



Neutral citation [2016] CAT 9

IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1250/5/7/16

Victoria House
Bloomsbury Place
London WC1A 2EB

15 June 2016

B E T W E E N:

- (1) **BREASLEY PILLOWS LIMITED**
- (2) **COMFORTEX LIMITED**
- (3) **DRURY-ADAMS LIMITED**
- (4) **FIBRELINE LIMITED**
- (5) **G.N.G. FOAM CONVERTERS (LANCS) LIMITED**
- (6) **PLATT & HILL LIMITED**

Claimants

- v -

- (1) **VITA CELLULAR FOAMS (UK) LIMITED**
- (2) **VITA INDUSTRIAL (UK) LIMITED**

Defendants

RULING: ASSESSMENT OF COSTS

1. In this matter, I ordered that the Defendants should recover their costs of resisting the Claimants' application that the proceedings be made subject to the fast-track procedure under Rule 58 of the Competition Appeal Tribunal Rules 2015 ("the CAT Rules") those costs to be summarily assessed if they are not agreed. Since the Defendants had not served a statement of costs prior to the hearing on 7 June 2016, I directed that such a statement be served with an opportunity for the Claimants to submit written observations in response. That has now been done.
2. The Defendants' statement shows cost in the total amount of £22,427.50, made up of £15,300 for solicitors plus £7,127.50 for junior Counsel. The solicitors' costs are calculated on a time/cost basis, comprising 9.3 hours of partner's time at £750 per hour plus 18.5 hours of an associate's time at £450 per hour.
3. Rule 104(4) of the CAT Rules provides that in determining the amount of costs, the Tribunal may take account of a number of factors, of which the relevant ones for present purposes are:
 - “(e) whether costs were proportionately and reasonably incurred; and
 - (f) whether costs are proportionate and reasonable in amount.”
4. This was an application that was heard in less than half a day. There was no bundle of documents since the only relevant documentation was the claim form, the application for the fast-track procedure and the defence, along with the written observations prepared for the hearing. There were no witness statements. The Defendants' case was effectively presented by written observations of 12 pages and then representation by junior Counsel at the hearing.
5. In those circumstances, I consider that total costs of over £22,000 are disproportionate and unreasonable for what was involved, even allowing for the fact this is an important case for the Defendants in the specialist area of competition law. Looking more closely at the work done, I note that Counsel has charged a fee of £5,427.50 for preparation of the Defendant's written

observations, which I consider a reasonable sum. In the light of that, I do not think it is reasonable and proportionate that in addition the solicitors should be able to recover for 5.9 hours of work also attributed to preparation of those written observations and I therefore disallow those costs. I recognise that the Defendants are represented by City of London solicitors but nonetheless I regard the hourly rates charged as beyond what is reasonable on this application. I do not think the significantly lower rates charged by the solicitors to the Claimants are a fair guide since those solicitors are based in Manchester and accordingly can be expected to charge lower rates. I consider that a rate of £600 for a partner and £300 for an associate of appropriate seniority should be regarded as reasonable for the purpose of assessment.

6. Making those adjustments produces a total of 7.4 hours at £600 per hour plus 14.5 hours at £300 per hour, i.e. £8,790. To that is to be added Counsel's fees of £7,127.50, making a total of £15,917.50.
7. In addition, I think that the Claimants are entitled to what should be the modest cost of settling their brief written observations in response to the Defendant's statement of costs, which would have been unnecessary if that statement had been served prior to the hearing. Taking a broad brush approach, I therefore reduce the amount of the costs to which the Claimants are entitled to £15,500. Although the Claimants are jointly and severally liable for this amount, I note that it works out at a little over £2,500 per Claimant.
8. Those costs are to be paid within 21 days of the date of this ruling.

The Honourable Mr Justice Roth
President of the Competition Appeal Tribunal

Charles Dhanowa O.B.E., Q.C.
(Hon)
Registrar

Date: 15 June 2016