

O-090-10

TRADE MARKS ACT 1994

SUPPLEMENTARY DECISION IN RELATION TO COSTS

IN THE MATTER OF REGISTRATION NO 2326092

IN THE NAME OF EGL GEM LAB LTD

OF THE TRADE MARK:



**EUROPEAN
GEMOLOGICAL
LABORATORY**

IN CLASS 42

AND

THE APPLICATION FOR A DECLARATION

OF INVALIDITY THERETO

UNDER NO 82965

BY GUILLAUME MARGEL

Trade Marks Act 1994

Supplementary decision in relation to costs

**In the matter of registration no 2326092
in the name of EGL Gem Lab Ltd
of the trade mark:**



**EUROPEAN
GEMOLOGICAL
LABORATORY**

**in class 42
and the application for a declaration of invalidity
thereto under no 82965
by Guillaume Margel**

1) On 10 February 2010 I issued a decision in relation to the substantive issues of the case. In that decision I wrote:

“78) EGL US having been successful is entitled to a contribution towards its costs. Mr Malynicz submitted that I might consider an above the scale cost award owing to the bad faith attack. The awards of costs are made to reflect the work expended on the prosecution of a case, they do not distinguish and discriminate on the basis of the nature of the claims. I do not consider that it is appropriate to make an award of costs above the scale. Mr Norris submitted that I should take into account that a previous hearing date had been vacated owing to the lateness of a request for cross-examination and owing to the original absence of an indication as to exactly whom the request related. Preparation for the vacated hearing would have been carried over to the present hearing and so I cannot see that any additional expenses would have been incurred.

79) EGL US is entitled to a contribution towards the costs in relation to Mr Krasnianski’s attendance at the hearing. If EGL US wishes to make a claim for such expenses it should produce a detailed breakdown of the travel and accommodation costs incurred by Mr Krasnianski in relation to his attendance for cross-examination within four weeks of the date of the issue of this decision.

80) I will issue a supplementary decision in relation to costs after this four week period has expired.

2) On 10 March 2010 I received a letter detailing the costs incurred by Mr Krasnianski as follows:

Airfare to the United Kingdom:	\$US1,182.28
Hotel in United Kingdom:	£160
Food in United Kingdom:	£50
Taxi in United States:	\$US90
Taxi in United Kingdom:	£170

There are no receipts for the last four items. The instructing principle in the United States has advised that there is a receipt for the hotel costs, the Yamor Suites, although this has not been supplied.

The receipt for the airfare shows that Mr Krasnianski flew into Heathrow. The return fare for the Heathrow Express is £32. A one day travel card for the London Underground is £7.20. It is reasonable to allow for two days of such use. In relation to fares in London I will allow $£32 + £7.20 + £7.20 = £46.40$. I do not consider that the payment of £170 for taxi fares is reasonable.

I can see nothing unreasonable in the claims for food and a taxi in the United States.

Using the conversion rate of 17 January 2010 from OANDA \$US1,272.28 (airfare plus taxi in United States) is £781.85.

In relation to the expenses incurred by Mr Krasnianski, I award EGL Gem Lab Ltd the sum of £1,038.25.

The total award of costs in favour of EGL Gem Lab Ltd is as follows:

Considering application:	£200
Statement of case in reply:	£300
Preparing and filing of evidence:	£200
Considering evidence of Mr Margel:	£500
Preparation for and attendance at hearing:	£1,500
Expenses in relation to attendance of Mr Krasnianski:	£1,038.25.
Total:	£3,738.25

I order Mr Guillaume Margel to pay EGL Gem Lab Ltd the sum of £3,738.25. This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

As stated in the substantive decision, the appeal period in relation to that decision runs from the date of the issue of this decision.

Dated this 15 day of March 2010

**David Landau
For the Registrar
the Comptroller-General**