



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

Case No: 1595/7/7/23

BETWEEN:

**ROBERT HAMMOND**

Applicant /  
Proposed Class Representative

- v -

- (1) AMAZON.COM, INC.
- (2) AMAZON EU S.À.R.L.
- (3) AMAZON SERVICES EUROPE S.À.R.L.
- (4) AMAZON E.U. MEDIA S. À.R.L.
- (5) AMAZON EUROPE CORE S.À.R.L.
- (6) AMAZON UK SERVICES LTD

Respondents /  
Proposed Defendants

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**ORDER (Service out of the Jurisdiction)**

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**UPON** reading the Proposed Class Representative’s collective proceedings claim form dated 2 June 2023 and the Proposed Class Representative’s application of the same date to serve the collective proceedings claim form on the First, Second, Third, Fourth and Fifth Proposed Defendants out of the jurisdiction pursuant to Rule 31(2) of the Competition Appeal Tribunal Rules 2015 (the “Tribunal Rules”).

**IT IS ORDERED THAT:**

1. The Proposed Class Representative is permitted to serve the First, Second, Third, Fourth and Fifth Proposed Defendants out of the jurisdiction.

2. This Order is made without prejudice to the rights of the First, Second, Third, Fourth and Fifth Proposed Defendants to dispute the Tribunal's jurisdiction pursuant to Rule 34 of the Tribunal Rules.

## **REASONS**

1. This is an application by the Proposed Class Representative ("PCR"), Robert Hammond, to serve proceedings out of the jurisdiction against the First, Second, Third, Fourth and Fifth Defendants. It is submitted that these proceedings, should permission be granted, are likely to be treated as taking place in England and Wales for the purpose of Rule 18 of the Tribunal Rules. I agree. I therefore approach the question of service of out of the jurisdiction on the same basis as the High Court of England and Wales and in accordance with the Tribunal's guidance given in *Epic Games, Inc. and others v Apple Inc. and others* [2021] CAT 4.
2. The Proposed Defendants are associated with the Amazon marketplace platform. The following submissions are made as to the activities of Proposed Defendants within the Amazon group. The First Proposed Defendant is a US corporation and is the parent company of the Amazon group and directly or indirectly the owns the Second to the Sixth proposed defendants. The Second Proposed Defendant is headquartered in Luxembourg and is engaged in direct sales to consumers of physical products that Amazon purchases from third party suppliers. The Third Proposed Defendant is incorporated in Luxembourg and provides various services including Sales on Amazon and Fulfilment by Amazon, on Amazon's European marketplaces. The Fourth Defendant is incorporated in Luxembourg and is engaged in processing and settling payments from European customers and earns profits from selling digital products. The Fifth Defendant is registered in Luxembourg and is the group company responsible for Amazon's European marketplace and owns the domain [www.amazon.co.uk](http://www.amazon.co.uk).
3. The PCR is applying for authorisation to act as the proposed class representative to combine standalone claims in opt-out proceedings pursuant to section 47A of the Competition Act 1988 for damages caused by Amazon's alleged abuse of dominant position within the meaning of the Chapter II Prohibition and/or Article 102 TFEU.

4. These proceedings raise similar issues to those raised in Case No 1568/7/722 *Julie Hunter v Amazon.com Inc and others*. This will give rise to questions as to whether it is appropriate for both claims to proceed and who should have conduct of the claims, but it would be premature to express a view on that matter on this application.
5. The members of the proposed class are all natural consumers who purchased at least one product from Amazon's UK based e-commerce marketplace at amazon.co.uk between at least 1 October 2015 and 1 June 2020, and are domiciled in the UK. The class is said to comprise 49 million members.
6. The PCR contends that Amazon is dominant in the market for the provision of intermediation services on online retail marketplaces in the United Kingdom (the "Relevant Market"). It is submitted that Amazon has abused that dominant position, by systematically preferencing on the Amazon marketplace (amazon.co.uk) its own offers, and those of third-party sellers who use Amazon's logistics service Fulfilled by Amazon ("FBA"), over the offers of other sellers who do not use FBA. This preferencing resulting from the design and operation of algorithms employed by Amazon negatively affects the ability of sellers who do not use FBA to compete effectively to win the Buy Box.
7. On the basis of the materials provided I accept there is a serious issue to be tried in relation to the standalone claims and it to be arguable that they are claims suitable for certification in collective proceedings.
8. I further conclude that there is a good arguable case that the claims fall within one of the CPR gateways in particular paragraph 3.1(9) of CPR Practice Direction 6B and or 3.1(3). The acts complained of are arguably committed within the jurisdiction and damage is arguably sustained within this jurisdiction. Proceedings have been issued and will be served against the Sixth Proposed Defendant.
9. As to *forum conveniens*, I find that in all the circumstances England and Wales is the appropriate forum to bring the proposed collective proceedings and that the Tribunal ought to exercise its discretion to permit service out of the jurisdiction. In particular I rely upon the fact that the proposed class comprises consumers who are domiciled in

the UK and who have made purchases on the Amazon marketplace for the UK. I also place reliance upon the fact that the claims relate to UK and EU competition law.

10. Altogether, I therefore consider that the UK (and this Tribunal) is clearly and distinctly the appropriate forum for the trial of this action.

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

Made: 13 July 2023  
Drawn: 13 July 2023