



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1570/5/7/22 (T)

BETWEEN:

**JJH ENTERPRISES LIMITED**  
**(trading as ValueLicensing)**

Claimant

-and-

**(1) MICROSOFT CORPORATION**  
**(2) MICROSOFT LIMITED**  
**(3) MICROSOFT IRELAND OPERATIONS LIMITED**

Defendants

-and-

**COMPETITION AND MARKETS AUTHORITY**

Intervenors

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**ORDER**

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**UPON** the Claimant's application dated 31 March 2023 for an order that the Defendants provide further information on and clarification of certain aspects of their Defence ("the Claimant's Requests of 31 March 2023")

**AND UPON** the Defendants' application dated 26 April 2023 for an order that the Claimant provide specific disclosure

**AND UPON** the Defendants' application for a split trial, as articulated in the Defendants' letter of 6 April 2023 and skeleton argument of 4 May 2023.

**AND UPON** reading the parties' skeleton arguments and hearing Counsel for the Claimant and Counsel for the Defendants at a CMC held on 9 May 2023

**IT IS ORDERED THAT:**

**FORUM**

1. Pursuant to Rule 18 and Rule 52 and of the Tribunal Rules the proceedings be treated as proceedings in England and Wales.

**FURTHER INFORMATION / CLARIFICATION**

2. The Defendants shall provide a response to each of the Claimant's Requests of 31 March 2023 with sufficient particularity for the Claimant to understand the Defendants' case on the matters raised, by:
  - (a) 5.00pm on 19 May 2023, for all requests other than request 2; and
  - (b) 5.00pm on 2 June 2023, for request 2.

**SPECIFIC DISCLOSURE**

3. By 5.00pm on 19 May 2023, the Claimant shall give disclosure of all documents that the Claimant is presently aware both (a) are in the Claimant's possession; and (b) support or adversely affect the allegation at paragraph 48(1) of the Amended Particulars of Claim ('APoC'), and/or are relied on by the Claimant to make that allegation.
4. By 5.00pm on 20 June 2023, the Claimant shall give disclosure of all correspondence and other documents relating to FOI requests that VL has made to public authorities in the UK, and equivalent requests to European public authorities for the Relevant Territories as defined in the APoC concerning the public authorities' potential willingness to buy or sell second-hand software licences and/or seeking information on potential reasons why the public authorities would not buy or sell such licences

including questions on whether those authorities agreed to contractual terms that may limit their ability to sell such licences. For the avoidance of doubt, this includes the requests, the responses to those requests, and any related correspondence.

## **FURTHER PLEADINGS ON MARKET DEFINITION AND DOMINANCE**

5. By 5.00pm on 6 June 2023, the Defendants shall, if so advised, file and serve a statement of case (whether by way of an Amended Defence or a free-standing statement of case) further particularising their case on such issue(s).
6. By 5.00pm on 4 July 2023, the Claimant shall, if so advised, file and serve a Reply to any statement of case served pursuant to paragraph 2 above.

## **DISCLOSURE REPORTS / EDQS**

7. By 5.00pm on 30 June 2023, the parties shall file and serve (a) a disclosure report (as defined in Rule 60(1)(b) of the Tribunal Rules) and (b) a completed Electronic Documents Questionnaire (in the form of the questionnaire in the Schedule to Practice Direction 31B of the Civil Procedure Rules 1998) ('EDQ'), covering the matters in issue in the case, save for issues of market definition and dominance.
8. On or before 14 July 2023, the parties shall meet to discuss the scope of disclosure on the basis of the documents filed and served pursuant to paragraph 8 above, and seek insofar as possible to agree the orders they will invite the Tribunal to make in that respect.
9. By 5.00pm on 4 August 2023, the parties shall file and serve (a) a disclosure report (as defined in Rule 60(1)(b) of the Tribunal Rules) and (b) a completed EDQ, covering the issues of market definition and dominance.
10. On or before 8 September 2023, the parties shall meet to discuss, and seek insofar as possible to reach agreement on, the scope of disclosure on the basis of the documents filed and served pursuant to paragraph 10 above, and seek insofar as possible to agree the orders they will invite the Tribunal to make in that respect.

## **GENERAL**

11. Costs in the case.
12. Liberty to apply.

**Justin Turner KC**  
Chair of the Competition Appeal Tribunal

Made: 19 May 2023  
Drawn: 19 May 2023