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**IN THE COMPETITION
APPEAL TRIBUNAL**

Case No. 1014 and 1015/1/1/03

New Court,
Carey Street,
London WC2A 3BZ.

9 October, 2003

Before:
SIR CHRISTOPHER BELLAMY
(The President)
THE HONOURABLE ANTONY LEWIS
MRS VINDELYN SMITH-HILLMAN

Sitting as a Tribunal in England and Wales

BETWEEN:

(1) ARGOS LIMITED
&
(2) LITTLEWOODS LIMITED

Applicants

and

THE OFFICE OF FAIR TRADING
(formerly the Director General of Fair Trading)

Respondent

Mr Mark Brealey QC and Mr Mark Hoskins (instructed by Burges Salmon) appeared for Argos.

Mr Nicholas Green QC and Miss Marie Demetriou (instructed by DLA) appeared for Littlewoods.

Mr Brian Doctor QC (instructed by Director of Legal Services, Office of Fair Trading) appeared for the Respondent.

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PROCEEDINGS

1 THE PRESIDENT: Yes, Mr Green?
2 MR GREEN: Sir, you have seen there has been an exchange of skeletons.
3 THE PRESIDENT: Yes.
4 MR GREEN: The issues have narrowed. It seems to us that there are five issues on the
5 agenda. The first is the setting aside of the Office of Fair Trading's decision, which is
6 largely an issue between Argos and the OFT but we have supported Argos's position,
7 and you will have seen from Mr Doctor's skeleton [paragraph 10] that in principle they
8 do not object to that.
9 The second matter on the agenda concerns disclosure of documents. These were
10 documents which were exhibited to the supplementary Rule 14 Notice. Again, you will
11 have seen that we have contacted Hasbro and Hasbro does not object to the documents
12 being disclosed into a confidentiality ring, and all we will be seeking from the Tribunal
13 this morning is a reflection of what is now a common position, namely, that the Office
14 have said they will produce the documents to us by the end of the week. We will
15 produce a consent order creating the confidentiality ring which we will submit to the
16 Tribunal and seek to have agreed.
17 THE PRESIDENT: So you want that done under the seal of an order of the Tribunal?
18 MR GREEN: I do not think we are particular about that. The principles are agreed, which
19 is that the documents will be disclosed to the legal advisers of Argos and Littlewoods.
20 If the Tribunal does not think it is necessary then certainly we will not insist on any
21 formality - we all understand what the ground rules are.
22 The third matter concerns an application we have made which is that the OFT
23 either identify to us or produce a clean set of documents which have the OFT's
24 manuscript markings removed. Mr Doctor's skeleton says that so far as they are aware
25 there are no markings from the OFT on the documents. I am afraid we beg to differ. We
26 have identified a number of documents where there are either underlinings or emphases
27 or words which we think can only emanate from the OFT, and we will be asking for a
28 far greater degree of certainty from the OFT, because it will be important both at this
29 stage and later when the matter comes back to the Tribunal that we know who has
30 emphasised the particular word, who has added a manuscript marking, what markings
31 come from the witnesses and what do not.
32 The fourth matter on the agenda is simply timetabling. There is a suggestion
33 from Mr Doctor as to the future timetabling of this case.
34 Then the final matter is costs - whether any costs application should be
35 addressed now or later. That is really the agenda, I do not think there are any other
36 issues between the parties.
37 THE PRESIDENT: Yes.
38 MR GREEN: As I have outlined there is quite a lot of measure of agreement as to those

1 issues at least - a considerable measure of agreement, if not total.

2 THE PRESIDENT: Yes, thank you.

3 MR GREEN: Now we are obviously in the Tribunal's hands as to the order in which we
4 deal with those.

5 THE PRESIDENT: Shall we deal with the setting aside point first? I think this is primarily
6 your argument, Mr Brealey. We have had your skeleton for which we are grateful. Is
7 there anything you would like to emphasise beyond which you have already told us?

8 MR BREALEY: Only to emphasise in paragraph 10 of Mr Doctor's skeleton the Office
9 formally does not oppose our application.

10 THE PRESIDENT: Yes. What practical difference does it make, in your submission
11 whether we set this earlier position aside now or not?

12 MR BREALEY: Three practical differences really. First, as the Tribunal probably
13 recognises, we say the OFT is acting unlawfully at present.

14 THE PRESIDENT: Because?

15 MR BREALEY: It is acting beyond the terms of the order. As you will have seen from our
16 skeleton there was no general remittal, it was to put the three witness statements to us,
17 and they have used that as an excuse to adduce documents, change the legal case, and
18 to amend the Decision in the light of our Notice of Appeal.

19 THE PRESIDENT: The proposed Decision.

20 MR BREALEY: The proposed Decision. So the first practical reason - why does it matter?
21 - is they are acting, we say, unlawfully at present.

22 Secondly, and you will see this from our skeleton, we say that the integrity of
23 the Rule 14 procedure normally requires the Decision to be set aside. We do not go as
24 far as to say it must always be, but the Rule 14 procedure is about a proposed Decision,
25 not about persuading the Office to withdraw an existing Decision.

26 The third reason, I suppose I have really touched on but it is a discrete point, is
27 one of fairness. It is simply not fair to Argos, or to any other company in Argos's
28 position to spend time and money appealing a Decision and then to see its arguments
29 dealt with in a proposed new Decision.

30 The last point - I said there were three but in fact there are four - is the issue of
31 interest. Essentially, it is within the discretion of the Tribunal to award interest. If the
32 Decision is set aside then there is only one answer, interest will run (as in *Aberdeen*
33 *Journals*) from the date of our Notice of Appeal, which will be drafted at a future date.

34 THE PRESIDENT: Yes.

35 MR BREALEY: In other words, as the Tribunal recognised last in its Judgment this was
36 not properly investigated, and the Office of Fair Trading has been given a second
37 chance to adopt a proposed new Decision, and we say that interest should not run from
38 the earlier date when we lodged our Notice of Appeal.

1 Those are the four practical points.

2 THE PRESIDENT: Mr Doctor?

3 MR DOCTOR: Thank you, Sir. Well I am not sure that it is really necessary for me to say
4 very much, nor would it achieve very much since we are not opposing this, but I think
5 that it would be necessary simply to say a few words in response to some of the
6 criticism that Mr Brealey has made if only to get it on record that we do not accept this
7 criticism. I will be very brief, and perhaps I need to say it in case there are members of
8 the Tribunal who are not completely familiar with the litigation process, and who
9 perceive that there was some improper conduct by the OFT if unanswered.

10 May I say this: the appellants in this case have been the subject of an
11 investigation carried out by the OFT under a statutory duty to investigate certain
12 matters. The OFT is charged with the duty of investigating, prosecuting its case and
13 making a decision. That is an awesome power given to a State institution, but it is taken
14 entirely by in this case - not in all cases - the ability of the appellants to have what is
15 called an "appeal on the merits". In other words, the Decision that was made by the
16 OFT is put before an independent Tribunal composed of persons who may be familiar
17 with the issues involved in a case of this sort, in order to decide whether it was right or
18 wrong.

19 The essential fact of that is that that is a court procedure. If one goes down this
20 route it is a bit like a claimant who alleges that he has been defamed. You can, if you
21 are defamed by a newspaper, go to court, but there are pluses and minuses. The court
22 may, in a defamation case, give you - and indeed will give you - every opportunity to
23 set the record straight. One of the down sides is that you can be cross-examined. I use it
24 simply as an analogy because in a case like this where a person who has been found to
25 be an infringement and fined, decides to appeal it is saying to the Tribunal: "We think
26 that we are innocent, and we will prove that". But alongside that goes the right of the
27 OFT, and indeed the duty, to prove its case. It must prove it with witnesses. That is the
28 only way known to English law in which disputes of this kind can be resolved.

29 These are not matters of high finance and economic expert opinion as would
30 perhaps be the case where one is deciding the size of a market. These are matters in
31 which there are basic disputes between the witnesses, between the people who say there
32 was collusion to fix prices, and those who say there was not. It is inevitable in a case
33 like this that witnesses will be called.

34 It may be desirable in future cases for the OFT to obtain witness statements at
35 an early stage so that they can be put before the parties. But this is not an obvious truth
36 and, indeed, I just want to draw attention to something that has only happened in the
37 last few days which is that one of the documents, or categories of documents, which
38 were sought by Littlewoods - it is not being persisted in - was documents which

1 concern the negotiations leading up to the grant of leniency towards Hasbro. They say
2 the reason why they are entitled to see those documents is because they say in a letter
3 of 17th September, this year, is that the negotiations leading up to the leniency grant
4 are relevant to the question of whether the witnesses are telling the truth, and whether
5 underlying their evidence may be a motive to obtain leniency. They say therefore that
6 those documents ought to be disclosed.

7 In this case, of course, the short answer to that is that the leniency procedure
8 was gone through and ended months before the witnesses were approached to give
9 evidence. The witnesses were only approached to give evidence, and only gave their
10 witness statements something like six months after the leniency procedure had been
11 concluded. But one can see immediately the difficulty that if witness statements had
12 been obtained during the course of the inquiry at a time when possibly the leniency
13 procedure was proceeding it would be open to applicants in the future to allege that
14 these witness statements are coloured by the fact that at the time they were given the
15 question of leniency was one uppermost on their employer's mind. Therefore, it is not
16 obvious that witness statements should be obtained at any particular stage and as I
17 have---

18 THE PRESIDENT: Mr Doctor, how does this bear on the technical issue we have at the
19 moment as to what we should do, if anything, with the existing Decision?

20 MR DOCTOR: As a result of what has happened, as the result of the fact that eventually
21 witnesses were going to be called, witness statements were put in place, the Tribunal
22 came up with a procedure whereby these witness statements could be put before the
23 applicants, consonant with the view that the Tribunal took of the Rule 14 procedure.
24 The procedure was that the case would be remitted, and it was remitted, and the
25 Tribunal envisaged that the applicants would be given an opportunity to consider the
26 OFT's response to the witness statements, or their inferences, beliefs, conclusions
27 drawn from the witness statements on the basis of those witness statements.

28 The underlying submissions which my learned friend has made are that in some
29 way OFT is acting beyond its powers, that it is acting unfairly, that it is acting high-
30 handedly, that it has used the situation to its advantage to deal with, for example,
31 matters referred to in the Notice of Appeal and so on. All of that we say must be seen in
32 the context of what has happened. Because there are witnesses, because the case cannot
33 be proved without witness statements under English Law, the Tribunal has devised a
34 procedure for sending it back. But the OFT was confronted with the situation where it
35 has to consider the matter in the light of these witness statements. It could have simply
36 sent the witness statements to the applicants and said "Here they are, they support our
37 case. What do you say to that?"

38 There would then have been a response saying "We do not agree", or there may

1 have been more, we do not know. The OFT would then have had to amend its
2 decision. What would then have happened is that what you now see, the proposed
3 Decision, would have appeared at that stage and we would have been back to square
4 one with complaints that the new decision had never been seen before, had never been
5 commented on and so on.

6 What we have done, we think, is the fairest way of dealing with it. It is not
7 intended to be high handed. Indeed, it is intended to be helpful, but to be realistic this is
8 not a game, the OFT is required to apply its mind properly to these things. In the light
9 of the witness statements, which in some respects go further than what the witness said
10 before, because the witness feels that he wants to tell the Tribunal why he says
11 something, which he previously may have expressed in a sentence. If they are to be
12 dealt with properly the OFT should give the applicant the full opportunity of seeing
13 what the OFT makes of that. If they need more time that is a matter for the Tribunal
14 and that we have no objection to.

15 But we have redone and amended the original Decision so as to incorporate the
16 witness statements. We have taken out references to the interview notes which were
17 previously objected to. In that respect we have responded to the objections and the
18 Notice of Application, and all of this is now available to them to comment on and
19 respond to. It is simply a matter of time in so far as there has been additional costs, of
20 course, we can come to that later, and that can also be catered for in a fair manner. But
21 there is nothing at all unfair about what we have done.

22 We have complied with the Tribunal's order in what we think is the fairest way
23 - any other way would have given rise to other objections, and we believe what would
24 have happened in the normal course is that the proposed amended Decision would be
25 commented on. We would then finalise the Decision in the light of those comments and
26 all the material we now know about, and a new Decision would have been given.
27 Obviously at that stage it would replace the existing Decision. So we do not think that
28 this application was necessary or that it will have any practical results. My learned
29 friend was asked to suggest the practical results and instead of suggesting the practical
30 results, the only one of which I think was interest, he made four brief references to the
31 OFT's irregularity and impropriety - none of which are practical results.

32 That has led me, perhaps at greater length than I had hoped, to try and redress
33 that. But if we are simply talking about the practical results - of course there is a
34 practical result of setting aside the notice because the Tribunal's discretion is that
35 interest must run from a date no earlier than the Notice of Application. If, in fact, the
36 previous Decision is set aside there will, in fact, be a new Notice of Application
37 formally, and it seems to follow that interest (if it runs at all) will not ultimately run
38 from an earlier date. But that argument could have been made whether the Notice was

1 set aside or not, because ultimately it is a question of fairness and propriety for the
2 Tribunal.

3 So we say there are no practical consequences, other than one of time, and that
4 is what we are coming on to. We should leave aside at the moment all questions of
5 impropriety, irregularity, unfairness, and so on, because we are not trying to be unfair,
6 we are trying to be fair, and there is no concrete example of fairness that has been
7 given, other than to point to the fact that the Decision has ben amended in certain ways.

8 MR BREALEY: Very briefly, quite simply it is obviously not a game, but there are rules,
9 and we submit - I think quite correctly - that the Office has breached the rules, and it is
10 as simple as that. We do not see why we should have an existing Decision and be faced
11 with this new Rule 14 Notice when they have breached the rules - at the last case
12 management conference everyone was agreed this was not the a general remittal.

13 THE PRESIDENT: Yes, thank you, Mr Brealey.

14 **[The Tribunal confer]**

15 THE PRESIDENT: I think we will rule on this point straightaway.

16 **(For Ruling see separate transcript)**

17 THE PRESIDENT: That takes us to confidentiality, I think, Mr Green.

18 MR GREEN: Confidentiality, I think as far as we are concerned we are neutral as to
19 whether it is done by order of the Tribunal or informally. Mr Doctor's skeleton says
20 they will produce the documents by the end of this week, and that is satisfactory. We
21 need not get into the rights or wrongs of why they have been delayed - we are going to
22 get them, and we are going to get them before the end of this week.

23 THE PRESIDENT: On this issue of confidentiality the Tribunal is obviously pleased that
24 the parties have been able to make progress in this matter. If and in so far as matters
25 can proceed as between all the parties without the Tribunal's intervention that would
26 seem to us to be appropriate.

27 MR GREEN: And likewise to us. The only circumstance in which a problem might arise
28 was if we perforce had to seek clients' instructions as to the meaning of some figures,
29 and Hasbro then said "We refuse that permission". But I am hopeful that if it is made
30 available to lawyers we will be able to unravel them without having to go beyond that,
31 but without seeing the documents it is not possible to be definitive, but I hope we can
32 do that.

33 THE PRESIDENT: Yes. I think the Tribunal would, however, take this opportunity to signal
34 that in a case such as the present, where penalties are imposed, there is an obvious
35 delicate issue as to how far it is appropriate for confidentiality to be claimed for
36 documents that might be relevant to the defence, and if an issue of confidentiality is not
37 sorted out then it may be necessary for that Tribunal to consider that issue further. We
38 would therefore hope that it is sorted out on the basis of as full a disclosure as is

1 possible.

2 In accordance with what I have just said it may well be an issue which, if not
3 sorted out, better wait until the appeal rather than the Tribunal making an attempt to
4 sort it out in the course of the administrative procedure. But we would just like to make
5 that caveat that the confidentiality ring in this particular case may not be the end of the
6 story.

7 MR GREEN: And I think for our part - just to put down a marker - there may be other
8 documents which, if this matter does come back to the Tribunal, we would then be
9 seeking from Hasbro. The documents we have sought at the moment are not necessarily
10 the exhaustive category.

11 THE PRESIDENT: Well, let us see what happens if and when an appeal comes back to the
12 Tribunal.

13 MR GREEN: Yes, we are happy to deal with it in that way.

14 THE PRESIDENT: Mr Doctor, I am sure you are aware of the general drift behind our
15 comments on confidentiality.

16 MR DOCTOR: Yes, I am.

17 THE PRESIDENT: Thank you very much.

18 MR GREEN: The third issue on the agenda concerns this issue of manuscript markings on
19 documents which is something of a vexed issue for us, because we are having trouble
20 deciphering whose manuscript markings actually are placed upon the documents. Can I
21 give you just a few examples, because there are a number of quite troubling examples
22 across the documents. But if one takes the supplementary Rule 14----

23 MR DOCTOR: May I intervene just to cut it short?

24 THE PRESIDENT: Yes, of course.

25 MR DOCTOR: I repeat on instructions that we have looked at the list that they put before
26 us and we say that none of them, as far as we are aware are our markings, but I am
27 instructed to give an even greater offer, that if we can be of assistance, and we know
28 whose the marking is we will say whose we think it is - there is one which we think is
29 Mr Wilson's marking on a document, but it would advance nothing at all for the
30 Tribunal to have a look at these markings. If we can be of assistance we will help them
31 to say who we think it is.

32 THE PRESIDENT: Thank you, Mr Doctor. I think, Mr Green, that this sort of issue is an
33 issue that it is very difficult for the Tribunal to go into at this stage, even if we have
34 jurisdiction to do so which I am not at all clear we do. It is a matter that the Office has
35 said it will do its best to sort out in the course of the administrative procedure. If it is
36 not sorted out and there are points you wish to raise on the appeal, it is probably in the
37 context of the appeal that you need to raise them.

38 MR GREEN: That is certainly one way of looking at it. When it comes to cross-

1 examination of course it may be crucial to know who put a manuscript marking and
2 who emphasised certain words. But we wrote a letter to the OFT, we got no response.
3 In the skeleton they simply say airily: "As far as we are concerned there are none".
4 There plainly are OFT markings, but I am not going to get into that now. We will send
5 the letter to the OFT, setting out our comments and if they can assist then I think that
6 will resolve it at this stage.

7 THE PRESIDENT: I think that is probably as far as we can take it at the moment.

8 MR GREEN: There are two other matters, one is timetabling, the other is costs generally.
9 So far as timetabling is concerned, I do not know what Mr Brealey's position is, but so
10 far as we are concerned we will receive these documents by the end of this week, we
11 are confident we can produce a response to the Rule 14 within the next two weeks, so
12 the suggested date of 24th October is satisfactory for us, but I do not know how Mr
13 Brealey stands.

14 THE PRESIDENT: Well the OFT has suggested a timetable in paragraph 12 of its skeleton,
15 and I gather that is a timetable you at least are content with?

16 MR GREEN: Well as matters stand, yes. The only comment we would make is that we are
17 by no means certain at this stage that we can see any benefit in an oral hearing in front
18 of the OFT and it may be that we will be suggesting that the Decision timetable could
19 be brought forward substantially, and that is something that we would wish certainly
20 my learned friends to consider.

21 THE PRESIDENT: Yes, what is your position on timetable, Mr Brealey?

22 MR BREALEY: I had originally been instructed we need an extra couple of weeks. Two
23 weeks in the scheme of things in my submission I do not think is going to make a great
24 deal of difference.

25 THE PRESIDENT: Well at the moment, particularly in the light of Mr Green's comments
26 the timetable suggested by the OFT seems reasonable to us, so perhaps you would take
27 instructions on why you need more time.

28 MR BREALEY: Well, you have seen from the redline version of the proposed Decision
29 that it is substantially different and raises substantially new facts and we have to take
30 instructions from the witnesses, we have to question Mr Duddy. It may well be - I did
31 not know this for Mr Green - that we will dispense with the oral hearing.

32 THE PRESIDENT: Would you like to just take instructions and see what the position really
33 is.

34 **(Counsel takes instructions)**

35 MR BREALEY: If I could suggest that we have any amended version of the Decision by
36 7th November.

37 THE PRESIDENT: By what date do you wish to put in any further written representations?

38 MR BREALEY: 24th October.

1 THE PRESIDENT: That is acceptable?
2 MR BREALEY: Well, that is acceptable - we are going to dispense with an oral hearing.
3 THE PRESIDENT: I see, you are renouncing an oral hearing?
4 MR BREALEY: Yes.
5 THE PRESIDENT: You are clear about that? You have instructions to that effect?
6 MR BREALEY: That is what have just been speaking about - provided that the Decision
7 can be adopted sooner than later, the sooner we can get on with this----
8 THE PRESIDENT: Yes, I see.
9 MR BREALEY: It is the quid pro quo, we want it to be done as speedily as possible, but
10 obviously we need time to do it properly, so we can air these issues before the Tribunal.
11 THE PRESIDENT: Yes. You are not conceding anything---
12 MR BREALEY: We are not conceding anything.
13 THE PRESIDENT: ---you just want to get on with it as fast as you can.
14 MR BREALEY: Yes, which is what the Tribunal, I think, wants. So we would propose a
15 Decision by 7th November, and Littlewoods, as I understand, are at least informally are
16 dispensing with an oral hearing.
17 MR GREEN: I can confirm we have no intention to seek an oral hearing, so we can bring
18 forward the date of the Decision perhaps.
19 THE PRESIDENT: We could recite in any Order of the Tribunal that both parties have
20 intimated that they are not seeking an oral hearing.
21 MR GREEN: Yes.
22 MR BREALEY: Yes.
23 THE PRESIDENT: And that is on express instructions?
24 MR GREEN: It is certainly on express instructions on my part.
25 THE PRESIDENT: Mr Brealey, you are in a position to put in your written representations
26 by 24th October?
27 MR BREALEY: We will do that, yes.
28 THE PRESIDENT: You are not seeking an oral hearing?
29 MR BREALEY: No, Sir.
30 THE PRESIDENT: But you are asking for the Decision by 7th November?
31 MR BREALEY: Yes, so that we can get on as quickly as possible with the appeal.
32 THE PRESIDENT: Before the Tribunal, yes. Thank you. Mr Doctor?
33 MR DOCTOR: Sir, we have asked for four weeks, the original order gave us four weeks.
34 Effectively, if there had been the oral representations there would, in fact, have been
35 six weeks to consider the written representations, and we think it is just impractical to
36 try to do this in less than four weeks, so we are asking for four weeks. That would take
37 us, I think, to 21st November and we would ask for that period of time. Certainly, the
38 time suggested by Mr Brealey, 7th November, gives us two weeks, which is simply

1 impossible.

2 Before the Tribunal says anything, can I also just enter one small reservation,
3 just to do it, but I do not think it is going to be a problem. Of course, Hasbro is a party
4 to all of this and therefore theoretically it also is entitled to make representations and is
5 entitled to an oral hearing. We will tell them about it but I do not anticipate that they
6 will seek to exercise any of those rights - if they do we might have to come back here,
7 but I just mention it---

8 THE PRESIDENT: I think the way to deal with that is for you to let us know.

9 MR DOCTOR: Yes, we will not raise it. If no one hears from us you can take it that that
10 has been cleared and there is no problem. If there is a problem then we will have to
11 raise it, but we do not anticipate there is going to be.

12 THE PRESIDENT: Yes, thank you. As far as the future timetable of the proceedings is
13 concerned, the parties are agreed that they are in a position to put in written
14 representations to the supplemental notice by 24th October, 2003, so we fix that as the
15 deadline for that. The parties have both intimated that they do not seek an oral hearing
16 so there needs to be no order of the Tribunal in relation to the timing of any oral
17 hearing.

18 That just leaves the date by which any amended version of the Decision is
19 issued, taking account of the procedure. The appellants request that the amended
20 Decision should be issued by 7th November, and the OFT suggest 21st November. Our
21 view is that it is reasonable for the OFT to seek four weeks between the date on which
22 the written representations are lodged and the date of the adoption of any final
23 Decision, bearing in mind that at least in the Tribunal's view this is not an empty
24 exercise, it is an exercise where the Director will need to consider any representations
25 that are made and I take those fully into account. I would not wish to telescope the
26 procedure in the way that might jeopardise that important function of the Director to
27 still remain.

28 So the date for the adoption of any amended version of the Decision will be
29 21st November, which is in fact only one week later than the Tribunal's original Order
30 as made on 30th July. So that I think deals with the timetable of the case. There will be
31 the normal liberty to apply.

32 Just before you rise, Mr Green, to deal with the question of costs, could I also
33 take this opportunity to observe that the Tribunal is conscious that there are issues
34 floating around in this case that could, at some stage affect Hasbro and Hasbro's
35 interests. The Tribunal would simply invite, particularly, I think, the OFT to bear that
36 in mind, and it may be that at some point if there is a substantive appeal there may be
37 occasions or issues upon which it might be appropriate for Hasbro to hold a watching
38 brief or to make observations to the Tribunal, we do not yet know.

1 MR DOCTOR: Yes.
2 MR GREEN: So far as costs are concerned, I think we would suggest that all matters
3 relating to costs are wrapped up at the end of the appeal. I do not think we have
4 anything further to say so far as that is concerned.
5 THE PRESIDENT: Mr Brealey?
6 MR BREALEY: Yes. We will simply reserve the costs of today and generally for later
7 consideration at the appropriate time. The Tribunal would, however, wish to say that in
8 light of the way this case has developed the issue of costs does remain entirely open
9 and it is a matter the Tribunal will look at very closely at an appropriate stage.
10 MR DOCTOR: Thank you.
11 THE PRESIDENT: Very well. Anything else for today? Thank you all very much indeed.
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