

**IN THE MATTER OF Trade mark  
registration No 1273739 in the name of  
Arnarn N.V.**

**AND IN THE MATTER OF**

**AN APPLICATION FOR REVOCATION  
of the register by Eurocos Cosmetic GmbH  
under No 8606**

**DECISION AS TO COSTS IN THE ABOVE MATTER**

On 24 September 1998, I heard an application for revocation of the register by the removal therefrom of trade mark registration No 1273739. The applicant was represented by Mr M Edenborough of Counsel, instructed by D.Young & Co. The registered proprietor was represented by Mr Wilson of Withers & Rogers.

The ground for revocation was that the mark had not been used in the UK by the proprietor or with his consent for a continuous period of five years ending on 10 May 1995. This goes to Section 46(1)(b) of the Trade Marks Act 1994. The registered proprietor filed a counterstatement denying the ground for revocation.

For reasons which I need not go into here, I effectively adjourned the hearing held on 24 September in order to give the registered proprietor time to file further evidence. Subsequently, the registered proprietor filed a Form TM22 voluntarily cancelling the registration. In these circumstances it is not necessary for me to determine the outcome of the application for revocation. However, I believe that it is still appropriate for me to consider the request the applicant made at the outset for an award of costs.

The applicant did not file any evidence in the proceedings, but by initially defending the registration the registered proprietor has put the applicant to the expense of being represented at a hearing. In these circumstances I consider that the applicant is entitled to a contribution towards its costs, which should also reflect the cost of filing the application and considering the registered proprietor's defence. Taking these matters into account, I believe that the applicant is entitled to a contribution towards its costs of £500 and I order the registered proprietor to pay the applicant that amount.

**Dated this 27<sup>th</sup> Day of November 1998**

**Allan James  
For the Registrar  
The Comptroller General**