



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1403/7/7/21

BETWEEN:

DR. RACHAEL KENT

Class Representative

- v -

(1) APPLE INC.

(2) APPLE DISTRIBUTION INTERNATIONAL LTD

Defendants

CONSENT ORDER

UPON the Tribunal's order made on 13 September 2022 (the "**Trial Timetable Order**")

AND UPON the Tribunal's order made on 8 March 2023 (the "**CMC Order**")

AND UPON the Tribunal's order made on 5 April 2023 (the "**Disclosure Order**")

AND UPON the Class Representative, the Defendants and the Competition & Markets Authority having agreed to the making of this Order

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

BY CONSENT IT IS ORDERED THAT:

AMENDMENTS TO TRIAL TIMETABLE

1. The deadlines in paragraphs 11, 12, 13, 17, 18, 19, 21, 22 and 23 of the Trial Timetable Order (as amended, where applicable, by the CMC Order) are varied as follows:
 - (a) by 4.00pm on 26 January 2024, the parties shall serve signed statements of witnesses of fact, and hearsay notices where required by CPR r 33.2;
 - (b) by 4.00pm on 23 February 2024, the parties shall serve signed reply statements of witnesses of fact, and hearsay notices where required by CPR r 33.2;
 - (c) by 4.00pm on 26 April 2024, the parties shall serve signed expert reports;
 - (d) by 4.00pm on 2 August 2024, the parties shall serve signed reply expert reports;
 - (e) by 4.00pm on 20 September 2024, the parties' experts in each respective field shall meet on a without prejudice basis to discuss their respective reports;
 - (f) by 4.00pm on 11 October 2024, the parties' experts in each respective field shall produce a joint statement of matters agreed and not agreed;
 - (g) by 4.00pm on 13 September 2024, the CMA shall file and serve its written observations pursuant to Rule 50(2) of the Tribunal Rules;
 - (h) by 4.00pm on 11 October 2024, if so advised, the parties shall file and serve their respective written observations on the CMA's written observations;
 - (i) by 4.00pm on 1 November 2024, if so advised, the CMA shall file and serve written observations in reply;
 - (j) a pre-trial review shall be listed at the earliest available date on or after 14 November 2024;

- (k) by 4.00pm on 5 December 2024, the Class Representative shall file and serve her skeleton argument for trial; and
- (l) by 4.00pm on 19 December 2024, the Defendants shall file and serve their skeleton argument for trial.

DISCLOSURE

2. Paragraph 5 of the CMC Order be amended to read as follows:

“5. Insofar as the material below is in the control of the Defendants on or before the date 1 month prior to the Pre-Trial Review in the Proceedings, the Defendants shall give disclosure and provide inspection of:

- 5.1. copies of all exhibits admitted in the U.S. Proceedings and the Australian Epic Proceedings insofar as those documents have not already been disclosed;
- 5.2. copies of all transcripts from the U.S. Proceedings and all transcripts from the Australian Epic Proceedings; and
- 5.3. copies of all witness statements, affidavits, interrogatories, depositions and expert reports filed and/or served in the U.S. Proceedings and the Australian Epic Proceedings;”

The Defendants are to provide the above disclosure and inspection within 28 days of the relevant document coming into their control. This obligation is subject to (i) relevance of each document to the Proceedings; and (ii) any protective orders made in the U.S. Proceedings and/or Australian Epic Proceedings and / or other restrictions imposed by those proceedings. The Defendants shall be entitled to redact such materials, as necessary, to allow for disclosure in these Proceedings.”

3. Paragraph 5 of the Disclosure Order be amended to read as follows:

“5. By 4pm on 30 August 2023, the Defendants shall provide inspection of any document within the U.S. Productions that is responsive to the Search Strings save insofar as any such document cannot be disclosed in view of non-disclosure obligations to third parties or any protective orders. Inspection shall be provided in an electronic format to be agreed between the parties.”

4. Costs in the case.

5. There be liberty to apply.

Ben Tidswell
Chair of the Competition Appeal Tribunal

Made: 18 August 2023
Drawn: 18 August 2023