

O-693-18

**TRADE MARKS ACT 1994
IN THE MATTER OF
TRADE MARK APPLICATION NO 3207172
BY PROSTYLES HAIR LTD
TO REGISTER**

**PROSTYLES
&
ProStyles
(SERIES OF 2)**

**AS TRADE MARKS
IN CLASSES 3, 26, 44
AND OPPOSITION THERETO (UNDER NO. 409824)
BY
BLUE FELLOWS LTD**

Background and pleadings

1. ProStyles Hair Ltd ('the applicant') applied to register the trade marks **PROSTYLES** and **ProStyles** as a series of two on 17 January 2017. It was accepted and published in the Trade Marks Journal on 19 May 2017 in respect of the following goods and services:

Class 3: Preparations for use in the care and cleansing of the hair; preparations for the hair and scalp; shampoos; hair conditioners; hair lotions; hair colorants and hair dyes; hair waving preparations; hair glue; hair styling preparations; hair gels; hair mousse; hair sprays; hair adhesives and hair glue.

Class 26: Hair extensions; tresses of hair; wigs; false hair; human hair; hair nets; hair grips; hair adornments, including hairbands, hair clips and hair pins; hair curling pins.

Class 44: Information, advice and consultancy services relating to hair extensions, hairdressing, and other hair products; fitting hair extensions; removing hair extensions; hair styling services connected with the fitting or removal of hair extensions; hair care services; advice and information relating to hair and hair extensions.

2. Blue Fellows Ltd ('the opponent') opposes the trade mark on the basis of Section 3(1)(b), (c) and (d) of the Trade Marks Act 1994 ('the Act'). It argues this on the basis of the applied for marks being devoid of distinctive character, designating a characteristic of the goods and services and consisting of signs which have become customary in trade.

3. The applicant filed a counterstatement denying all the claims made. It states that the applied for marks were accepted following an ex-parte hearing on the matter prior to publication. It further states that it has been using the applied for marks in the UK for several years and that they have acquired distinctiveness as a result.

4. Both sides filed evidence in these proceedings. This will be summarised to the extent that it is considered necessary. In addition, both sides filed written submissions in lieu of a hearing. These will not be summarised but will be referred to as and where appropriate during this decision. I now make this decision following consideration of the papers before me.

Preliminary issues

5. In its written submissions, the applicant has raised concerns about the nature of the opponent being a 'front company' for a larger and unknown entity. I do not intend to address this matter as, for Tribunal purposes, the opponent is a bona fide legal entity entitled to oppose the trade mark application. This is because anyone can oppose a trade mark application on the 'absolute' grounds for refusal set out in section 3 of the Act.

Opponent's evidence

6. The opponent supplied a witness statement dated 11 January 2018 from its Director, Mr David Beckman, who appended five exhibits.

7. Exhibit DB1, DB2 and DB3 comprises copies of the pre-publication correspondence between the IPO and the applicant.

8. Exhibit DB4 comprises images of various hair products, hair styling appliances, hair salons and trade shows which have the word 'pro' as part of their trade mark or brand.

9. Exhibit DB5 comprises a list of Google search engine hits for the search terms 'prostyle', 'prostyle hair', 'professional style' and 'professional hairstyle'.

Applicant's evidence

10. The applicant filed a witness statement made by its Managing Director Mr Mark Alan Wood, dated 28 March 2018, and appended two exhibits. The most pertinent points to note from Mr Wood's witness statement are:

- the applied for marks were first used 'in or around 1998' by the applicant's predecessors in title.
- The approximate annual turnover up to the end of 2016 was 'in the order of £450,000 p.a.
- Annual expenditure on advertising the goods and services was £40,000.

11. The goods and services for which the mark has been used are stated to be:

- a. Real hair Extensions
- b. Fibre Hair Extensions
- c. Hair Extension training courses
- d. Hair extension tools
- e. Hair Brushes
- f. Hair Accessories, i.e. section clips, training heads, starter kit, bonding resin.
- g. Wet goods, i.e. conditioners, shampoos, conditioning rinse, conditioning spray, removal sprays.

12. Exhibit 1 comprises photographs of packaging used for hair extensions, product bottles (shampoos, conditioners), hairbrushes, gums, resins and a resin applicator appliance. The photographs are dated March 2018, although the declarant states these are example of packaging used 'over the years'. There is some evidence of use of the marks PROSTYLES and ProStyles solus and use of both marks with device elements.

13. Exhibit 2 comprises advertisements and press articles dating from 2000, 2002, 2003, 2004 and 2007. These appear to be taken from a mixture of general interest publications, namely newspapers and magazines and hair specific magazines and trade press publications. In some instances, the articles comprise 'make over' style features in which the applicant is credited with creating the hair styles apparent in the feature. The remainder of the articles appear to be those generated by the applicant and directly advertising its goods and services. The applicant identifies itself in these advertisements as both PROSTYLES and ProStyles.

Opponent's evidence in reply

14. This consists of a further witness statement by Mr David Beckman, dated 15 May 2018, with one appended exhibit. This exhibit comprises figures and annual reports from the Cosmetic, Toiletry & Perfumery Association (CTPA) on the estimated worth of the UK cosmetics industry, which includes the hair care sector, between 2009 and 2016. The declarant states that during this time period, the UK cosmetics market value was worth approximately £68bn which includes £12bn attributed to the hair care sector.

15. That concludes my summary of the evidence.

Legislation - Section 3(1)

16. The relevant provisions of section 3(1) of the Act state

“3(1) The following shall not be registered –

- (a) signs which do not satisfy the requirements of section 1(1),
- (b) trade marks which are devoid of any distinctive character,
- (c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services,
- (d) trade marks which consist exclusively of signs or indications which have become customary in the current language or in the *bona fide* and established practices of the trade:

Provided that, a trade mark shall not be refused registration by virtue of paragraph (b), (c) or (d) above if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it.”

17. Furthermore in *SAT.1 SatellitenFernsehen GmbH v OHIM*, Case C-329/02 P, the Court of Justice of the European Union (CJEU) stated that:

“25. Thirdly, it is important to observe that each of the grounds for refusal to register listed in Article 7(1) of the regulation is independent of the others and requires separate examination. Moreover, it is appropriate to interpret those grounds for refusal in the light of the general interest which underlies each of them. The general interest to be taken into consideration when examining each of those grounds for refusal may or even must reflect different considerations according to the ground for refusal in question (Joined Cases C-456/01 P and C-457/01 P *Henkel v OHIM* [2004] ECR I-0000, paragraphs 45 and 46).”

18. I also take account of the CJEU’s confirmation in *Matrazen Concord AG v Hukla Germany SA*, Case C-421/04, that distinctive character must be assessed by reference to the average consumer of the goods and services at issue. In its submission the opponent states,

“The goods and services covered by the mark applied for are for mass consumption and are aimed at the average consumer. In the light of the nature of the goods and services in question, the awareness of the relevant public is that of the average consumer who is reasonably well informed and reasonably observant and circumspect”.

19. I agree that the average consumer in this case is a member of the general public who, as the case law makes clear and the opponent accepts, is to be regarded as “reasonably well informed and reasonably observant and circumspect”.

3(1)(b) and (c)

20. Whilst I recognise that section 3(1)(b) and 3(1)(c) are independent of each other and require separate consideration, the opponent’s case in respect of section 3(1)(b) relies on its submissions that the lack of distinctive character comes as a result of the claim that the marks designate the quality and intended purpose of the

goods/services covered by the application. It follows then that the outcome of the opposition proceedings as they relate to section 3(1)(b) will stand or fall with the section 3(1)(c) ground as both are based on a claim of descriptiveness.

Consequently, it is unnecessary for me to consider the section 3(1)(b) ground separately (see the comments (particularly paragraph 7) of Anna Carboni sitting as the Appointed Person in O/363/09 *COMBI STEAM*). As such I will begin by considering the ground based on section 3(1)(c).

21. The case law under section 3(1)(c) (corresponding to article 7(1)(c) of the EUTM Regulation, formerly article 7(1)(c) of the CTM Regulation) was set out by Arnold J. in *Starbucks (HK) Ltd v British Sky Broadcasting Group Plc* [2012] EWHC 3074 (Ch) as follows:

“91. The principles to be applied under art.7(1)(c) of the CTM Regulation were conveniently summarised by the CJEU in *Agencja Wydawnicza Technopol sp. z o.o. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* (C-51/10 P) [2011] E.T.M.R. 34 as follows:

“33. A sign which, in relation to the goods or services for which its registration as a mark is applied for, has descriptive character for the purposes of Article 7(1)(c) of Regulation No 40/94 is – save where Article 7(3) applies – devoid of any distinctive character as regards those goods or services (as regards Article 3 of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40 , p. 1), see, by analogy, [2004] ECR I-1699 , paragraph 19; as regards Article 7 of Regulation No 40/94 , see *Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) v Wm Wrigley Jr Co* (C-191/01 P) [2004] 1 W.L.R. 1728 [2003] E.C.R. I-12447; [2004] E.T.M.R. 9; [2004] R.P.C. 18 , paragraph 30, and the order in *Streamserve v OHIM* (C-150/02 P) [2004] E.C.R. I-1461 , paragraph 24).

36. ... due account must be taken of the objective pursued by Article 7(1)(c) of Regulation No 40/94 . Each of the grounds for refusal listed

in Article 7(1) must be interpreted in the light of the general interest underlying it (see, inter alia , *Henkel KGaA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* (C-456/01 P) [2004] E.C.R. I-5089; [2005] E.T.M.R. 44 , paragraph 45, and *Lego Juris v OHIM* (C-48/09 P) , paragraph 43).

37. The general interest underlying Article 7(1)(c) of Regulation No 40/94 is that of ensuring that descriptive signs relating to one or more characteristics of the goods or services in respect of which registration as a mark is sought may be freely used by all traders offering such goods or services (see, to that effect, *OHIM v Wrigley*, paragraph 31 and the case-law cited).

38. With a view to ensuring that that objective of free use is fully met, the Court has stated that, in order for OHIM to refuse to register a sign on the basis of Article 7(1)(c) of Regulation No 40/94, it is not necessary that the sign in question actually be in use at the time of the application for registration in a way that is descriptive. It is sufficient that the sign could be used for such purposes (*OHIM v Wrigley*, paragraph 32; *Campina Melkunie*, paragraph 38; and the order of 5 February 2010 in *Mergel and Others v OHIM* (C-80/09 P), paragraph 37).

39. By the same token, the Court has stated that the application of that ground for refusal does not depend on there being a real, current or serious need to leave a sign or indication free and that it is therefore of no relevance to know the number of competitors who have an interest, or who might have an interest, in using the sign in question (Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee* [1999] ECR I-2779, paragraph 35, and Case C-363/99 *Koninklijke KPN Nederland* [2004] ECR I-1619, paragraph 38). It is, furthermore, irrelevant whether there are other, more usual, signs than that at issue for designating the same characteristics of the goods or services referred to in the application for registration (*Koninklijke KPN Nederland*, paragraph 57).

And

46. As was pointed out in paragraph 33 above, the descriptive signs referred to in Article 7(1)(c) of Regulation No 40/94 are also devoid of any distinctive character for the purposes of Article 7(1)(b) of that regulation. Conversely, a sign may be devoid of distinctive character for the purposes of Article 7(1)(b) for reasons other than the fact that it may be descriptive (see, with regard to the identical provision laid down in Article 3 of Directive 89/104, *Koninklijke KPN Nederland*, paragraph 86, and *Campina Melkunie*, paragraph 19).

47. There is therefore a measure of overlap between the scope of Article 7(1)(b) of Regulation No 40/94 and the scope of Article 7(1)(c) of that regulation (see, by analogy, *Koninklijke KPN Nederland*, paragraph 67), Article 7(1)(b) being distinguished from Article 7(1)(c) in that it covers all the circumstances in which a sign is not capable of distinguishing the goods or services of one undertaking from those of other undertakings.

48. In those circumstances, it is important for the correct application of Article 7(1) of Regulation No 40/94 to ensure that the ground for refusal set out in Article 7(1)(c) of that regulation duly continues to be applied only to the situations specifically covered by that ground for refusal.

49. The situations specifically covered by Article 7(1)(c) of Regulation No.40/94 are those in which the sign in respect of which registration as a mark is sought is capable of designating a 'characteristic' of the goods or services referred to in the application. By using, in Article 7(1)(c) of Regulation No 40/94, the terms 'the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service', the legislature made it clear, first, that the kind, quality, quantity, intended purpose, value, geographical origin or the

time of production of the goods or of rendering of the service must all be regarded as characteristics of goods or services and, secondly, that that list is not exhaustive, since any other characteristics of goods or services may also be taken into account.

50. The fact that the legislature chose to use the word ‘characteristic’ highlights the fact that the signs referred to in Article 7(1)(c) of Regulation No 40/94 are merely those which serve to designate a property, easily recognisable by the relevant class of persons, of the goods or the services in respect of which registration is sought. As the Court has pointed out, a sign can be refused registration on the basis of Article 7(1)(c) of Regulation No 40/94 only if it is reasonable to believe that it will actually be recognised by the relevant class of persons as a description of one of those characteristics (see, by analogy, as regards the identical provision laid down in Article 3 of Directive 89/104, *Windsurfing Chiemsee*, paragraph 31, and *Koninklijke KPN Nederland*, paragraph 56).”

92. In addition, a sign is caught by the exclusion from registration in art.7(1)(c) if at least one of its possible meanings designates a characteristic of the goods or services concerned: see *OHIM v Wrigley* [2003] E.C.R. I-12447 at [32] and *Koninklijke KPN Nederland NV v Benelux-Merkenbureau* (C-363/99 [2004] E.C.R. I-1619; [2004] E.T.M.R. 57 at [97].”

22. I am also guided by *Campina Melkunie BV and Benelux-Merkenbureau*, Case C-265/00, in which the CJEU stated that:

“39. As a general rule, the mere combination of elements, each of which is descriptive of characteristics of the goods or services in respect of which registration is sought, itself remains descriptive of those characteristics within the meaning of Article 3(1)(c) of the Directive even if the combination creates a neologism. Merely bringing those elements together without introducing any unusual variations, in particular as to syntax or meaning, cannot result in anything other than a mark consisting exclusively of signs or indications which

may serve, in trade, to designate characteristics of the goods or services concerned.

40 However, such a combination may not be descriptive within the meaning of Art.3(1)(c) of the Directive, provided that it creates an impression which is sufficiently far removed from that produced by the simple combination of those elements. In the case of a word mark, which is intended to be heard as much as to be read, that condition will have to be satisfied as regards both the aural and the visual impression produced by the mark.

41 Thus, a mark consisting of a neologism composed of elements, each of which is descriptive of characteristics of the goods or services in respect of which registration is sought, is itself descriptive of those characteristics within the meaning of Art.3(1)(c) of the Directive, unless there is a perceptible difference between the neologism and the mere sum of its parts: that assumes that, because of the unusual nature of the combination in relation to the goods or services, the word creates an impression which is sufficiently far removed from that produced by the mere combination of meanings lent by the elements of which it is composed, with the result that the word is more than the sum of its parts.”

23. As the CJEU makes clear, a combination of elements which is descriptive of characteristics of the goods and services remains descriptive of those characteristics “unless there is a perceptible difference between the sum of its parts”. The opponent submits that the average consumer,

“...will understand the sign PROSTYLES to mean ‘professional styles’, which will immediately inform the consumer that use of the goods and services applied for will result in hair styles of a professional standard. The mark therefore conveys obvious and direct information regarding the quality and intended purpose... the word combination is in no way ambiguous and as set out above is readily and immediately understandable. It is no more than the sum of its parts”

24. The opponent has provided the following dictionary definitions from the online Oxford Dictionary:

PRO - a professional

STYLE - a particular procedure by which something is done; a manner or way; fashionable elegance and sophistication

The opponent submits that an average consumer will regard goods and services bearing the signs PROSTYLES or ProStyles as directly describing a hair style of a professional standard. The applicant submits in its witness statement that the marks have “flavours or overtones of quality styling” but are allusive.

25. I agree that within the context of the goods/services covered by the application, ‘pro’ will be seen as professional and ‘styles’ will, in relation to the goods and services, be taken as referring to hairstyles. Conjoining these two word elements does not lessen their meanings nor add to them. It does not necessarily follow of course that the term ‘professional styles’ would be understood as a description of ‘hairstyles of a professional standard’ as submitted by the opponent. The evidence presented by the opponent, as part of exhibit DB5, includes the results of a Google internet search for the terms ‘professional style’. From these abstract hits, there is a reference to a ‘Red Hot Professional Style Hair Dryer’, which appears to be descriptive use of Professional Style. The evidence from the same exhibit for the term ‘prostyle hair’ is more mixed, as there are several hits from the applicant and other third parties who are using the term as part of a trade mark or brand. The evidence is therefore inconclusive. Nevertheless, I find that the meanings of PRO and STYLES are, in context, sufficiently clear that the combination may serve in trade to describe the quality and intended purpose of the goods and services at issue. In this connection, I remind myself that it is not necessary to show that the marks at issue are already in use as a description: it is sufficient that it could be used to describe the quality or intended purpose of the goods/services and that, if so used, the average consumer would easily understand the descriptive meaning of the combination. That appears to me to be the case here.

3(1)(d)

26. With regard to the consideration of the section 3(1)(d) ground, in *Telefon & Buch Verlagsgesellschaft GmbH v OHIM*, Case T-322/03, the General Court summarised the case law of the Court of Justice under the equivalent of s.3(1)(d) of the Act, as follows:

“49. Article 7(1)(d) of Regulation No 40/94 must be interpreted as precluding registration of a trade mark only where the signs or indications of which the mark is exclusively composed have become customary in the current language or in the bona fide and established practices of the trade to designate the goods or services in respect of which registration of that mark is sought (see, by analogy, Case C-517/99 *Merz & Krell* [2001] ECR I-6959, paragraph 31, and Case T-237/01 *Alcon v OHIM – Dr. Robert Winzer Pharma* (BSS) [2003] ECR II-411, paragraph 37). Accordingly, whether a mark is customary can only be assessed, firstly, by reference to the goods or services in respect of which registration is sought, even though the provision in question does not explicitly refer to those goods or services, and, secondly, on the basis of the target public’s perception of the mark (*BSS*, paragraph 37).

50. With regard to the target public, the question whether a sign is customary must be assessed by taking account of the expectations which the average consumer, who is deemed to be reasonably well informed and reasonably observant and circumspect, is presumed to have in respect of the type of goods in question (*BSS*, paragraph 38).

51. Furthermore, although there is a clear overlap between the scope of Article 7(1)(c) and Article 7(1)(d) of Regulation No 40/94, marks covered by Article 7(1)(d) are excluded from registration not on the basis that they are descriptive, but on the basis of current usage in trade sectors covering trade in the goods or services for which the marks are sought to be registered (see, by analogy, *Merz & Krell*, paragraph 35, and *BSS*, paragraph 39).

52. Finally, signs or indications constituting a trade mark which have become customary in the current language or in the bona fide and established practices of the trade to designate the goods or services covered by that mark

are not capable of distinguishing the goods or services of one undertaking from those of other undertakings and do not therefore fulfil the essential function of a trade mark (see, by analogy, *Merz & Krell*, paragraph 37, and *BSS*, paragraph 40).”

See also: *Merz & Krell GmbH & Co* [2002] ETMR 21 (CJEU) and *Stash Trade Mark* – BL O/281/04 (AP)

27. In its submissions the opponent contends that the evidence supplied in David Beckman’s exhibit DB5 “demonstrates that the signs are commonly used online by third party traders to promote hair related goods and services”.

28. I note that exhibit DB5 contains several lists of hits from the Google search engine for the following search terms - ‘prostyle’, ‘prostyle hair’, ‘professional style’ and ‘professional hairstyle’. The wording of section 3(1)(d) refers to “signs or indications which have become customary in the current language or in the *bona fide* and established practices of the trade”. The signs at issue here are **PROSTYLES** and **ProStyles** so the search terms ‘professional style’ or ‘professional hairstyle’ are not relevant as those terms are not the signs at issue. With regard to the search term ‘prostyle’ and ‘prostyle hair’, I note that many of the hits provided refer to the applicant. Other third parties who are using these terms are doing so as part of their trade marks or brands, which is contrary to establishing that the terms have become customary language in the trade. I am not persuaded, on the basis of the evidence filed, that the applied for marks fall foul of section 3(1)(d).

Acquired distinctive character

29. The above findings are not the end of the matter because the proviso to section 3(1) states that marks shall not be refused registration if before the date of the application they have, in fact, acquired distinctive character as a result of the use of them.

30. The case law concerning acquired distinctive character is contained in *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97 the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-0000, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promoting the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

31. Taking the *Chiemsee* criteria as a guide, I note that the applicant provided evidence that the applied for marks have been used since 1998. The approximate annual turnover has been around £450,000 p.a. and approximately £40,000 p.a. is spent on advertising the goods and services. The applicant states that the goods and services have been sold throughout the UK and that it has approximately 2000 direct customers.

32. The exhibits provided indicated that the goods and services have been promoted in general interest magazines such as *Best* (article dated 2004) and *Now* (article dated 2000) as well as hair specific publications and trade journals. All of which

demonstrate that the marks are known to a wider audience and that the applicant is referenced by the marks as being the trade origin of the goods and services. An example of this being the article from Hair Magazine dated Feb/March 2000,

“With so many celebs getting hair extensions, we decided to give three lucky readers a go with our friends at ProStyles”.

33. The exhibits demonstrated use of the marks as word marks, such as the example given above, and use with devices. An illustrative example of this is given below



Although the devices have some visual impact, the dominant element is the word PROSTYLES and I am satisfied that sufficient use has been made of the word element.

34. The opponent has criticised the turnover figures in the context of a billion-pound hair care sector, however I find that the turnover is not quantitatively insignificant and as such I find the marks have acquired distinctiveness because of the use made of them.

35. With this in mind, I find the goods and services for which the applicant has demonstrated use are:

Class 3: Preparations for use in the care and cleansing of the hair; preparations for the hair and scalp; shampoos; hair conditioners; hair glue hair adhesives and hair glue.

Class 26: Hair extensions; tresses of hair; false hair; human hair.

Class 44: Information, advice and consultancy services relating to hair extensions; fitting hair extensions; removing hair extensions; hair styling services connected with the fitting or removal of hair extensions; advice and information relating to hair extensions.

Conclusion

36. The opposition has been largely unsuccessful. The application can proceed to registration on the basis of distinctiveness acquired through use for the restricted specifications outlined above in paragraph 35.

Costs

37. The applicant has been successful for the most part and is entitled to a contribution towards its costs. In its written submission the applicant has requested costs at the ‘upper end’ of the scale but has not given detailed reasons why it believes this is appropriate in the circumstances of the case other than on the grounds that it does not know the identity of the entity it believes is actually behind the opposition proceedings. I do not believe this is a sufficient reason for a higher costs award to be made. Awards of costs are governed by Annex A of Tribunal Practice Notice (TPN) 2/2016. Using the guidance in TPN2/2016 I make the following award:

£400	Preparing a counterstatement & considering the other side’s statement
£900	Preparing evidence & considering the other side’s evidence
£400	Preparing written submissions
£1700	Total

38. I order Blue Fellows Ltd to pay Prostyles Hair Ltd the sum of £1700. This sum is to be paid within 14 days of the expiry of the appeal period or within 14 days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 5th day of November 2018

**June Ralph
For the Registrar,
The Comptroller General**