



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1403/7/7/21

BETWEEN:

DR. RACHAEL KENT

Class Representative

- v -

(1) APPLE INC.

(2) APPLE DISTRIBUTION INTERNATIONAL LTD.

Defendants

COLLECTIVE PROCEEDINGS ORDER

UPON receipt of the Class Representative's application for a Collective Proceedings Order pursuant to section 47B of the Competition Act 1998 (the "Act") and Rule 75 of the Competition Appeal Tribunal Rules 2015 (the "Tribunal Rules") (the "CPO Application") filed on 11 May 2021

AND UPON reading the documents recorded on the Tribunal file as having been read

AND UPON hearing Leading Counsel for the Class Representative, and Leading Counsel for the Defendants, at the hearing of the CPO Application on 4 to 5 May 2022

AND UPON the Tribunal having granted the CPO Application on 5 May 2022

IT IS ORDERED THAT:

1. Pursuant to Rules 18, 52 and 74 of the Tribunal Rules, the present collective proceedings be treated as proceedings in England and Wales.

Authorisation of the Class Representative and certification of the claims as eligible for inclusion in collective proceedings

2. Pursuant to section 47B of the Act and Rules 77 and 80 of the Tribunal Rules, Dr. Rachael Kent be authorised to act as Class Representative to continue the present collective proceedings on an opt-out basis.
3. The Class Representative's address for service is Hausfeld & Co LLP, 12 Gough Square, London EC4A 3DW (hard copy) or kenthausfeldclaim@hausfeld.com; lhannah@hausfeld.com; and lstreatfeild@hausfeld.com (email).
4. The claims certified as eligible for inclusion in the present collective proceedings pursuant to section 47B of the Act and Rules 79 and 80 of the Tribunal Rules are claims for damages for loss suffered by the Class (as defined below) as a result of the Defendants' breaches of statutory duty in infringing: (i) section 18 of the Act; and (ii) until 31 December 2020, Article 102 of the Treaty on the Functioning of the European Union.

Class Definition

5. The class is defined as follows (hereafter the "**Class**" and the "**Class Definition**"):

All iOS Device users who, during the Relevant Period, used the UK storefront of the App Store and made one or more Relevant Purchases.

6. For the purposes of the Class Definition:
 - a) "**App Store**" means Apple's proprietary app store as pre-installed on all iOS Devices.
 - b) "**Apple ID**" means the personal account iOS Device users use to access Apple services, such as the App Store, and includes the information iOS Device users use to sign in, as well as all their contact, payment and security details.
 - c) "**iOS**" means Apple's proprietary mobile operating system.

- d) “**iOS App**” means a native iOS app developed by a third-party developer (i.e. not Apple).
- e) “**iOS Device**” means an iPhone or iPad.
- f) “**iOS Device users**” includes all users of iOS Devices, whether legal or natural persons, except for:
 - i. officers, directors or employees of the Defendants, their subsidiaries and any entity in which they have a controlling interest;
 - ii. all members of the Class Representative’s and Defendants’ respective legal teams and all experts and professional advisors instructed and retained by them and all funders or insurers involved, in connection with these collective proceedings;
 - iii. all members and staff of the Tribunal, their parents, their spouses or civil partners or any persons with whom they cohabit, and their children assigned at any point to these collective proceedings;
 - iv. any judge involved in any appeal in the present collective proceedings (whether in respect of the grant of permission to appeal or the hearing of any substantive appeal), and their parents, their spouse or civil partner or any person with whom they cohabit, and their children;
 - v. any deceased person; and
 - vi. any registered corporate entity or other registered entity with legal personality which has been struck off or dissolved pursuant to the Companies Act 2006 or equivalent legislation applying outside the UK, or which has experienced the onset of insolvency within the meaning of section 240(3) of the Insolvency Act 1986 or equivalent legislation applying outside the UK, or which is dormant within the meaning of the Companies Act 2006 or equivalent legislation applying outside the UK.

g) “**Relevant Period**” means the period between 1 October 2015 and the date of final judgment or earlier settlement of the present collective proceedings.

h) “**Relevant Purchase**” means:

- i. any purchase of an iOS App in the App Store, for which an iOS Device user pays a fee to download;
- ii. any one-time purchase by an iOS Device user within an iOS App, for which the iOS Device user pays a fee; or
- iii. any recurring purchase by an iOS Device user within an iOS App, for which the iOS Device user pays a fee,

subject to the following exclusions:

- i. the in-app purchase of real-time person-to-person services between two individuals; and
 - ii. the in-app purchase of physical goods or services that will be consumed outside of the iOS App.
- i) “**UK storefront of the App Store**” means the storefront of the App Store on an iOS Device where the Apple ID associated with that iOS Device specifies the Country/Region as the UK.

Domicile Date, Opt-out and Opt-in

7. The Domicile Date is 5 May 2022, being the date on which the Tribunal granted the CPO Application.

8. Persons satisfying the Class Definition who are domiciled within the United Kingdom on the Domicile Date may opt-out of these collective proceedings by posting a letter to or emailing Epiq, the Claims Administrators appointed on behalf of the Class Representative, by 9 September 2022, at the address or email address specified online at www.appstoreclaims.co.uk.

9. Persons satisfying the Class Definition and who are domiciled outside the United Kingdom on the Domicile Date may opt-in to these collective proceedings via the opt-in form available online at www.appstoreclaims.co.uk or by posting a letter to or emailing Epiq, the Claims Administrators appointed on behalf of the Class Representative, by 9 September 2022, at the address or email address specified online at www.appstoreclaims.co.uk.

Publication

10. The Class Representative shall publicise this Collective Proceedings Order in accordance with the draft Rule 81 Notice annexed to the Re-Amended Collective Proceedings Claim Form and the proposal set out in Section 8 of the Notice and Administration Plan which is annexed to the First Witness Statement of Dr. Rachael Kent (subject to any modifications ordered in this Collective Proceedings Order).

Directions

11. The Defendants shall file and serve a consolidated Defence to the Re-Amended Collective Proceedings Claim Form by 4pm on 7 July 2022.
12. The Class Representative shall file and serve a Reply, if so advised, by 4pm on 31 August 2022.
13. A Second CMC (time estimate: 1 day) shall be listed at 10.30am on 12 September 2022 (with the morning of 13 September 2022 in reserve), before Ben Tidswell, William Bishop and Tim Frazer.

General

14. The costs of the CPO Application shall be costs in the case.
15. There be liberty to apply.

Ben Tidswell

Chair of the Competition Appeal Tribunal

Made: 29 June 2022

Drawn: 29 June 2022