



IN THE COMPETITION
APPEAL TRIBUNAL

Case: 1077/5/7/07

BETWEEN:

- (1) EMERSON ELECTRIC CO.
(2) VALEO SA
(3) ROBERT BOSCH GmBH
(4) VISTEON CORPORATION
(5) ROCKWELL AUTOMATION INC.

Claimants

-v-

- (1) MORGAN CRUCIBLE COMPANY PLC

Defendant

-
- (1) EMERSON ELECTRIC CO.
(2) VALEO SA
(3) ROBERT BOSCH GmBH
(4) VISTEON CORPORATION
(5) ROCKWELL AUTOMATION INC.

Proposed Claimants

-v-

- (2) SCHUNK GmBH
(3) SCHUNK KOHLENSTOFFTECHNIK GmBH
(4) SGL CARBON AG

Proposed Defendants

ORDER OF THE TRIBUNAL

UPON reading the claimants' claim form

AND UPON reading the claimants' application for permission to initiate a claim for damages against the second, third and fourth proposed defendants ("the Application") under Rule 31(3) of the Competition Appeal Tribunal Rules 2003 ("the Rules")

AND UPON reading the written submissions of the first defendant dated 9 March 2007

AND UPON reading the letter from the second and third proposed defendants dated 12 March 2007 and the letter from the legal representatives for the fourth proposed defendant dated 13 March 2007

AND UPON hearing the legal representatives of the claimants and the first defendant at a case management conference held on 13 March 2007 (“the Case Management Conference”)

AND UPON the first defendant referring the Tribunal to a Tolling Agreement between the first defendant and the claimants dated 11 February 2006 (“the Tolling Agreement”)

AND UPON the claimants having agreed voluntarily to provide to the first defendant supplementary particulars as to the basis upon which it estimated the total value of its purchases of electrical and mechanical carbon and graphite products from the first defendant

AND UPON the first defendant having agreed voluntarily to provide information as to its own estimate of its gross sales of electrical and mechanical carbon and graphite products within Europe

AND UPON the first defendant having indicated to the Tribunal that it has taken all necessary steps to ensure that any internal documents which may be relevant to these proceedings will be preserved and will not be destroyed, including, in particular, all of the documents submitted by the first defendant to the European Commission for the purposes of its Decision of 3 December 2003 in Case C.38.359 Electrical and mechanical carbon and graphite products

AND UPON the Tribunal directing the Registrar to write to the Registrar of the Court of First Instance of European Communities to obtain further information on the nature and ambit of the actions for annulment brought on 20 February 2004 by the second and third proposed defendants (Case T-69/04), the fourth proposed defendant (Case T-68/04), and Le Carbone Lorraine SA (Case T-73/04)

AND UPON the Tribunal directing the Registrar to write to the legal representatives of the proposed second, third and fourth defendants enclosing copies of the transcript and Order relating to the Case Management Conference and indicating that they may, if so advised, make written submissions to the Tribunal in respect of the Application by 5:00pm on 18 May 2007

IT IS ORDERED THAT:

1. The claimants shall file and serve a skeleton argument by 5:00pm on 17 April 2007 addressing the following issues:
 - (a) whether permission of the Tribunal to initiate a claim for damages against the first defendant is required under section 47A(5)(b) and 47A(8) of the Competition Act 1998 and Rule 31(3) of the Rules;

- (b) if permission is so required, whether the Tribunal should permit the claim for damages against the first defendant to proceed and if so, whether it gives permission under Rule 31(3); and
 - (c) the construction of the Tolling Agreement in the light of section 47A of the Competition Act 1998
2. The first defendant shall file and serve a skeleton argument in relation to the issues set out in sub-paragraphs 1(a)-(c) of this Order by 5:00pm on 18 May 2007
 3. The claimants shall file and serve a reply, if so advised, to the first defendant's skeleton argument in relation to the issues set out in sub-paragraphs 1(a)-(c) of this Order by 5:00pm on 15 June 2007
 4. The first defendant shall file and serve a skeleton argument on the issues relating to the alleged settlement and release of the claim for damages the subject matter of the proceedings before the Tribunal by 5:00pm on 17 April 2007
 5. The claimants shall file and serve a skeleton argument on the issues relating to the alleged settlement and release of the claim for damages, the subject matter of the proceedings, before the Tribunal by 5:00pm on 18 May 2007
 6. The first defendant shall file and serve a reply, if so advised, to the claimants' skeleton argument on the issues relating to the alleged settlement and release of the claim for damages the subject matter of the proceedings before the Tribunal by 5:00pm on 15 June 2007
 7. The time for filing the defence of the first defendant be extended until further order
 8. A hearing be fixed for 26 June 2007, with 27 June 2007 in reserve, to consider the matters referred to above (including the Application and in respect thereof to hear any oral observations which the proposed second, third and fourth defendants may wish to provide to the Tribunal additional to any written observations which they may have already provided)
 9. The hearing previously fixed for 30 May 2007 be vacated
 10. Costs be reserved
 11. There be permission to apply