

O-803-21

TRADE MARKS ACT 1994

IN THE MATTER OF

TRADE MARK REGISTRATION NO. 2545349

ArtFund 

ArtFund 

(SERIES OF TWO)

IN THE NAME OF NATIONAL ART COLLECTIONS FUND

AND

APPLICATION 502954 BY VIA ART FUND, INC.

FOR THE REVOCATION OF THE TRADE MARKS

ON GROUNDS OF NON-USE

Background and pleadings

1. On 8 October 2021, I issued a decision in the above identified proceedings, where the proprietor's marks were partially revoked. In relation to costs, I stated:

“At the hearing, Mr Smith stated that should the need arise, the applicant be granted permission to make further cost submissions after a substantive decision has been issued. Accordingly, **I direct that the applicant file written submissions on costs within 14 days of the date of this decision.** I will then assess the costs I consider to be reasonable and issue a supplementary costs decision.”

2. On 22 October 2021, the applicant filed written submissions; the relevant paragraph is reproduced below:

“In this matter Dechert LLP acts for the Applicant on a pro bono basis. As such, and since the Legal Services Act 2007 s.194 does not apply to the Trade Mark Registry, should the Hearing Officer be minded to make a costs award in the Applicant's favour, the Applicant would not be entitled to receive or enforce that award.”

Decision

3. I note that both parties have achieved a measure of success in these proceedings while the proprietor retained the specification in respect of its core services. I also bear in mind the applicant's submissions that it would not be entitled to receive or enforce the costs award if made in their favour. Considering all this, I do not think it appropriate to make an order as to costs in this case.

Appeal Period

4. The appeal period in relation to both this decision on costs and the substantive decision issued on 8 October 2021 begins from the date of this supplementary decision.

Dated this 28th day of October 2021

Karol Thomas

For the Registrar

The Comptroller-General