

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND**

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2024] NZEmpC 192
EMPC 469/2023**

IN THE MATTER OF an application for a search order

BETWEEN MGE NEW ZEALAND 2010 LIMITED
 First Applicant

AND MCKAY LIMITED
 Second Applicant

AND JAMES LIMERICK CAMPBELL
 First Respondent

AND JAYCEE ELECTRIX LIMITED
 Second Respondent

Hearing: On the papers

Appearances: D Grindle, counsel for applicants
 J Browne, counsel for respondents

Judgment: 3 October 2024

CONSENT JUDGMENT OF JUDGE M S KING

[1] On 19 January 2024 a search order was granted to allow the applicants to search the premises of the second respondent, Jaycee Electrix Ltd, for specified electronic devices held by the respondents at these premises.¹ That application was heard urgently and without notice. Subsequently, the order made was confirmed and further orders were made varying what had been granted.²

¹ *MGE New Zealand 2010 Ltd v McKay Ltd* [2024] NZEmpC 5.

² *MGE New Zealand 2010 Ltd v McKay Ltd* [2024] NZEmpC 13.

[2] On 2 October 2024 the parties' representatives filed a joint memorandum in which they recorded resolutions have been reached on issues outstanding between them in all matters before the Court, subject to the Court making further orders.

[3] The orders sought were that:

- (a) The 1,147 documents that were previously classified as "open" documents are confirmed as being available to the parties and are no longer subject to obligations of confidentiality. These documents are available for the investigation in the Employment Relations Authority.
- (b) The independent computer consultant, Campbell McKenzie, is to discontinue the Reveal database electronic platform. However, Mr McKenzie is required to keep in his possession the cloned devices covered by the search order (including the downloaded copy of the search yields) until further order of the Authority or the Court.
- (c) The interim non-publication order and the order that the Court file is not to be searched except with leave are both lifted. The parties are free to make any further application for non-publication orders to the Authority.
- (d) A costs order is made against the respondents which requires them to pay the applicants the sum of \$14,340 on a category 2, band B basis, with disbursements in the sum of \$4,611.41, totalling \$18,951.41.³
- (e) The respondents are to abide by their undertaking to the Court to destroy all documents in their possession or control which contain the applicants' intellectual property to which the respondents have no claim or lawful entitlement, with the exception of the open documents and the documents provided by the respondents to their lawyers, Henderson Reeves. The respondents undertake that they have provided irrevocable

³ See "Employment Court of New Zealand Practice Directions" <www.employmentcourt.govt.nz> at No 18.

instructions to Henderson Reeves to destroy documents which contain the applicants' intellectual property to which the respondents have no claim or lawful entitlement at the conclusion of the litigation in the Employment Relations Authority, and to further refrain from using any such documents in the future.

[4] Having considered counsel's memorandum, I am satisfied it is appropriate for orders to be made as requested.

[5] Orders are made accordingly.

M S King
Judge

Judgment signed at 4.30 pm on 3 October 2024