



Ottawa, Tuesday, January 14, 2003

File No. PR-2001-060

IN THE MATTER OF a complaint filed by Corel Corporation under subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND FURTHER TO a determination made pursuant to subsection 30.16(1) of the *Canadian International Trade Tribunal Act* to award Corel Corporation its reasonable costs incurred in preparing and proceeding with the complaint.

ORDER

In a determination made on May 8, 2002, pursuant to subsection 30.16(1) of the *Canadian International Trade Tribunal Act*,¹ the Canadian International Trade Tribunal (the Tribunal) awarded Corel Corporation (Corel) its reasonable costs incurred in relation to preparing and proceeding with the complaint.

On June 7, 2002, Corel submitted to the Tribunal its claim for costs in the amount of \$13,970.92. The Department of Public Works and Government Services (PWGSC) filed comments on Corel's claim on July 2, 2002. Corel responded to those comments on July 15, 2002.

Corel claimed a total of \$13,233.05 (including GST and PST) in legal fees for 68.2 hours. That amount represents 30.0 hours at \$285.00/hour for the senior counsel, 13.3 hours at \$110.00/hour for two second counsel, 24.4 hours at \$60.00/hour for articling students and 0.5 hour at \$60.00/hour for a legal assistant. Corel also claimed \$737.87 (including GST) in disbursements relating to legal services.

PWGSC commented that the fees claimed for legal services were excessive in terms of hourly rate. PWGSC submitted that there is no reason to deviate from the hourly rates set in the Tribunal's *Procurement Cost Guidelines* (the Guidelines). PWGSC also pointed out that PST was claimed on legal fees, but that PST is not properly claimable on legal fees in Ontario.

With respect to disbursements, PWGSC submitted that the claim was unsupported by invoices, receipts or accounting records and that the Guidelines allow a claim of \$0.10 per copy for in-house photocopying and not the \$0.25 per copy claimed.

In its comments filed on July 15, 2002, Corel submitted that the hours worked and fees claimed were reasonable, given the particular circumstances of this case and the importance of the contract to Corel. In particular, Corel submitted that the rates set in 1999 in the Guidelines no longer represent a reasonable recovery rate. Corel acknowledged that PST was applied to the legal fees in error. With respect to disbursements, Corel submitted that the claims were reasonable and that the disbursements were incurred in the amounts claimed and, therefore, should be fully recoverable.

The Tribunal is of the view that the total number of hours claimed for legal services, namely, 68.2 hours, is not unreasonable, given the particular circumstances of the case. The Tribunal is of the view

1. R.S.C. 1985 (4th Supp.), c. 47.

that there is no reason to deviate from the hourly rates established in the Guidelines. Therefore, the Tribunal will allow an hourly rate of \$150.00 for the senior counsel, \$85.00 for the two second counsel, \$60.00 for the articling students and \$30.00 for the legal assistant. Accordingly, the Tribunal will allow legal fees, plus GST, in the amount of \$7,607.17, representing 30.0 hours at \$150.00/hour for the senior counsel, 13.3 hours at \$85.00/hour for the two second counsel, 24.4 hours at \$60.00/hour for the articling students and 0.5 hour at \$30.00/hour for the legal assistant.

Regarding the disbursements claimed, the Tribunal finds that, with the exception of the charges for in-house photocopying, all other costs are reasonable and consistent with the Guidelines. The claim of \$664.20 for in-house photocopying is reduced to \$248.30 (representing \$0.10 per copy) plus GST and, therefore, the total amount allowed for disbursements is \$339.35.

In consideration of the above, the Tribunal hereby awards Corel costs in the amount of \$7,946.52 for preparing and proceeding with the complaint and directs PWGSC to take appropriate action to ensure prompt payment.

James A. Ogilvy
James A. Ogilvy
Presiding Member

Pierre Gosselin
Pierre Gosselin
Member

Ellen Fry
Ellen Fry
Member

Michel P. Granger
Michel P. Granger
Secretary