



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1615/5/7/23

BETWEEN:

UP AND RUNNING (UK) LIMITED

Claimant

- v -

DECKERS UK LIMITED

Defendant

ORDER

UPON hearing from the Claimant and Counsel for the Defendant at a Case Management Conference held remotely on 1 December 2023

IT IS ORDERED THAT:

1. The part of the claim alleging that the Chapter I prohibition has been breached shall be subject to the fast-track procedure; the part of the claim alleging that the Chapter II prohibition has been breached shall be stayed until further order.
2. The Claimant shall re-file and serve the Claim Form and annexes amended only to:
 - (a) Exclude the Witness Statements of Mr Henderson and Mr Haggars filed in County Court Claim No. J6QZ0P41 and any references to them;
 - (b) Exclude reference to any without prejudice material;

- (c) Correctly reference all the annexes in the Claim Form;
- (d) Provide any missing or incomplete documents; and
- (e) Explain the bundle references to DM7, DM11 and B/3,4 and 5

by 4pm on Monday 4 December 2023.

3. The Claimant shall file and serve a letter to the Tribunal setting out the nature of his damages claim, specifically:

- (a) The amount claimed;
- (b) An explanation of how the amount claimed has been calculated; and
- (c) An explanation of why it is said the amount claimed flows from the alleged infringements.

by 4pm on Wednesday 6 December 2023.

4. The Claimant shall file and serve any application for an interim injunction and evidence in support (but no draft order) setting out its position on:

- (a) Whether there is a serious question to be tried and why;
- (b) Why damages would be an inadequate remedy for the Claimant;
- (c) Whether a cross-undertaking in damages should be offered (bearing in mind the allocation to the fast-track procedure);
- (d) If a cross-undertaking in damages should be offered, whether the Claimant would be able to pay it in the event the injunction were wrongly granted;
- (e) Why the balance of convenience is in favour of the grant of an injunction;
- (f) Why it is urgent for an interim injunction to be granted in relation to matters which took place in 2020; and
- (g) Whether there are any special factors applicable in the case

by 4pm on Monday 11 December 2023. The Tribunal will fix a hearing of any application for an interim injunction according to the apparent urgency of the application and having regard to the Tribunal's convenience.

5. The Defendant's time for filing its Defence, which is only required to deal with the allegation that the Defendant has infringed the Chapter I prohibition, and which will set out and respond to the issues in respect of that allegation, including the central factual propositions, be extended to 4pm on Thursday 14 December 2023.
6. The Claimant shall file and serve any Reply by 4pm on Wednesday 3 January 2024.
7. The Defendant shall file and serve a high-level costs budget referable to the main steps in the proceedings and a letter indicating its view as to the likelihood of any application for security for costs by 4pm on 8 January 2024.
8. The Defendant is to write to the Claimant and explain what it expects of the Claimant by way of disclosure, including in relation to the scope being limited to the infringement of the Chapter I prohibition, the appropriate test and the treatment of any privilege issues, by 4pm on 8 January 2024.
9. The Claimant is to file and serve any response to the Defendant's cost budget by 4pm on 15 January 2024.
10. The Defendant is to file and serve any reply to the Claimant's comments on the Defendant's costs budget by 4pm on 19 January 2024.
11. A further CMC be listed in the week commencing 15 January 2024 to consider:
 - (a) Costs management;
 - (b) The timing of any security for costs application;
 - (c) Disclosure and confidentiality; and
 - (d) The timetable to trial.
12. The parties are to update the Tribunal in relation to the position reached on disclosure by 25 January 2024.
13. Liberty to apply.

Ben Tidswell
Chair of the Competition Appeal Tribunal

Made: 1 December 2023
Drawn: 4 December 2023