



**IN THE COMPETITION  
APPEAL TRIBUNAL**

**Case No: 1173/5/7/10**

BETWEEN:

- 1) DEUTSCHE BAHN AG
- 2) DB NETZ AG
- 3) DB ENERGIE GMBH
- 4) DB REGIO AG
- 5) S-BAHN BERLIN GMBH
- 6) S-BAHN HAMBURG GMBH
- 7) DB REGIO NRW GMBH
- 8) DB KOMMUNIKATIONSTECHNIK GMBH
- 9) DB SCHENKER RAIL DEUTSCHLAND AG
- 10) DB BAHNBAU GRUPPE GMBH
- 11) DB FAHRZEUGINSTANDHALTUNG GMBH
- 12) DB FERNVERKEHR AG
- 13) DB SCHENKER RAIL (UK) LTD
- 14) LOADHAUL LIMITED
- 15) MAINLINE FREIGHT LIMITED
- 16) RAIL EXPRESS SYSTEMS LIMITED
- 17) DB SCHENKER RAIL INTERNATIONAL LIMITED (FORMERLY  
ENGLISH WELSH & SCOTTISH RAILWAY INTERNATIONAL LIMITED)
- 18) EMEF - EMPRESA DE MANUTENÇÃO DE EQUIPAMENTO  
FERROVIÁRIO SA
- 19) CP - COMBOIOS DE PORTUGAL E.P.E.
- 20) METRO DE MADRID, S.A.
- ~~21) ANGEL TRAINS LIMITED~~
- 22) NV NEDERLANDSE SPOORWEGEN
- 23) NEDTRAIN B.V.
- 24) NEDTRAIN EMATECH B.V.
- 25) NS REIZIGERS B.V.
- 26) DB SCHENKER RAIL NEDERLAND N.V.
- 27) TRENITALIA, S.P.A.
- 28) RETE FERROVIARIA ITALIANA, S.P.A.
- 29) NORGES STATSBANER AS
- 30) EUROMAINT RAIL AB
- 31) GÖTEBORGS SPÅRVÄGAR AB

**Claimants**

-v-

- ~~1) MORGAN ADVANCED MATERIALS PLC  
(FORMERLY MORGAN CRUCIBLE COMPANY PLC)~~
- 2) SCHUNK GMBH
- 3) SCHUNK KOHLENSTOFFTECHNIK GMBH
- 4) SGL CARBON SE (FORMERLY SGL CARBON AG)
- 5) MERSEN SA (FORMERLY LE CARBONE-LORRAINE SA)
- 6) HOFFMAN & CO. ELEKTROKOHLE AG

**Defendants**

---

**ORDER OF THE CHAIRMAN**

---

**UPON** the decision of the Supreme Court of 9 April 2014 ([2014] UKSC 24) upholding the Rule 40 application made by Morgan Advanced Materials PLC, the First Defendant, on 23 February 2011

**AND UPON** Hoffmann & Co Elektrokohle AG, the Sixth Defendant, having not appealed Commission Decision C (2003)4457 of 3 December 2001 and therefore the Claimants' claims against it having been brought out of time

**AND UPON** reading the correspondence from the solicitors for the Claimants and the Sixth Defendant

**IT IS ORDERED THAT:**

- 1) The claims in these proceedings by the Claimants against the Sixth Defendant be withdrawn
- 2) There be no order as to costs between the parties

**Marcus Smith Q.C.**  
Chairman of the Competition Appeal Tribunal

Made: 2 May 2014  
Drawn: 2 May 2014