

Neutral Citation Number: [2018] EWHC 4028 (Ch)

Case No: HC-2017-001837 & CR-2017-006788

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMPANIES COURT

Rolls Building
Date: 11th April 2018

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Before:

THE HONORABLE MR JUSTICE BARLING

Between:

SPRINT ELECTRIC LIMITED **Claimant**
- and -
(1) BUYER'S DREAM LIMITED **Defendants**
(2) ARISTIDES GEORGE POTAMIANOS

- and -

DR ARISTIDES GEORGE POTAMIANOS
- and -
(1) MR EDWIN JOHN PRESCOTT
(2) SPRINTROOM LIMITED

MR M. HICKS for the **Claimant**
MR A. PAVLOVICH for the **Defendants** and the **Petitioner**
MS R. PAGE for the **First Respondent**

JUDGMENT
(Approved)

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MR JUSTICE BARLING :

1. The issue before me is whether a costs management order should be made in this case.
2. Ms Page, Mr Hicks and (perhaps to a slightly lesser extent) Mr Pavlovich were essentially neutral as to whether the court should make such an order.
3. My view is that it is now too late to do a useful costs budgeting exercise. Normally, this would take place before the great majority of the costs had been incurred. Here all three counsel accept that the lion's share of costs has already been spent. Those costs cannot be the subject of a costs management order.
4. Although they are differently made up, the overall amounts that have been projected and incurred by the parties are, as counsel accept, strikingly similar. That is not to say that, if a costs order is made in the victor's favour, all those costs will necessarily be recovered. Further, Mr Pavlovich fairly points out that one striking feature of difference between the sides is that in his case one counsel is dealing with both the unfair prejudice petition and the source code claim, whereas on Mr Prescott's side, if I can use that shorthand, there are different counsel for each of those matters. He also makes the fair point that looking at the grand totals of counsel's fees, the total for Mr Prescott's side is significantly greater than that of the petitioner and defendants. This no doubt mainly reflects the fact that in their case there is only one counsel engaged on both matters.
5. In all the circumstances, I consider that this is a case where, in the words of CPR 3.15, the litigation can now be conducted justly and at proportionate cost in accordance with the overriding objective without my making a costs

management order. For the reasons I have given, an order could in any event only extend to a relatively small part of the overall costs, having regard to the costs already incurred. Therefore, I do not propose to make a costs management order.

6. If it is submitted that engaging two counsel in these matters is overregging it, and that there should not be recovery of both counsel's fees, then in my view the trial judge is going to be in a better position to reach a view about that. In any event, counsel's fees can be reviewed on a detailed assessment.
7. In those circumstances, I will not make an order.