



Case No: 1382/7/7/21

IN THE COMPETITION APPEAL TRIBUNAL

BETWEEN:

CONSUMERS' ASSOCIATION

Class Representative

- v -

QUALCOMM INCORPORATED

Defendant

ORDER (FURTHER DIRECTIONS)

UPON a First Request for Information served by the Class Representative on 25 November 2022 and amended on 9 January 2023 (the “**Class Representative’s Amended First RFI**”)

AND UPON a Second Request for Information served by the Class Representative on 15 June 2023 (the “**Class Representative’s Second RFI**”)

AND UPON a Third Request for Information served by the Defendant on 21 June 2023 (the “**Defendant’s Third RFI**”)

AND UPON the Class Representative’s application dated 26 June 2023 for permission to amend its Re-Amended Claim Form and for directions relating to its Second RFI and the exchange of short expert statements on methodology (the “**Class Representative’s Application**”)

AND UPON the Defendant’s application dated 26 June 2023 for directions relating to its Third RFI

AND UPON the Defendant's letter dated 27 June 2023 to the Class Representative that contains requests for further information and particulars of the Class Representative's proposed amendments concerning 5G chipsets (the "**5G Questions**")

AND UPON consideration of the parties' written submissions and hearing Leading Counsel for both parties at a case management conference held on 5 July 2023

AND HAVING REGARD TO the Tribunal's powers under the Competition Appeal Tribunal Rules 2015

IT IS ORDERED THAT:

AMENDMENTS TO THE RE-AMENDED CLAIM FORM

1. The Class Representative has permission to amend its Re-Amended Claim Form in the form enclosed with the Class Representative's Application, save that the amendments relating to the alleged 3G CDMA chipset market at §§6(ba), 53, 55, 57A, 63A, 67, 68(da) and 68(i) shall be deemed (for limitation purposes) to have been made on 26 June 2023.
2. The Re-Re-Amended Claim Form shall be filed and served by 5pm on 14 July 2023.
3. The Defendant has permission to file and serve a Re-Amended Defence by 5pm on 9 October 2023.
4. The Class Representative has permission to file and serve a Re-Amended Reply by 5pm on 6 November 2023.

FURTHER INFORMATION

5. By 5pm on 11 September 2023:
 - (a) The Class Representative shall respond to the Defendant's Third RFI and the 5G Questions.
 - (b) The Defendant shall:

- (i) respond to the requests numbered 35, 36, 37, 38 and 39 in the Class Representative's Amended First RFI; and
- (ii) state whether it admits the truth of each of the alleged facts contained in the FTC Judgment that are set out in the Annex to the Class Representative's Second RFI.

EXPERT EVIDENCE

- 6. By 5pm on 22 September 2023, the Class Representative shall file and serve a short statement of its expert methodology or methodologies (and the expert field(s) to which they relate) upon which it intends to rely at trial, by reference to its pleaded case.
- 7. By 5pm on 20 October 2023, the Defendant shall file and serve a short statement of its expert methodology or methodologies (and the expert field(s) to which they relate) upon which it intends to rely at trial, by reference to its pleaded case.
- 8. By 5pm on 17 November 2023, the parties shall provide each other with notice of:
 - (a) The number of expert witnesses they propose to call;
 - (b) Those experts' fields of expertise;
 - (c) The issues it is proposed that each of those experts should address; and
 - (d) The identity of those experts.
- 9. By 24 November 2023, the parties' experts who have provided short statements pursuant to paragraphs 6 and 7 above shall meet without the presence of their clients or the legal advisers of their clients to discuss without prejudice whether their respective methodologies converge and what, if any, further disclosure may be required.

THIRD-PARTY DISCLOSURE

10. By 5pm on 10 November 2023, the Class Representative shall file any applications that it intends to make to the Tribunal for disclosure and production of documents from third parties (“**Third Party Disclosure Applications**”).
11. The Class Representative shall provide the Defendant with copies of (i) any Third Party Disclosure Applications and (ii) any applications for disclosure and production of documents from third parties made in other jurisdictions, at the time at which any such applications are filed or made.

FURTHER HEARINGS

12. A further case management conference (“**CMC4**”) shall be listed for 9 January 2024, with a provisional time estimate of two days, to consider:
 - (a) any Third-Party Disclosure Application(s);
 - (b) the significance of FRAND issues in these proceedings and the manner in which any such questions should be tried;
 - (c) further directions to trial (including in respect of factual and expert witness evidence); and
 - (d) any other issues arising.
13. Any applications (and supporting evidence) for determination at CMC4 shall be filed and served by 5pm on 7 December 2023.
14. Any responsive evidence in respect of applications for determination at CMC4 shall be filed and served by 5pm on 15 December 2023.
15. The Tribunal’s permission is required before any party files evidence for CMC4 otherwise in accordance with paragraphs 13 and 14 above. Any such request for permission should be made to the Tribunal by 10am on 20 December 2023.

16. An agreed core bundle and CMC bundle for CMC4 shall be filed by 10am on 21 December 2023.
17. Skeleton arguments for CMC4 containing cross-references to the CMC4 bundle shall be filed and served by 4pm on 22 December 2023.
18. An agreed authorities bundle for CMC4 shall be filed by 10am on 5 January 2024.
19. A further case management conference (“**CMC5**”) shall be listed for the first available date from 8 May 2024, with a provisional time estimate of two days, to consider:
 - (a) any further or consequential disclosure applications; and
 - (b) any other issues arising.

COSTS

20. The Class Representative shall pay the Defendant’s reasonable and proportionate costs of and occasioned by its amendments to the Re-Amended Claim Form.
21. There is no order as to the Defendant’s costs of preparing the four witness statements which were filed and served by the Defendant on 29 June 2023 (and the corrected versions filed and served on 4 July 2023) and the Defendant shall pay the Claimant’s reasonable and proportionate costs of considering and responding to those witness statements.
22. Subject to paragraphs 20 and 21 above, costs in the case.

OTHER

23. The deadline for any applications for permission to appeal from the Tribunal’s decision in relation to the Class Representative’s application for permission to amend the Re-Amended Claim Form as reflected at paragraph 1 above shall be three weeks from the date of issue of the Tribunal’s written reasons for that decision, and the time limit in Rule 107(1) is varied accordingly.

24. There shall be liberty to apply.
25. Save for the deadlines in paragraphs 13 to 18 above, by agreement the parties may vary without further order any deadline in this Order provided that they inform the Tribunal of such agreement in advance of the expiry of the relevant deadline and the extension does not affect the dates of any listed hearings.

The Hon Mrs Justice Bacon
Chair of the Competition Appeal Tribunal

Made: 24 July 2023
Drawn: 25 July 2023