



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1291/5/7/18 (T)

BETWEEN:

- (1) RYDER LIMITED**
(2) HILL HIRE LIMITED

Claimants

- and -

- (1) MAN SE**
(2) ~~MAN TRUCK & BUS SE~~
(3) ~~MAN TRUCK & BUS DEUTSCHLAND GMBH~~
(4) ~~MAN TRUCK AND BUS UK LIMITED~~
(5) AB VOLVO (PUBL)
(6) VOLVO LASTVAGNAR AB
(7) VOLVO GROUP TRUCKS CENTRAL EUROPE GMBH
(8) VOLVO GROUP UK LIMITED
(9) RENAULT TRUCKS SAS
(10) DAIMLER AG
(11) MERCEDES BENZ CARS UK LIMITED
**(12) STELLANTIS N.V. (FORMERLY FIAT CHRYSLER AUTOMOBILES
N.V.)**
(13) CNH INDUSTRIAL N.V.
(14) IVECO S.P.A.
(15) IVECO MAGIRUS AG
(16) IVECO LIMITED
(17) PACCAR INC.
(18) DAF TRUCKS N.V.
(19) DAF TRUCKS DEUTSCHLAND GMBH
(20) DAF TRUCKS LIMITED

Defendants

ORDER

UPON the Defendants' application for specific disclosure from the Claimants dated 13 June 2022 (“Application”)

AND UPON the Claimants confirming in their evidence in response to the Application that they will provide the Defendants with the relief sought in respect of category PO5(f)/2 by 20 July 2022

AND UPON the following further definitions applying for the purposes of this Order:

“Claimants’ Disclosure Statement” means the Disclosure Statement of the First and Second Claimants dated 3 September 2021

“Further Initiatives” means the six programmes listed in paragraph 2 of the document with disclosure number RYDER004455

“Redfern Schedule” means the Redfern Schedules enclosed with the Defendants' Application dated 13 June 2022, setting out the Defendants' requests for disclosure in respect of the pass-on, mitigation and loss of profit categories.

“Ryder Custodian Data” means the email custodian data of Peter Backhouse and David Hunt

IT IS ORDERED THAT:

Supply Pass-on

1. By 20 July 2022, the Claimants shall undertake the searches requested by the Defendants in respect of category PO5(f)/2 in the Redfern Schedule, provide disclosure of any relevant documents located as a result of those searches, and provide a consolidated Disclosure Statement which describes the searches undertaken, including why they are reasonable and proportionate.
2. Save as set out in paragraph 1 above, the Defendants’ application for specific disclosure in respect of category PO7 is dismissed.

Mitigation

3. Within 6 weeks of the date of this Order, the First Claimant shall undertake the following searches and disclose any documents responsive to categories M1 and/or M5:

- (a) Searches of the Ryder Custodian Data using the proposed search terms specified at rows 2 and 4 of pp. 8-9 of the M1, M5 and LP1 Redfern Schedule; and
 - (b) Reasonable and proportionate searches of the Ryder Custodian Data for documents relevant to the Further Initiatives.
4. To the extent that any of the searches in relation to an Initiative referred to in paragraph 3(a) of this Order return fewer than 10 relevant results, the First Claimant shall consider whether any additional custodians may hold documents relevant to categories M1 and M5 in the Redfern Schedule in relation to the relevant Initiative and, insofar as it is reasonable and proportionate to do so, undertake the following searches in respect of those custodians' data and disclose any responsive documents:
- (a) The searches in relation to the relevant Initiative specified at paragraph 17.13 of Annex 1 to the Claimants' Disclosure Statement; and
 - (b) The searches specified at paragraph 3(a) of this Order.

Loss of profits

5. Within 6 weeks of the date of this Order, the First Claimant shall undertake the following searches and disclose any responsive documents:
- (a) A search of the JBA and Enrich systems and documentation for financial and operational performance information on a depot-by-depot basis in respect of the First Claimant; or
 - (b) If the information referred to in paragraph 5(a) of this Order is not available, a reasonable and proportionate search for further management commentary and other reports detailing the decision making process to close depots of the First Claimant.

General

6. The First Claimant shall provide a Disclosure Statement at the completion of the process set out in paragraphs 3-5 of this Order by an appropriate person which shall (a) set out the extent of the searches that have been made in order to locate the documents and/or information ordered to be disclosed; (b) identify any additional custodians whom it considers may hold documents relevant to the matters set out at paragraph 4 of this Order, if applicable; (c) specify the manner in which any search has been limited on reasonableness and proportionality grounds, and why; and (d) certify to the best of its knowledge and belief that the disclosure ordered has been provided.
7. There shall be liberty to apply.
8. Costs in the case.

Hodge Malek QC
Chairman of the Competition Appeal Tribunal

Made: 14 July 2022
Drawn: 14 July 2022