

Neutral Citation Number: [2023] EWHC 2882 (Comm)

Case No: CL-2022-000219

IN THE HIGH COURT OF JUSTICE
OF ENGLAND AND WALES
KING'S BENCH DIVISION
COMMERCIAL COURT

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 3 November 2023

Before :

The Hon. Mrs Justice Cockerill DBE

Between :

Motorola
- and -
Hytera

Claimant

Respondent

Thomas K Sprange KC and Gayatri Sarathy (instructed by King & Spalding) for the
Claimant

Hearing dates: **3rd November 2023**

APPROVED JUDGMENT

The Hon. Mrs Justice Cockerill DBE
2023
(11:12 am)

Friday, 3 November

Judgment by **THE HON. MRS JUSTICE COCKERILL DBE**

1. I am asked to decide on the costs which arise out of the amendment to the summary judgment application. To an extent, this is a slightly artificial exercise because, as I have indicated, I take a very dim view of the way this entire thing has proceeded. In part this is about the shooting from the hip, in terms of launching the summary judgment application without engaging; in part the response which then leads to the amendment to the summary judgment application.
2. So my sympathy for a submission -- although skilfully advanced by Ms Gardner -- that an awful lot of lot work had to go into this and part 18 requests needed to be drafted and everything needed to be looked at incredibly carefully, with leading counsel getting involved and elevated rates, is falling somewhat on deaf ears.
3. We are looking at a situation where, as Ms Sarathy says, yes, there were things where you might say, "*We do not understand. That is wrong*", and they should have been clarified; but it should have been capable of being clarified far, far more simply and at a far, far lower cost.
4. In addition, some of the costs which I see in this cost schedule I think can legitimately be criticised as things which should really fall into the substantive summary judgment costs which I have already indicated that I am not allowing.
5. The amount: I mean, 22.7 hours on documents; as I have said, involvement of not one but two silks; hourly rates, which are above the Guideline rate -- and, again, despite Ms Gardner's identifying all the possible arguments that could possibly be made for going higher, she is not winning that one.

6. I am going to allow a figure of £5,000 for these costs which is roughly what those costs should have been.
7. I thank junior counsel very much for their skilful submissions, which have been quite a highlight of the morning.