



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1382/7/7/21

BETWEEN:

CONSUMERS' ASSOCIATION

Class Representative

- v -

QUALCOMM INCORPORATED

Defendant

ORDER

AND UPON the Order of the Chair made on 24 July 2023 and drawn on 25 July 2023 following the third case management conference in these Proceedings on 5 July 2023 (the 'Disclosure Order')

AND UPON considering the letter from the solicitors for the Defendant dated 26 September 2023 making an application on behalf of the Defendant for an extension of the time limits under the Disclosure Order in respect of the Defendant's disclosure

AND UPON considering the letter from the solicitors for the Class Representative in Response dated 29 September 2023 and the further Reply from the Defendant thereto also dated 29 September 2023

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

IT IS ORDERED THAT:

1. Paragraph 3 of the Disclosure Order is amended to read as follows:

“To the extent that the searches specified in paragraph 1 above are to involve keyword search terms, the parties shall liaise in relation to the appropriate search terms and custodians, as follows:

- (a) By 4pm on 25 July 2023, Qualcomm will provide an updated list of proposed search terms and custodians that it proposes to search.
- (b) By 4pm on 11 August 2023, the Class Representative will provide a list of all further custodians and search terms it requests Qualcomm to search.
- (c) By 4pm on 29 September 2023, Qualcomm will provide the Class Representative with the results of Qualcomm's search term calibration exercise, and its suggested revised list of search terms and custodians.
- (d) By 4pm on 9 October 2023, and to the extent necessary, the parties shall meet to seek to agree a final list of search terms.
- (e) In the event that agreement cannot be reached pursuant to the above meeting, the parties shall submit any points in dispute by 4pm on 13 October 2023 to the Tribunal for determination.”

2. Paragraph 4 of the Disclosure Order is amended to read as follows:

“Qualcomm shall provide disclosure of any documents located as a result of the searches described in paragraph 1 above in the following tranches:

- (a) By no later than 4pm on 9 November 2023, Qualcomm shall disclose any documents located as a result of the searches described in paragraphs 1 (d), (e), (f), (g) and (h). Qualcomm shall also by 4pm on 9 November 2023 disclose any documents located from within the FTC Production Set as a result of searches described in paragraphs 1 (i) and (j).
- (b) By no later than 4pm on 21 December 2023, Qualcomm shall disclose any further documents located from within the FTC Production Set as a result of the searches described in paragraph 1 above, and the documents located as a result of the search described in paragraph 1(b).
- (c) By no later than 4pm on 1 March 2024, Qualcomm shall disclose any other documents located as a result of the searches described in paragraphs 1 (i) and (j).

- (d) By no later than 4pm on 29 March 2024, Qualcomm shall disclose any documents located as a result of all other searches described in paragraph 1 above.
3. Costs in the case.
4. Liberty to apply.

REASONS

1. The amendments to paragraph 3 of the Disclosure Order have now been agreed by the parties and represent only short extensions of time in relation to the matters at sub-paragraphs (c), (d) and (e).
2. The amendments to paragraph 4 of the Disclosure Order extend time for the disclosure of documents in certain categories which Qualcomm says should be included in the final tranche of disclosure to be provided by 29 March 2024, rather than the first tranche of disclosure to be provided by 9 November 2023. The Class Representative does not object to an extension of time to 2 February 2023, but is concerned to avoid overloading the disclosure provided on 29 March 2024 and the consequential impact on subsequent deadlines. The Tribunal considers that a mid-way date of 1 March 2024 (an extension of three months after the date in the Disclosure Order) should provide Qualcomm with ample additional time, while avoiding the concerns expressed by the Class Representative.

The Hon Mrs Justice Bacon
Chair of the Competition Appeal Tribunal

Made: 3 October 2023
Drawn: 4 October 2023