



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C3/2013/2893/A



Deutsche Bahn AG & Ors –v– Morgan Advanced Materials plc (formerly  
Morgan Crucible Company plc) & Ors

**ORDER made by the Rt. Hon. Lord Justice Kitchin**

On consideration of the application for permission to appeal and a stay  
And on consideration of the papers and without an oral hearing

**Decision:**

The applications for permission to appeal are referred to an oral hearing  
The order of 29 August 2013 is stayed as against the appellants pending the determination of the applications for permission to appeal or further order in the meantime

**Reasons**

The appellants (the fourth and fifth defendants) have advanced various grounds of appeal the merits of which should be considered at an oral hearing on notice to the respondents (the 13<sup>th</sup> to 17<sup>th</sup> claimants).

A stay pending the determination of the permission hearing will preserve the position and avoid any risk that the steps the appellants would otherwise be required to take pursuant to the order of 29 August would render any appeal nugatory.

The position of the 2<sup>nd</sup>, 3<sup>rd</sup> and 6<sup>th</sup> defendants appears to be that they support the applications for permission to appeal and a stay. They have not, however, applied for permission to appeal; nor have they made any other application to this court. In these circumstances I am not prepared at this stage to make any order in respect of them.

The applications for permission to appeal and for a further stay should be heard by two LJs as soon as reasonably possible. Time estimate: 1.5 hours.



Date: 16 October 2013

*By the Court*

DATED 16TH OCTOBER 2013  
IN THE COURT OF APPEAL

DEUTSCHE BAHN AG & ORS

-AND-

MORGAN ADVANCED MATERIALS PLC (FORMERLY  
MORGAN CRUCIBLE COMPANY PLC) & ORS

## ORDER

Copies to:

Freshfields Bruckhaus Deringer Llp  
Dx 23  
Chancery Lane  
Ref: JAL/MFS/AJ/CP/JHC/114989-0037

Hogan Lovells International Llp  
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Ref: D3RS/NGH/C6HB/H5247.00176

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Ref: KIM DIETZEL

Hausfeld & Co Llp  
12 Gough Square  
London  
EC4A 3DW  
Ref: LC/LH/SG/L0035.001

Lower Court Ref: 1173/5/7/10



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C3/2013/2895/A



Deutsche Bahn AG & Ors –v– Morgan Advanced Materials plc (formerly  
Morgan Crucible Company plc) & Ors

**ORDER made by the Rt. Hon. Lord Justice Kitchin**

On consideration of the application for permission to appeal and a stay  
And on consideration of the papers and without an oral hearing

**Decision:**

The applications for permission to appeal are referred to an oral hearing

The order of 29 August 2013 is stayed as against the appellants pending the determination of the applications for permission to appeal or further order in the meantime

**Reasons**

The appellants (the fourth and fifth defendants) have advanced various grounds of appeal the merits of which should be considered at an oral hearing on notice to the respondents (the 13<sup>th</sup> to 17<sup>th</sup> claimants).

A stay pending the determination of the permission hearing will preserve the position and avoid any risk that the steps the appellants would otherwise be required to take pursuant to the order of 29 August would render any appeal nugatory.

The position of the 2<sup>nd</sup>, 3<sup>rd</sup> and 6<sup>th</sup> defendants appears to be that they support the applications for permission to appeal and a stay. They have not, however, applied for permission to appeal, nor have they made any other application to this court. In these circumstances I am not prepared at this stage to make any order in respect of them.

The applications for permission to appeal and for a further stay should be heard by two LJs as soon as reasonably possible. Time estimate: 1.5 hours.



Date: 16 October 2013

*By the Court*

DATED 16TH OCTOBER 2013  
IN THE COURT OF APPEAL

DEUTSCHE BAHN AG & ORS

-AND-

MORGAN ADVANCED MATERIALS PLC (FORMERLY  
MORGAN CRUCIBLE COMPANY PLC) & ORS

## ORDER

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Lower Court Ref: 1173/5/7/10



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C3/2013/2893B and 2895B



Deutsche Bahn AG and Others –v– Morgan Advanced Materials plc (formerly  
Morgan Crucible Company plc) and Others

**ORDER made by the Rt. Hon. Lord Justice Kitchin**

On consideration of the application for a stay  
And on consideration of the papers and without an oral hearing

**Decision:**

The order of 29 August 2013 is stayed against the applicants (the 2<sup>nd</sup>, 3<sup>rd</sup> and 6<sup>th</sup> defendants) pending the determination of the applications by the 4<sup>th</sup> and 5<sup>th</sup> defendants for permission to appeal or further order in the meantime

**Reasons**

These applicants have now indicated they may wish to appeal if the other defendants are granted permission. They say they do not wish to advance further or additional arguments to those of the other defendants at the permission hearing.

It seems to me, however, that it is highly desirable they should make up their minds as to whether or not they intend to file an application for permission to appeal and for an extension of time before that hearing so that this court can deal with all applications together. Should they not do so this is a matter which may bear on the issue whether these applicants should be granted an extension of time at some later stage.

In light of the further submissions filed by these applicants I am prepared to grant this limited stay which will preserve the position as against them pending the permission hearing.



Signed: [REDACTED]

Date: 18 October 2013

*By the Court*

DATED 18TH OCTOBER 2013  
IN THE COURT OF APPEAL

Deutsche Bahn AG and Ors

-and-

Morgan Advanced Materials plc (formerly Morgan  
Crucible Company plc) and Ors

## ORDER

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