

**O-154-16**

**DECISION ON COSTS**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF REGISTRATION NO 3042269 IN THE NAME OF ADVANCED  
BUILDING COMPOSITES LTD IN RESPECT OF THE TRADE MARK**

**ADD A STEP**

**IN CLASS 20**

**AND AN APPLICATION FOR INVALIDATION OF THE REGISTRATION  
UNDER NO 500834 BY INDUSTRIAL STEPS AND LADDERS PTY LTD**

1) Advanced Building Composites Ltd was the proprietor of UK registration 3042269 for the mark ADD A STEP (“the registration”). It applied for the registration on 13 February 2014 and the registration procedure was completed on 31 October 2014.

2) On 29 April 2015, Industrial Steps and Ladders PTY Ltd (hereafter “the applicant”) filed an application to invalidate the registration. Following completion of the evidence rounds, a hearing date was appointed for 2 March 2016.

3) By email dated 22 February 2016 the Registry was notified that the parties had reached a settlement and a recordal of an assignment of the registration to the applicant has been filed with the Registry. By letter of 1 March 2016, the Registry confirmed that the assignment had been recorded and confirming that the invalidation action has been withdrawn.

4) The applicant for invalidation has therefore been successful and is entitled to a contribution towards its costs. It invited the Registry to make an award of costs off-scale and based on the reasons it provided in its letter of 24 June 2015. That letter was the applicant’s response to a request from the proprietor for an accelerated evidence timetable. The letter contains a number of reasons why an accelerated timetable should not be imposed but gave no specific reasons as to why an award of costs above the published scale should be made.

5) At that cmc, held on 25 June 2014, I accepted some of the reasons put forward by the applicant and I declined to direct that an accelerated timetable should be adopted. Accordingly, the opponent, is entitled to an award of costs in respect to the cmc. However, as the applicant itself pointed out in its letter, the Registry has a broad discretion when setting an evidence timetable. With this in mind, I do not consider the proprietor’s request to be unreasonable. There is nothing prejudicial in making the request for an accelerated timetable. Whilst I declined the request, I do not consider that off-scale costs should be considered. However, I do make an award of £200 as a contribution towards the opponent’s costs of preparing for and attending the cmc.

6) Taking the above into account, whilst I decline to make an award of costs off-scale, the applicant for invalidation has been successful and is entitled to a contribution towards its costs according to the published scale in Tribunal Practice Notice 4/2007. I award costs on the following basis:

Preparing a statement and considering the counterstatement	£300
Application fee	£200
Preparing for & attending cmc	£200
Evidence	£700
<b>Total:</b>	<b>£1400</b>

7) I order Advanced Building Composites Ltd to pay Industrial Steps and Ladders Pty Ltd the sum of £1400 which, in the absence of an appeal, should be paid within 14 days of the expiry of the appeal period.

**Dated this 23rd day of March 2016**

**Mark Bryant  
For the Registrar,**