal period.

Dated this 29th day of June 2015

Mark Bryant
For the Registrar,