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**IN THE COMPETITION APPEAL TRIBUNAL**

Case No. 1077/5/7/07

Victoria House  
Bloomsbury Place  
London WC1A.2EB

Monday, 28 April 2008

Before:

ADAM SCOTT TD

Sitting as a Tribunal in England and Wales

BETWEEN:

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

Claimants

- and -

- (1) MORGAN CRUCIBLE COMPANY PLC

Defendant

- and -

- (2) SCHUNK GmbH
- (3) SCHUNK KOHLENSTOFFTECHNIK GmbH
- (4) SGL CARBON AG
- (5) LE CARBONE LORRAINE S.A.

Proposed Defendants

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**PROCEEDINGS AFTER JUDGMENT HANDED DOWN**

1 MR SCOTT: We have already granted permission under section 47A(5)(b) of the Competition Act  
2 1998 and rule 31(3) of the Tribunal Rules for a claim to be made against Morgan Crucible following  
3 on the European Commission cartel Decision 2004/420/EC in respect of *Electrical and mechanical*  
4 *carbon and graphite products*. We did so for reasons set out in our judgment of 16 November 2007.

5  
6 The judgment that we are handing down today concerns two further applications under Rule 31 for  
7 permission to make such claims: first against Schunk and SGL Carbon and secondly against Carbone  
8 Lorraine. There are extant appeals by each of these proposed defendants against the underlying  
9 Commission Decision that the CFI heard in February but in which judgment is still pending. Under  
10 the Competition Act, those outstanding European proceedings mean that the Tribunal's permission is  
11 required before monetary claims can be made under section 47A. The Tribunal Rules governing such  
12 applications provide an opportunity for proposed defendants to make observations before the  
13 Tribunal decides on whether or not to grant permission.

14  
15 In February we heard both the claimants and each proposed defendant. The proposed defendants  
16 wished to make observations not only about the issue of permission but also on the order in which  
17 we should address issues and on the issue of jurisdiction under the Brussels Regulation. *De bene*  
18 *esse*, we allowed those before us to make such observations as they so wished.

19  
20 For the reasons set out in the judgment handed down today, we refuse permission for a claim to be  
21 made against the proposed defendants at this stage.

22  
23 If there are any other consequential applications, they should be made within 21 days in writing, and  
24 then 14 days for any reply

25  
26 Unless there are other specific applications or observations today I will rise.

27  
28 Thank you very much

29  
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