

O/0497/23

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

SUPPLEMENTARY/CORRECTIVE DECISION

IN THE MATTER OF APPLICATION NOS.

UK00003505978 & UK00003505983

BY PODS GROUP LIMITED

TO REGISTER:

POD

AND



AS TRADE MARKS IN CLASSES 5, 10 AND 44

AND

IN THE MATTER OF OPPOSITIONS THERETO

UNDER NOS. OP000422919 & OP000422923

BY IMPEL NEUROPHARMA, INC.

1. On 2 May 2023, I issued a decision in which the applicant in these consolidated proceedings was classed as a represented party and costs were awarded on that basis.
2. The opponent brought what it considered to be an error to the attention of the Tribunal in an email on 9 May 2023. The opponent asserted that the applicant was unrepresented in that the person named as the applicant's representative – Varun Kunwar Singh – was in fact an employee of the applicant as opposed to external legal counsel.
3. Having checked the Form TM33 of 29 November 2021 submitted by the applicant, it states that Mr Singh is the "Legal & Compliance Officer for PODS Group". As such, the applicant should have been recorded on the Tribunal's systems as unrepresented at that point.
4. On 10 May 2023, the Tribunal wrote to the parties confirming that an error had been made which was considered to be a procedural irregularity that needed to be corrected.
5. The decision on costs would be set aside and a supplementary decision giving a fresh costs decision would be issued. The supplementary decision would reset the appeal period.
6. As the applicant should have been classed as an unrepresented party, it should have been provided with a Tribunal Cost Pro Forma. A blank form was issued to the applicant for it complete should it wish to do so. The applicant had 14 days from 10 May in which to do this.
7. The applicant did not file a cost pro forma by the above deadline.
8. The second sentence in paragraph 8 of the original decision is amended as follows: "The opponent is represented by Lane IP Limited and the applicant is unrepresented."

9. This supplementary/corrective decision sets aside the previous costs decision which is now as follows:

“COSTS

68. The applicant has been the more successful of the two parties in these consolidated cases. As an unrepresented party, it was offered the opportunity to provide a cost pro forma, but it did not do so. As a result, I make no costs award in this case.”

10. While the procedural error discussed above has no bearing on the substantive outcome of the consolidated cases, I confirm that the appeal period for both costs and the substantive decision is reset and begins from the date of this supplementary/corrective decision.

Dated this 31st day of May 2023

JOHN WILLIAMS
For the Registrar