

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMPETITION LIST (Ch D)

Mr Justice Roth
14 May 2018

Amended by Mr
Justice Roth
Pursuant to
CPR 40.12 on
7th June 2018

BETWEEN:

(1) UNLOCKD LIMITED
(2) UNLOCKD MEDIA TECHNOLOGY LTD

-and-

(1) GOOGLE IRELAND LTD
(2) GOOGLE COMMERCE LTD
(3) GOOGLE LLC



CP-2018-000012

Claimants

Defendants

ORDER

UPON the Claimants having issued and served an application for expedition and directions (“the **Directions Application**”) on 1 May 2018

AND UPON the Claimants having issued and served their Claim Form, on Monday, 16 April 2018, and Particulars of Claim, on Monday, 30 April 2018

AND UPON reading the written submissions and evidence filed by the Claimants and the Defendants

AND UPON hearing Mr Thompson QC, Mr Gibson and Ms Whelan for the Claimants and Mr Ward QC for the Defendants on 9 and 14 May 2018

IT IS ORDERED THAT:

Expedition, allocation and transfer

1. These proceedings are appropriate for expedition.
2. There shall be a trial of the preliminary issue of abuse and objective justification, on the assumption, made for the purposes of those issues, that the undertaking of which the Defendants are part, i.e. Google, is dominant on each of the markets identified in the Particulars of Claim in the last sentences of each of sub-paragraphs 12(1), 12(2) and 12(3), i.e.:
 - (1) “Google is dominant on the market for licensable operating systems for mobile devices in each of those geographic markets [globally, in the EU and in the UK].”
 - (2) “Google is dominant on the market for the distribution of apps for use on Android devices, again on each of those geographic markets [globally, in the EU and in the UK].”
 - (3) “Google is dominant on the market for the supply of advertisements for use by such app developers on Android devices, again on each of those geographic markets [globally, in the EU and in the UK].”

Pleadings and list of issues

3. By 5pm on **Monday 21st May 2018**, the Claimants shall file and serve their Amended Particulars of Claim, amended in light of the matters discussed at the hearing on 9 and 14 May 2018 but subject to any appeal the Claimants may bring in respect of the Court's decisions made on 9 and/or 14 May 2018.
4. By 5pm on **Friday, 25 May 2018**, the Defendants shall file and serve their Defence.
5. By 5pm on **Friday, 8 June 2018**, the Claimants shall file and serve any Reply.

Transfer

6. Following the close of pleadings on 8th June 2018, all the issues in these proceedings, save for the claim for declaratory relief, shall be transferred for determination by the Competition Appeal Tribunal pursuant to Section 16(1) of the Enterprise Act 2002 and the Section 16 Enterprise Act 2002 Regulations 2015, and/or Section 16(4) of the Enterprise Act 2002.
7. The claim for declaratory relief shall be adjourned with liberty to restore after the judgment of the Competition Appeal Tribunal.
8. By 5pm on **Monday, 11 June 2018**, the Claimants shall file this Order and copies of the pleadings and other court documents filed with the High Court in these proceedings (subject to confirming the continuation of confidentiality orders) in the Competition Appeal Tribunal.
9. By 5pm on **Wednesday, 13 June 2018**, the Claimants shall prepare, in consultation with the Defendants, and file at the Competition Appeal Tribunal an agreed list of issues.

Disclosure

10. Notwithstanding the transfer pursuant to paragraph 7 above, by 5pm on

Monday, 2 July 2018, the Defendants shall disclose all documents which are or have been in their control concerning their internal consideration and decisions regarding the Unlockd product on or after 1 July 2015, subject to a reasonable search in accordance with CPR r. 31.7.

11. This direction is without prejudice to any further orders as to disclosure to be provided by the Defendants and/or the Claimants as may be directed following a CMC in the Competition Appeal Tribunal.

Other matters

12. This order shall be served by the Claimants on the Defendants.
13. Costs of and occasioned by the Directions Application are costs in the case.
14. Liberty to apply.

Service of the order

The court has provided a sealed copy of this order to the serving party: Euclid Law Ltd at 80-82 Paul Street, London EC2A 4NE (ref.: OWB/ML).

