



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1601/7/7/23

BETWEEN:

DR SEAN ENNIS

Proposed Class Representative

- v -

(1) APPLE INC.

(2) APPLE DISTRIBUTION INTERNATIONAL LTD

(3) APPLE CANADA INC.

(4) APPLE PTY LIMITED

(5) APPLE SERVICES LATAM LLC

(6) ITUNES KK

(7) APPLE (UK) LIMITED

(8) APPLE EUROPE LIMITED

Proposed Defendants

ORDER

UPON the Proposed Class Representative’s application dated 25 July 2023 for a collective proceedings order (the “**CPO Application**”) pursuant to section 47B of the Competition Act 1998 and Rule 75 of the Competition Appeal Tribunal Rules 2015 (the “**Rules**”)

AND UPON the Proposed Class Representative’s application dated 25 July 2023 pursuant to Rule 31 of the Rules for permission to serve the collective proceedings claim form and

supporting documents on the First to Sixth Proposed Defendants out of jurisdiction (the “**Service Out Application**”)

AND UPON the Proposed Class Representative’s application dated 25 July 2023 pursuant to Rule 111(2) for an order permitting and specifying an alternative method or place of service (the “**Alternative Service Application**”) (the “**Service Out Application**” and the “**Alternative Service Application**” together being the “**PCR Applications**”)

AND UPON the CPO Application and the PCR Applications being served upon on the Seventh and Eighth Defendants on 11 August 2023

AND UPON the applications dated 6 November 2023:

- (a) of the First to Eighth Proposed Defendants pursuant to Rule 34(1) for an order that the Tribunal lacks, or alternatively declines, jurisdiction over the Proposed Class Representative’s proposed claims insofar as they concern commission charged on transactions effected via Non-UK Storefronts of the ‘App Store’ (as that term is defined in the application) and that the September Order is set aside insofar as it granted the Service Out Application;
- (b) of the Seventh and Eighth Proposed Defendants pursuant to Rules 41(1)(a), (b) and/or 43(1) for an order striking-out, alternatively entering reverse summary judgment upon, the Proposed Class Representative’s proposed claims insofar as they concern commission on transactions effected via Non-EU Storefronts of the ‘App Store’ (as that term is defined in the application); and
- (c) of the First to Sixth Proposed Defendants to set aside the September Order insofar as it permitted the Proposed Class Representative to serve documents on the First to Sixth Proposed Defendants by an alternative method and at an alternative place,

(together these applications being the “**Proposed Defendant Applications**”)

AND UPON the Proposed Defendants filing the First Witness Statement of Doug Watson and exhibit thereto in support of the Proposed Defendant Applications

AND UPON the Proposed Defendants’ letter application dated 6 November 2023 for permission for confidential treatment of certain information as highlighted within the confidential versions of the First Witness Statement of Doug Watson and exhibit thereto (the “**Confidential Information**”, and the “**Confidential Versions**” respectively)

IT IS ORDERED THAT:

1. The Proposed Defendants are granted permission to file the Confidential Versions.
2. Any non-party seeking access to a copy of the First Witness Statement of Doug Watson and/or exhibit thereto shall only be permitted to obtain a copy of the non-confidential versions of the same. The Proposed Class Representative and his legal representatives shall not disclose the Confidential Information to any other person.
3. The parties and their legal representatives shall take all steps to preserve the confidentiality of the Confidential Information.
4. Any application by a non-party to vary the terms of paragraph 2 of this Order shall be made on no less than two business days’ notice to the parties.
5. Within 5 business days of the made date of this Order, the Proposed Defendants shall serve the Confidential Versions on the Proposed Class Representative (if they have not already been served).
6. Costs in the case.
7. There be liberty to apply.

Andrew Lenon KC
Chair of the Competition Appeal Tribunal

Made: 7 November 2023
Drawn: 8 November 2023