



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1173/5/7/10

BETWEEN:

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)

Claimants

-v-

2) SCHUNK GMBH
3) SCHUNK KOHLENSTOFFTECHNIK GMBH
4) SGL CARBON SE (formerly SGL CARBON AG)
5) MERSEN SA (formerly LE CARBONE-LORRAINE SA)
6) HOFFMANN & CO ELEKTROKOHLE AG

Defendants

ORDER OF THE CHAIRMAN

UPON considering the Tribunal's Order of 20 January 2014 establishing a confidentiality ring in these claims (the "Confidentiality Ring")

AND UPON considering paragraphs 3 - 4 of the Tribunal's Order of 20 January 2014 (the "Disclosure Order"), which set out a process whereby documents may be disclosed into the Confidentiality Ring in the first instance and then reviewed within four weeks to determine whether each document should properly remain within the Confidentiality Ring

AND UPON the process described at paragraphs 3 – 4 of the Disclosure Order having been designed to facilitate the disclosure of documents between the parties' representatives at the earliest possible time, whilst protecting confidentiality where appropriate

AND UPON considering paragraphs 7, 8 and 13 of the Disclosure Order, which specified that certain documents or categories of documents be disclosed "into the Confidentiality Ring"

AND UPON the Tribunal having intended that only documents containing “Confidential Information”, as defined in the Confidentiality Ring, should be subject to the terms of the Confidentiality Ring

AND UPON considering the Fourth Defendant’s request of 7 July 2014 that the Tribunal clarify whether the process described at paragraphs 3 – 4 of the Disclosure Order applies to disclosure made pursuant to paragraphs 7, 8 and 13 of that Order

IT IS ORDERED THAT:

1. Paragraph 4 of the Disclosure Order be amended to read as follows:
 - “4. Each document disclosed into the Confidentiality Ring in accordance with paragraph 3 above, ~~save those for which specific provision is made below,~~ shall be reviewed and a decision taken by the disclosing party (which may be subject to review by the Tribunal on application by another party), not later than four weeks after the date on which that document was disclosed into the Confidentiality Ring, as to whether that document should properly remain within the Confidentiality Ring, having regard to the definition of “Confidential Information” in the Order establishing the Confidentiality Ring.”
2. Paragraphs 7, 8 and 13 of the Disclosure Order be amended to delete the words “into the Confidentiality Ring”
3. The four week deadline specified in paragraph 4 of the Disclosure Order (as amended by paragraph 1 above) be extended until 5pm on 21 July 2014 in relation to documents disclosed pursuant to paragraphs 7, 8 and 13 of the Disclosure Order (as amended by paragraph 2 above)
4. There be liberty to apply

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

Made: 8 July 2014
Drawn: 8 July 2014