



Neutral Citation Number: [2022] EWCA Civ 466

Case No: CA-2021-000656 (formerly A4/2021/1107)

**IN THE COURT OF APPEAL (CIVIL DIVISION)**  
**ON APPEAL FROM THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**COMMERCIAL COURT**  
**Sir Michael Burton GBE**  
**[2021] EWHC 1429 (Comm)**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 06/04/2022

**Before:**

**LORD JUSTICE LEWISON**  
**LORD JUSTICE MALES**  
and  
**LORD JUSTICE SNOWDEN**

**Between:**

- |                                       |                            |
|---------------------------------------|----------------------------|
| 1) SAMSUNG ELECTRONICS CO. LTD        | <b><u>Appellants/</u></b>  |
| 2) SAMSUNG ELECTRONICS TAIWAN CO. LTD | <b><u>Claimants</u></b>    |
| 3) SAMSUNG ELECTRONICS (UK) LTD       |                            |
| 4) SAMSUNG SEMICONDUCTOR EUROPE LTD   |                            |
| 5) SAMSUNG DISPLAY CO LTD             |                            |
| - and -                               |                            |
| 1) LG DISPLAY CO. LTD                 | <b><u>Respondents/</u></b> |
| 2) LG DISPLAY TAIWAN CO. LTD          | <b><u>Defendants</u></b>   |

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**Robert O'Donoghue QC & Tom Pascoe** (instructed by **Covington & Burling LLP**) for the  
**Appellants/Claimants**

**Daniel Piccinin** (instructed by **Cleary Gottlieb Steen & Hamilton LLP**) for the  
**Respondents/Defendants**

Written submissions  
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**Approved Judgment (Costs)**

This judgment was handed down remotely at 10.30 a.m. on 6<sup>th</sup> April 2022 by circulation to the parties or their representatives by email and by release to BAILII and the National Archives.

**Lord Justice Males:**

1. I am giving this brief judgment to deal with an issue concerning the costs of the appeal.
2. It is common ground that the successful respondent, LG, should have its costs of the appeal and that these should be summarily assessed on the standard basis. LG has submitted a schedule claiming costs of £72,818.21. These include the costs of its solicitors, who bill in United States dollars, claiming costs at a rate of between US \$1,045 and US \$1,475.75 per hour for Grade A fee earners and between US \$578 and US \$918 for Grade C fee earners. At the conversion rate used, these are equivalent to charges between £801.40 and £1,131.75 for Grade A and between £443.27 and £704 for Grade C.
3. As the appellant, Samsung, points out, these are well above the guideline hourly rates set out in Appendix 2 to the “Summary Assessment of Costs” guide published in the White Book. Those guideline rates for London 1, which applies to “very heavy commercial and corporate work by centrally based London firms”, are £512 for Grade A (solicitors and legal executives with over eight years’ experience) and £270 for Grade C (solicitors and legal executives with less than four years’ experience and other fee earners of equivalent experience). In some cases, therefore, the rates claimed are more than double the guideline rates.
4. The guide recognises that in substantial and complex litigation an hourly rate in excess of the guideline figures may sometimes be appropriate, giving as examples “the value of the litigation, the level of the complexity, the urgency or importance of the matter, as well as any international element”. However, it is important to have in mind that the guideline rates for London 1 already assume that the litigation in question qualifies as “very heavy commercial work”.
5. LG has not attempted to justify its solicitors charging at rates substantially in excess of the guideline rates. It observes merely “that its hourly rates are above the guideline rates, but that is almost always the case in competition litigation”.
6. I regard that as no justification at all. If a rate in excess of the guideline rate is to be charged to the paying party, a clear and compelling justification must be provided. It is not enough to say that the case is a commercial case, or a competition case, or that it has an international element, unless there is something about these factors in the case in question which justifies exceeding the guideline rate.
7. There is nothing in the present appeal to justify doing so. This was a one-day appeal, where the only issue was the appropriate forum for the trial, the documentation was not heavy, and the amount claimed (£900,000) was modest by the standards of commercial cases.
8. For the most part I would accept LG’s submission that it allocated work to more junior members of the team where possible and that the allocation of work between solicitors and a single junior barrister was appropriate. Nevertheless, I would reduce the amount claimed to reflect the points made above and would summarily assess LG’s costs of the appeal in the sum of £55,000.

**Lord Justice Snowden:**

9. I agree.

**Lord Justice Lewison:**

10. I also agree.