



**PATENTS ACT 1977**

BETWEEN

Dark3D Pete Limited

Claimant

and

Peter Cuffe

Defendant

**PROCEEDINGS**

Reference under section 8 of the Patents Act 1977 in respect of UK patent application number GB 1015486.2

HEARING OFFICER

Julyan Elbro

Hearing date: Decision on the papers

**DECISION ON COSTS**

- 1 These proceedings relate to a claim the company Dark3D Pete Limited (“the claimant”) made to the contents of a (now terminated) patent application in the name of the defendant, Mr Peter Cuffe. I issued a Decision<sup>1</sup> in favour of the defendant on 30 September 2014. As costs had been raised in the proceedings, I gave an opportunity for both parties to make submissions as to costs, which they each did in letters of 15 October 2014.
- 2 At all stages in these proceedings, both parties have been unrepresented. The defendant did not submit arguments on costs, but itemised some expenses he had incurred. These came to £2350. These did not include witness expenses, which is not surprising as the hearing was held in Leeds, local to the parties and the witnesses.
- 3 The claimant accepted in their submissions that an award of costs would be allowable, in line with the position they had adopted at the original hearing that they would seek costs if successful. Overall, the claimant argued that these costs should not exceed £2000. Specifically, the claimant argued that account should be taken of the fact that the defendant was unrepresented, referring to a previous Decision, *Kaur v Seran*<sup>2</sup> involving a successful party unrepresented for much of the proceedings

<sup>1</sup> BL O/413/14

<sup>2</sup> BL O/336/14

(but represented at the hearing) obtaining costs, noting that in that Decision, account was taken of the party having been unrepresented. I agree this is a relevant factor which should have an influence tending to reduce the amount I award.

## **Costs**

- 4 The Comptroller's standard scale of costs is set out in Tribunal Practice Notice 4/2007<sup>3</sup>. The scale costs are not intended to compensate parties fully for the expense to which they have been put, but to represent a contribution to that expense. The published scale contains a number of categories for which scale costs may be awarded:
- £200-£600 for preparing a statement and considering the other side's statement. The defendant requests £300 under this heading. As the claimant asserts, the statement and counterstatement in this case are at the bottom end of complexity. I also take account of the claimant having been unrepresented. I award £200 in respect of this category.
  - £500-£2000 for preparing evidence and considering/commenting on the other side's evidence. The defendant requests £700 under this heading. The evidence in this case was relatively straightforward and indeed in the end there seemed little dispute on the facts. I also take account of the claimant having been unrepresented. I award £500 under this heading.
  - £1500 per day of the hearing for preparation and attendance. The defendant requests a total of £1000 for the substantive hearing day, and a further £350 for matters dealt with in preliminary hearings. Although the defendant prevailed in the overall proceedings, the matters dealt with as preliminary matters did not have a clear "winner", and I decline to award costs for these. Bearing in mind that the award I make should not exceed the actual costs incurred, I award £1000 under this heading.

## **Conclusion and Order**

- 5 I order that the claimant should pay the defendant a total of £1700 as a contribution to his costs in this matter. This sum is to be paid within 7 days of the expiry of the appeal period set out below.

## **Appeal**

- 6 Any appeal must be lodged within 28 days

**JULYAN ELBRO**

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<sup>3</sup> See <http://www.ipa.gov.uk/p-tpn-42007.htm>