



**IN THE COMPETITION
APPEAL TRIBUNAL**

Case Nos.: 1342/5/7/20

1409/5/7/21 (T)

1410/5/7/21 (T)

AND

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES**

Claim Nos: IL-2021-000002

IL-2021-000003

**INTELLECTUAL PROPERTY LIST
(ChD)**

**Mr Justice Marcus Smith
8 September 2022**

BETWEEN:

- (1) SPORTRADAR AG**
- (2) SPORTRADAR UK LIMITED**

Claimants

- v -

- (1) FOOTBALL DATACO LIMITED**
- (2) BETGENIUS LIMITED**
- (3) GENIUS SPORT GROUP LIMITED**

Defendants

- and -

- (1) SOFT CONSTRUCT (MALTA) LIMITED**
- (2) SOFT CONSTRUCT CJSC**

- (3) **SOFT CONSTRUCT UKRAINE LLC**
- (4) **SOFT CONSTRUCT LIMITED**
- (5) **VIVARIO LIMITED**

Interveners

AND BETWEEN:

FOOTBALL DATACO LIMITED

Claimant

- v -

- (1) **SPORTRADAR AG**
- (2) **SPORTRADAR UK LIMITED**
- (3) **PETER KENYON**
- (4) **ISAIAH GARDNER**
- (5) **FLOYD MARCH**
- (6) **NICK MILLS**
- (7) **PRZEMYSŁAW DUBININ**

Defendants

AND BETWEEN:

BETGENIUS LIMITED

Claimant

- v -

- (1) **SPORTRADAR AG**
- (2) **SPORTRADAR UK LIMITED**
- (3) **PETER KENYON**
- (4) **ISAIAH GARDNER**
- (5) **FLOYD MARCH**
- (6) **NICK MILLS**
- (7) **PRZEMYSŁAW DUBININ**

Defendants

ORDER

DEFINED TERMS

The “**Sportradar Claim**” refers to the entirety of Case No. 1342/5/7/20 before the Competition Appeal Tribunal

The “**FDC Claim**” refers to Case No. 1409/5/7/21 (T), which consists of the Competition Law issues in High Court Claim No. IL-2021-000002 that have been transferred to the Competition Appeal Tribunal pursuant to the High Court Order made by the Honourable Mr Justice Marcus Smith dated 22 June 2021 (the “Transfer Order”)

The “**Genius Claim**” refers to Case No. 1410/5/7/21 (T), which consists of the Competition Law issues in High Court Claim No. IL-2021-000003 that have been transferred to the Competition Appeal Tribunal pursuant to the Transfer Order

The term “**CAT Proceedings**” refers to the Sportradar Claim together with the FDC Claim and Genius Claim

The “**FDC HC Claim**” refers to High Court Claim No. IL-2021-000002 insofar as that claim consists of non-Competition Law issues

The “**Genius HC Claim**” refers to High Court Claim No. IL-2021-000003 insofar as that claim consists of non-Competition Law issues

The term “**HC Proceedings**” refers to the FDC HC Claim and the Genius HC Claim

RECITALS

UPON the Tribunal’s Order made by consent on 1 June 2020 establishing a confidentiality ring in the CAT Proceedings (the “**CAT Confidentiality Ring Order**”)

AND UPON the High Court Orders of the Honourable Mr Justice Marcus Smith dated 14 August 2021 and 30 January 2022 establishing equivalent confidentiality rings in the Genius HC Claim and the FDC HC Claim respectively (each, the “**HC Confidentiality Ring Order**” and together the “**HC Confidentiality Ring Orders**”)

AND UPON hearing the counsel for the parties at a pre-trial review (“**PTR**”) held remotely on 28 July 2022 before the Honourable Mr Justice Marcus Smith (“**the Judge**”) sitting in his capacities as: (i) a Chairman of the Tribunal for the purposes of the CAT Proceedings; and (ii) a Judge of the High Court for the purposes of the HC Proceedings, and dealing with those various proceedings together

AND UPON agreement between the parties as to the terms of this Order

AND UPON this Order being made by the Judge in his capacities as President of the Competition Appeal Tribunal for the purposes of the CAT Proceedings and a Judge of the High Court for the purposes of the HC Proceedings

AND HAVING REGARD TO the Tribunal's power pursuant to Rules 53 and 101 of the Competition Appeal Tribunal Rules 2015

AND HAVING REGARD TO rule 31.22 of the Civil Procedure Rules

IT IS ORDERED BY CONSENT THAT:

1. The CAT Confidentiality Ring Order shall be varied to insert the following paragraph:

“1A. PARTY REPRESENTATIVES

1A.1 Insofar as a nominated individual representative of a party is requested to be admitted to the Confidentiality Ring provided for in the CAT Confidentiality Ring Order (rather than a lawyer or economist who is external to the parties):

- (a) that individual is to give an undertaking the terms of which are based on Part B of the Schedule to the CAT Confidentiality Ring Order but with the modifications agreed between the parties to be appropriate in the case of nominated individual representatives who are not external lawyers or economists as appended at Annex A to this Order; and
- (b) the party (or parties) of which the individual is a nominated representative shall give an undertaking in the form agreed between the parties to be appropriate as appended at Annex B to this Order; and
- (c) that nominated individual representative will not have access to Confidentiality Ring Information save for the purposes of giving instructions and in accordance with the regime ordered by the Judge at the PTR, on the terms since agreed between the parties.”

2. The HC Confidentiality Ring Orders each shall be varied to insert the following paragraph:

“1A. PARTY REPRESENTATIVES

1A.1 Insofar as a nominated individual representative of a party is requested to be admitted to the Confidentiality Rings provided for in the HC Confidentiality Ring Orders (rather than a lawyer or economist who is external to the parties):

- (a) that individual is to give an undertaking the terms of which are based on Part B of the Schedule to the HC Confidentiality Ring Orders but with the modifications agreed between the parties to be appropriate in the case of nominated individual representatives who are not external lawyers or economists as appended at Annex A to this Order; and
- (b) the party (or parties) of which the individual is a nominated representative shall give an undertaking in the form agreed between the parties to be appropriate as appended at Annex B to this Order; and
- (c) that nominated individual representative will not have access to Confidentiality Ring Information save for the purposes of giving instructions and in accordance with the regime ordered by the Judge at the PTR, on the terms since agreed between the parties.”

3. There be liberty to apply.

The Hon Mr Justice Marcus Smith
President of the Competition Appeal Tribunal

Made: 8 September 2022
Drawn: 8 September 2022

Service of the Order

The Court has provided a sealed copy of this order to the serving party:

Claimant's Solicitors:

DLA Piper UK LLP
(for Football Dataco Limited)
160 Aldersgate Street
London EC1A 4HT

Macfarlanes LLP
(for BetGenius Limited)
20 Cursitor Street
London EC4A 1LT

ANNEX A
INDIVIDUAL UNDERTAKING
(TO BE PROVIDED BY NOMINATED INDIVIDUAL REPRESENTATIVES AS
CONFIDENTIALITY RING MEMBERS
IN THE CAT PROCEEDINGS)

PENAL NOTICE

If you do not comply with the undertakings below, you may be held to be in contempt of court and imprisoned or fined, or your assets may be seized.

If you do not understand anything in this document, you should not sign it unless and until you have had it explained to you by a solicitor or barrister and have understood.

By signing this document, you confirm that you have understood its content and the serious consequences of non-compliance.

In respect of any Confidentiality Ring Information disclosed to them pursuant to this Order, each Confidentiality Ring Member undertakes that they will comply with the following requirements, to the extent applicable to them, in the terms below.

I, **[insert name]** of **[insert role and organisation]**, being a person from whom instructions may reasonably be sought on behalf of **[insert relevant party]** by its external legal team in connection with these proceedings and for which purpose it may be necessary for me to be shown Confidentiality Ring Information, undertake to the Tribunal and each of the parties as follows:

1. I have read a copy of the CAT Confidentiality Ring Order of 1 June 2020, the transcript of the Pre-Trial Review hearing on 28 July 2022, and the Order of the Tribunal dated 8 September 2022 (the “**Orders**”) and understand the terms of the Orders and the implications of giving this undertaking (including for my business role), and of the accompanying penal notice in the event that I breach the undertaking, having had the Orders and this undertaking shown to me and their provisions explained to me by **[insert relevant party]’s [Queen’s Counsel] OR [[insert name of Partner], a Partner at [insert firm] with conduct of these proceedings on behalf of [insert relevant party]**].

2. I have read Rule 102 of the Competition Appeal Tribunal Rules 2015 and am aware of and will comply with the obligations imposed by that Rule, having had the Rule shown and explained to me by **[insert relevant party]’s [Queen’s Counsel] OR [[insert name of Partner], a Partner at [insert firm] with conduct of these proceedings on behalf of [insert relevant party].**

3. I will not disclose Confidentiality Ring Information to any person who is not a Confidentiality Ring Member, including by either: (i) reading it out in open proceedings (except to the extent that I am aware of the same information from another document that does not constitute “Confidential Information” and that was not obtained in breach of this undertaking or of the CAT Confidentiality Ring Order); or (ii) viewing the Confidentiality Ring Information in an environment in which it may be seen by non-Confidentiality Ring Members.

4. I will use the Confidentiality Ring Information only for the purpose of giving instructions in the CAT Proceedings, the HC Proceedings (if applicable) and, for the avoidance of doubt, for the purpose of no other current or future proceeding or proceedings, dispute, complaint, and for no commercial purpose including input (whether legal or commercial) into strategic or commercial decisions, negotiations or discussions with customers, right holders or other commercial entities, or the terms of any contracts or bids, nor any other use whatsoever in any jurisdiction except to the extent that:
 - (a) I am aware of the same information from another document that does not constitute “Confidential Information” and that was not obtained in breach of this undertaking or of the CAT Confidentiality Ring Order); or

 - (b) the document has been read to or by the Tribunal, or referred to, at a hearing which has been held in public, unless such document or information within a document has been designated as remaining confidential or otherwise identified as not to be publicly disclosed or publicly referred to; or

 - (c) the Tribunal gives permission; or

- (d) the party who disclosed the document and the person to whom the document belongs agree.
5. I will not produce any copies of any documents containing Confidentiality Ring Information, including by either: (i) downloading or taking photos or screenshots of any document containing Confidentiality Ring Information; or (ii) viewing Confidentiality Ring Information in an environment in which it may be seen by non-Confidentiality Ring Members.
6. I understand that [**name of solicitors' firm / Queen's Counsel**] will keep a register [**subject to [Queen's Counsel's] supervision**] listing all documents containing Confidentiality Ring Information which have been shown or provided to me and that a copy of that register will be provided to all parties to the proceedings following the conclusion of the CAT and HC proceedings.

DECLARATION

I understand the undertaking that I have given, and that if I break any of my promises to the Tribunal, I may be fined, my assets seized or I may be sent to prison for contempt of court.

Signed:

Name:

Date:

ANNEX A
INDIVIDUAL UNDERTAKING
(TO BE PROVIDED BY NOMINATED INDIVIDUAL REPRESENTATIVES AS
CONFIDENTIALITY RING MEMBERS
IN THE HC PROCEEDINGS)

PENAL NOTICE

If you do not comply with the below undertakings, you may be held to be in contempt of court and imprisoned or fined, or your assets may be seized.

If you do not understand anything in this document, you should not sign it unless and until you have had it explained to you by a solicitor or barrister and have understood.

By signing this document, you confirm that you have understood its content and the serious consequences of non-compliance.

In respect of any Confidentiality Ring Information disclosed to them pursuant to this Order, each Confidentiality Ring Member undertakes that they will comply with the following requirements, to the extent applicable to them, in the terms below.

I, **[insert name]** of **[insert role and organisation]**, being a person from whom instructions may reasonably be sought on behalf of **[insert relevant party]** by its external legal team in connection with these proceedings and for which purpose it may be necessary for me to be shown Confidentiality Ring Information, undertake to the Court and each of the parties as follows:

1. I have read copies of each of the HC Confidentiality Ring Orders of 14 August 2021 and 30 January 2022, the transcript of the Pre-Trial Review hearing on 28 July 2022, and the Order of the Court dated 8 September 2022 (the “**Orders**”) and understand the terms of those Orders and the implications of giving this undertaking (including for my business role), and of the accompanying penal notice in the event that I breach the undertaking, having had the Orders and this undertaking shown to me and their provisions explained to me by **[insert relevant party]’s [Queen’s Counsel] OR [[insert name of Partner], a Partner at [insert firm] with conduct of these proceedings on behalf of [insert relevant party].**

2. I will not disclose Confidentiality Ring Information to any person who is not a Confidentiality Ring Member, including by either: (i) reading it out in open proceedings (except to the extent that I am aware of the same information from another document that does not constitute “Confidential Information” and that was not obtained in breach of this undertaking or of the HC Confidentiality Ring Orders); or (ii) viewing the Confidentiality Ring Information in an environment in which it may be seen by non-Confidentiality Ring Members.

3. I will use the Confidentiality Ring Information only for the purpose of giving instructions in the HC Proceedings and the CAT Proceedings (if applicable) and, for the avoidance of doubt, for the purpose of no other current or future proceeding or proceedings, dispute, complaint, and for no commercial purpose including input (whether legal or commercial) into strategic or commercial decisions, negotiations or discussions with customers, right holders or other commercial entities, or the terms of any contracts or bids, nor any other use whatsoever in any jurisdiction except to the extent that:
 - (a) I am aware of the same information from another document that does not constitute “Confidential Information” and that was not obtained in breach of this undertaking or of the HC Confidentiality Ring Orders); or
 - (b) the document has been read to or by the Court, or referred to, at a hearing which has been held in public, unless such document or information within a document has been designated as remaining confidential or otherwise identified as not to be publicly disclosed or publicly referred to; or
 - (c) the Court gives permission; or
 - (d) the party who disclosed the document and the person to whom the document belongs agree.

4. I will not produce any copies of any documents containing Confidentiality Ring Information, including by either (i) downloading or taking photos or screenshots of any document containing Confidentiality Ring Information; or (ii) viewing Confidentiality Ring Information in an environment in which it may be seen by non-Confidentiality Ring Members.

5. I understand that **[name of solicitors' firm / Queen's Counsel]** will keep a register **[subject to [Queen's Counsel's] supervision]** listing all documents containing Confidentiality Ring Information which have been shown or provided to me and that a copy of that register will be provided to all parties to the proceedings following the conclusion of the CAT and HC Proceedings.

DECLARATION

I understand the undertaking that I have given, and that if I break any of my promises to the Court, I may be fined, my assets seized or I may be sent to prison for contempt of court.

Signed:

Name:

Date:

ANNEX B
CORPORATE UNDERTAKING
(IN SUPPORT OF NOMINATED INDIVIDUAL UNDERTAKINGS
IN THE CAT PROCEEDINGS)

PENAL NOTICE

If the entity on behalf of which you are giving the below undertakings (or one of its officers or directors) fails to comply with them, it may be held to be in contempt of court and fined, or its assets may be seized (and additionally in the case of an officer or director, be imprisoned).

If you do not understand anything in this document, you should not sign it unless and until you have had it explained to you by a solicitor or barrister and have understood.

By signing this document, you confirm that you have understood its content and the serious consequences of non-compliance.

This undertaking is given on behalf of **[insert relevant party/ies]** for the purposes of the CAT Confidentiality Ring Order dated 1 June 2020 as amended by the Order of the Tribunal dated 8 September 2022 and the admission to the Confidentiality Ring of nominated individual representatives of **[insert relevant party/ies]** to the Confidentiality Ring in accordance with the confidentiality regime ordered by the Judge at the Pre-Trial Review hearing on 28 July 2022 (the “Orders”). **[insert individual name(s)]** will be persons nominated by **[insert relevant party/ies]** who have given individual undertakings to the Tribunal and who have been admitted to the Confidentiality Ring pursuant to the terms of the Orders.

[I / We], **[insert name(s)]**, being **[an]** authorised **[signatory / signatories]** of **[insert relevant party/ies]** and capable of binding it, undertake to the Tribunal and each of the parties on **[insert relevant party]**’s behalf as follows:

1. **[I / We]** have read a copy of the CAT Confidentiality Ring Order, the transcript of the Pre-Trial Review hearing on 28 July 2022, and the Order of the Tribunal dated 8 September 2022 and understand the terms of the Orders and the implications of **[insert relevant party]** giving this undertaking, having had the Orders shown to **[me/us]** and their provisions, including the terms of this undertaking, explained to

[me/us] by [insert relevant party]’s [Queen’s Counsel] OR [[insert name of Partner], a Partner at [insert firm] with conduct of these proceedings on behalf of [insert relevant party].

2. **[I / We] have read Rule 102 of the Competition Appeal Tribunal Rules 2015 and [am/are] aware of the obligations imposed by that Rule, having had the Rule shown and explained to [me/us] by [insert relevant party]’s [Queen’s Counsel] OR [[insert name of Partner], a Partner at [insert firm] with conduct of these proceedings on behalf of [insert relevant party].**
3. **[insert relevant party] will procure that its officers and employees (including or additionally, without limitation, the nominated individual representatives other than external lawyers and economists who are admitted to the Confidentiality Ring):**
 - (a) will not disclose Confidentiality Ring Information to any person who is not a Confidentiality Ring Member, including by either: (i) reading it aloud (except to the extent that they are aware of the same information from another document that does not constitute “Confidential Information” and that was not obtained in breach of this undertaking or of the CAT Confidentiality Ring Order); or (ii) viewing the Confidentiality Ring Information in an environment in which it may be seen by non-Confidentiality Ring Members;
 - (b) will use the Confidentiality Ring Information only for the purpose of giving instructions in the CAT Proceedings, the HC Proceedings (if applicable) and, for the avoidance of doubt, for the purpose of no other current or future proceeding or proceedings, dispute, complaint, and for no commercial purpose including input (whether legal or commercial) into strategic or commercial decisions, negotiations or discussions with customers, right holders or other commercial entities, or the terms of any contracts or bids, nor any other use whatsoever in any jurisdiction except to the extent that:
 - (i) they are aware of the same information from another document that does not constitute “Confidential Information” and that was not obtained in

breach of this undertaking or of the CAT Confidentiality Ring Order);
or

- (ii) the document has been read to or by the Tribunal, or referred to, at a hearing which has been held in public, unless such document or information within a document has been designated as remaining confidential or otherwise identified as not to be publicly disclosed or publicly referred to; or
 - (iii) the Tribunal gives permission; or
 - (iv) the party who disclosed the document and the person to whom the document belongs agree; and
- (c) shall not produce any copies of any documents containing Confidentiality Ring Information, including by downloading or taking photos or screenshots of any document containing Confidentiality Ring Information.

4. **[Name of solicitors' firm / Queen's Counsel]** will keep a register listing, **[subject to [Queen's Counsel's] supervision]** in respect of each individual representative of **[Party/ies]** who has been admitted to the Confidentiality Ring, all documents containing Confidentiality Ring Information which have been shown or provided to that person. A copy of that register will be provided to all parties to the proceedings following the conclusion of the CAT and HC Proceedings.

DECLARATION

[I / We] understand the undertaking that **[I / We]** have given on behalf of **[insert relevant party/ies]**, and that if it (or one of its directors or officers) breaks any of its promises to the Tribunal, then it (or the director or officer) may be fined, or have its assets seized, or imprisoned.

Signed:

Name:

Role:

Date:

[Signed:

Name:

Role:

Date:]

ANNEX B
CORPORATE UNDERTAKING
(IN SUPPORT OF NOMINATED INDIVIDUAL UNDERTAKINGS
IN THE HC PROCEEDINGS)

PENAL NOTICE

If the entity on behalf of which you are giving the below undertakings (or one of its officers or directors) fails to comply with them, it may be held to be in contempt of court and fined, or its assets may be seized (and additionally in the case of an officer or director, be imprisoned).

If you do not understand anything in this document, you should not sign it unless and until you have had it explained to you by a solicitor or barrister and have understood.

By signing this document, you confirm that you have understood its content and the serious consequences of non-compliance.

This undertaking is given on behalf of **[insert relevant party/ies]** for the purposes of the Court's Confidentiality Ring Orders dated 14 August 2021 and 30 January 2022 as amended by the Order of the Court dated 8 September 2022 and the admission to the Confidentiality Ring of nominated individual representatives of **[insert relevant party/ies]** to the Confidentiality Ring in accordance with the confidentiality regime ordered by the Judge at the Pre-Trial Review hearing on 28 July 2022 (the "**Orders**"). **[insert individual name(s)]** will be persons nominated by **[insert relevant party/ies]** who have given individual undertakings to the Court and who have been admitted to the Confidentiality Ring pursuant to the terms of the Orders.

[I / We], **[insert name(s)]**, being **[an]** authorised **[signatory / signatories]** of **[insert relevant party/ies]** and capable of binding it, undertake to the Court and each of the parties on **[insert relevant party]**'s behalf as follows:

1. **[I / We]** have read copies of the HC Confidentiality Ring Orders, the transcript of the Pre-Trial Review hearing on 28 July 2022, and the Order of the Court dated 8 September 2022 and understand the terms of the Orders and the implications of **[insert relevant party]** giving this undertaking, having had the Orders shown to

[me/us] and their provisions, including the terms of this undertaking, explained to **[me/us]** by **[insert relevant party]’s [Queen’s Counsel] OR [[insert name of Partner], a Partner at [insert firm] with conduct of these proceedings on behalf of [insert relevant party].**

2. **[insert relevant party]** will procure that its officers and employees (including or additionally, without limitation, the nominated individual representatives other than external lawyers and economists who are admitted to the Confidentiality Ring):
 - (a) will not disclose Confidentiality Ring Information to any person who is not a Confidentiality Ring Member, including by either: (i) reading it aloud (except to the extent that they are aware of the same information from another document that does not constitute “Confidential Information” and that was not obtained in breach of this undertaking or of the HC Confidentiality Ring Orders); or (ii) viewing the Confidentiality Ring Information in an environment in which it may be seen by non-Confidentiality Ring Members;
 - (b) will use the Confidentiality Ring Information only for the purpose of giving instructions in the HC Proceedings and the CAT Proceedings (if applicable) and, for the avoidance of doubt, for the purpose of no other current or future proceeding or proceedings, dispute, complaint, and for no commercial purpose including input (whether legal or commercial) into strategic or commercial decisions, negotiations or discussions with customers, right holders or other commercial entities, or the terms of any contracts or bids, nor any other use whatsoever in any jurisdiction except to the extent that:
 - (i) they are aware of the same information from another document that does not constitute “Confidential Information” and that was not obtained in breach of this undertaking or of the HC Confidentiality Ring Orders); or
 - (ii) the document has been read to or by the Court, or referred to, at a hearing which has been held in public, unless such document or information within a document has been designated as remaining confidential or

otherwise identified as not to be publicly disclosed or publicly referred to; or

(iii) the Court gives permission; or

(iv) the party who disclosed the document and the person to whom the document belongs agree; and

(c) shall not produce any copies of any documents containing Confidentiality Ring Information, including by downloading or taking photos or screenshots of any document containing Confidentiality Ring Information.

3. **[Name of solicitors' firm / Queen's Counsel]** will keep a register listing, **[subject to [Queen's Counsel's] supervision]**, in respect of each individual representative of **[Party/ies]** who has been admitted to the Confidentiality Ring, all documents containing Confidentiality Ring Information which have been shown or provided to that person. A copy of that register will be provided to all parties to the proceedings following the conclusion of the CAT and HC Proceedings.

DECLARATION

[I / We] understand the undertaking that **[I / We]** have given on behalf of **[insert relevant party/ies]**, and that if it (or one of its directors or officers) breaks any of its promises to the Court, then it (or the director or officer) may be fined, or have its assets seized, or imprisoned.

Signed:

Name:

Role:

Date:

[Signed:

Name:

Role:

Date:]