



Neutral Citation Number: [2022] EWHC 2428 (Ch)

Case No: HP-2021-000045

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF
ENGLAND AND WALES
INTELLECTUAL PROPERTY LIST (ChD)
PATENTS COURT

Royal Courts of Justice
The Rolls Building
7 Rolls Buildings
London, EC4A 1NL

Date: 19th July 2022

Before:

MRS JUSTICE FALK

Between:

OPES CORPORATION OY

Claimant

- and -

REPUBLIC TECHNOLOGIES (UK) LIMITED

Defendant

MR M KEAY appeared for the **Claimant**

MR J MOSS appeared for the **Defendant**

APPROVED COSTS JUDGMENT

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MRS JUSTICE FALK :

1. I am afraid that I am going to award costs against the Defendant. I do not think that the Defendant has gone about this in the right way. The Defendant provisionally agreed the search terms. It was wrong for it to make a unilateral decision to do only the searches it chose to do, once its initial searches had produced what in its view were too many documents.
2. The Defendant told the Claimant that it was going to apply to the Court. It did not do so. I have been referred to the guidance of Marcus Smith J in *Agents' Mutual v Gascoigne Halman Ltd* [2019] EWHC 3104 (Ch) at [15]. That guidance is apposite here. The Defendant should not have just unilaterally have gone ahead with its proposal.
3. In particular, the Defendant had the documents and could readily have suggested exclusionary terms. It could also readily have proposed a first pass review (at least) by a much more junior member of staff, and should have done so.
4. So, exceptionally, I do not consider that the order should be costs in the case on this occasion. Rather, the Claimant should get their costs.

This judgment has been approved by the Judge.