



**IN THE COMPETITION APPEAL  
TRIBUNAL**

Case No: 1382/7/7/21

BETWEEN:

**CONSUMERS' ASSOCIATION**

Class Representative

- v -

**QUALCOMM INCORPORATED**

Defendant

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**ORDER**

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**UPON** the Tribunal's Order made by consent on 9 December 2021 establishing a Confidentiality Ring in these proceedings, as amended most recently by the Tribunal's Order made on 21 June 2023 (the "**Revised CRO**")

**AND UPON** the Tribunal having listed Trial 1 (as defined in paragraph 2 of the Tribunal's Order made on 29 January 2024)

**AND UPON** the Tribunal's Order made on 29 January 2024 (as later amended by the Annex to the Order of the Chair made on 9 August 2024, and as further amended by the Annex to the Order of the Chair made on 8 November 2024) *inter alia* providing for Trial 1 (as defined in paragraph 2 of the 29 January 2024 Order) to be listed for the first available date after 1 October 2025, for the Pre-Trial Review (the "**PTR**") to be listed on 29 or 30 July 2025, and directing that the Class Representative and the Defendant were to notify each other by 15 November 2024 of any hearsay evidence they intend to rely upon at trial arising from any and all disclosure

(including third party disclosure) provided prior to 18 September 2024 (the “**Hearsay Deadline**”)

**AND UPON** the Class Representative filing its hearsay notice on 15 November 2024 (the “**Class Representative’s Hearsay Notice**”)

**AND UPON** the Defendant filing its responsive hearsay notice on 14 March 2025 (the “**Defendant’s Hearsay Notice**”)

**AND UPON** the reasoned Order of the Tribunal dated 4 July 2025 permitting the Class Representative to rely on certain materials arising out of the High Court and Court of Appeal proceedings in *Optis v Apple* (the “**Mewes Evidence**”)

**AND UPON** the Class Representative filing an amended version of the Class Representative’s Hearsay Notice on 4 July 2025 (the “**Class Representative’s Amended Hearsay Notice**”)

**AND UPON** considering the parties’ applications to the Tribunal dated 10 July 2024 and the parties’ responses thereto

**AND UPON** the Tribunal’s Order made by consent on 28 July 2025 establishing a 1782 Confidentiality Ring in these proceedings in respect of documents obtained by the parties from Apple and Samsung (the “**1782 parties**”) through applications pursuant to 28 U.S.C. § 1782 in the United States District Court for the Northern District of California (the “**1782 CRO**”)

**AND UPON** consideration of various letters to the Tribunal from the legal representatives for Apple and Samsung in relation to the treatment of material (other than 1782 Confidential Information, as defined in paragraph 1.1 of the 1782 CRO) potentially containing material confidential to third parties

**AND UPON** consideration of the Class Representative’s and the Defendant’s written submissions and hearing Counsel for the Class Representative and the Defendant at the PTR held on 29 July 2025

**AND UPON** the parties’ agreement and the Tribunal’s ruling given at the PTR in relation to the general approach to be applied to confidentiality claims in respect of documents in the proceedings (subject to any contrary submissions by relevant third parties) (the “**General Approach to Confidentiality**”)

**AND HAVING REGARD TO** the Tribunal's powers under Rules 53, 55, and 101 of the Competition Appeal Tribunal Rules 2015

**IT IS ORDERED THAT:**

**Trial timetable**

1. Subject to any further order from the Tribunal, the timetable for Trial 1 shall be as set out in the Annex to this Order.

**Re-filing of joint expert statements from technical and industry experts**

2. By **4.00 pm on 29 August 2025** (or earlier to the extent required by the experts' vacation absences), the industry expert witnesses and the technical expert witnesses shall file revised versions of their respective joint expert statements. The parties' legal representatives shall use best endeavours to ensure that the revised joint expert statements of the industry and technical expert witnesses (i) are confined to matters that are relevant to Trial 1, (ii) indicate which matters are disputed and which are not in dispute and (iii) comply with the experts' obligations of independence pursuant to paragraph 7.67 of the Tribunal's Guide to Proceedings 2015, the principles envisaged by Part 35 of the Civil Procedure Rules 1998 and the Civil Justice Council Guidance for the Instructions of Experts in Civil Claims 2014.

**Hearsay evidence**

3. In addition to the evidence set out in the Class Representative's Amended Hearsay Notice, the Class Representative is permitted to rely on the following evidence cited in its filings to date:
  - a. Pages 674-676, 678 (l 24 and 25) - 679, 686 (l 10) - 689, 698-699, 711 (l 23) -712 and 734 of the FTC Trial Transcript of Tony Blevins dated 11 January 2019;
  - b. Page 1188 of the FTC Trial Transcript of Carl Shapiro dated 15 January 2019;
  - c. Page 1720 of the FTC Trial Transcript of Tasneem Chipty dated 22 January 2019.
4. For these purposes only, the Hearsay Deadline is extended to **4.00 pm on 8 August 2025**.

5. By **4.00 pm on 22 August 2025**, the Class Representative shall file a document of up to 75 pages setting out the hearsay extracts on which it proposes to rely at Trial 1.
6. By **4.00 pm on 5 September 2025**, Qualcomm shall file a document of up to 75 pages setting out any hearsay extracts on which it proposes to rely in response to the hearsay extracts set out in the table filed by the Class Representative in accordance with paragraph 5 above.
7. The documents filed in accordance with paragraphs 5 and 6 above shall be in portrait format, and shall comply with the requirements for the formatting of skeleton arguments and written closing submissions (insofar as relevant) as set out in paragraph 29 below. They may be combined into a single document.
8. The underlying materials (such as deposition transcripts, and transcripts of trial testimony) from which the hearsay extracts filed in accordance with paragraphs 5 and 6 above are derived shall be added to the electronic Trial 1 bundle in a stand-alone folder. Save for material that is already publicly available, and unless otherwise ordered by the Tribunal, that material shall be treated as Outer Confidentiality Ring Information within the meaning of paragraph 2.1.8 of the Revised CRO or (as the case may be) 1782 Confidential Information within the meaning of paragraph 1.1 of the 1782 CRO, and subject to the restrictions contained in those orders. The parties shall not be permitted to rely in their opening or closing submissions on information in these underlying materials that is not in the extracts filed in accordance with paragraphs 5–7 above without applying for the Tribunal’s permission.

### **Responses to Mewes Evidence**

9. By **4.00 pm on 5 August 2025**, the Defendant shall have permission to file and serve up to two further witness statements of fact (up to a maximum of 4 pages of substantive evidence per witness) in response to the Mewes Evidence.
10. By **4.00 pm on 19 August 2025**, the Defendant shall file and serve any supplemental expert report from Dr Padilla (maximum 2 pages of substantive evidence) addressing the Mewes Evidence and any further witness statements filed and served pursuant to paragraph 9 above.

11. By **4.00 pm on 28 August 2025**, the Class Representative shall file and serve any supplemental expert report from Mr Noble (maximum 2 pages of substantive evidence) responding to any supplemental expert report from Dr Padilla filed and served in accordance with paragraph 10 above.

**Documents to be shown to the Class Representative's witnesses of fact**

12. By **4.00 pm on 12 August 2025**:
  - a. The Defendant shall provide the Class Representative with a list of any documents on which it may cross-examine the Class Representative's witnesses of fact, Mr Grubbs and Mr Blumberg, and that require de-designation and/or un-redaction, and/or BlackBerry or Lenovo's specific consent to show such documents to Mr Grubbs and Mr Blumberg.
  - b. The Class Representative shall provide the Defendant with a list of any documents it wishes to show to Mr Grubbs and Mr Blumberg for the purposes of allowing them to prepare for their oral evidence, and that require de-designation and/or un-redaction, and/or BlackBerry or Lenovo's specific consent to show such documents to Mr Grubbs and Mr Blumberg.
13. By **4.00 pm on 15 August 2025**:
  - a. The Class Representative shall provide the Defendant with a supplemental list identifying any further documents it wishes to show Mr Grubbs and Mr Blumberg in the light of the list provided by the Defendant in accordance with paragraph 12.a above, and that require de-designation and/or un-redaction, and/or BlackBerry or Lenovo's specific consent to show such documents to Mr Grubbs and Mr Blumberg.
  - b. The Defendant shall provide the Class Representative with a supplemental list identifying any further documents on which it may wish to cross-examine Mr Grubbs and Mr Blumberg in the light of the list provided by the Class Representative in accordance with paragraph 12.b above, and that require de-designation and/or un-redaction, and/or BlackBerry or Lenovo's specific consent to show such documents to Mr Grubbs and Mr Blumberg.

14. By **4.00 pm on 18 August 2025**, the parties shall jointly write to BlackBerry (in relation to Mr Grubbs) and Lenovo (in relation to Mr Blumberg) in order to seek their consent for the witnesses to be shown any documents identified in the lists exchanged in accordance with paragraphs 12 and 13 above, requesting responses by no later than 4.00 pm on 25<sup>th</sup> August 2025. Any disputes arising from those responses shall be submitted for determination by the Tribunal at the hearing referred to in paragraph 22 below.

#### **Timetable for trial bundle additions and resolution of third-party confidentiality claims**

15. By **5.00 pm on 8 August 2025**:
  - a. the Class Representative and the Defendant shall notify relevant third parties (to the extent these have not yet been notified) following Hausfeld's letter to NRF dated 10 June 2025 and NRF's email reply of 13 June 2025 (the "**Agreed Notification Process**"), and separately the 1782 parties in accordance with the 1782 CRO, of requests for them to de-designate all or parts of the documents in the trial bundle as of the date of the PTR; and
  - b. the Defendant shall review its confidentiality designations in respect of the documents in the trial bundle as of the date of the PTR, in accordance with the Confidentiality Ruling given by the Tribunal at the PTR, and inform the Class Representative of the outcome of that review.
16. By **5.00 pm on 13 August 2025**, each party shall notify the other of any additional documents it wishes to add to the trial bundle.
17. By **5.00 pm on 15 August 2025**, each party shall notify all relevant third parties of requests for them to de-designate all or parts of the documents referred to in paragraph 16 above in accordance with the Agreed Notification Process or the 1782 CRO (as applicable).
18. By **5.00 pm on 20 August 2025**, each party shall notify the other of any further documents it wishes to add to the trial bundle in the light of those notified by the other party in accordance with paragraph 16 above.
19. By **5.00 pm on 22 August 2025**, each party shall notify all relevant third parties of requests for them to de-designate all or parts of the documents referred to in paragraph

18 above, again in accordance with the Agreed Notification Process or the 1782 CRO (as applicable).

20. By **4.00 pm on 27 August 2025**:

- a. if so advised, the Class Representative shall file a very short application notice and (if necessary) brief evidence challenging any request for confidential treatment (in respect of information other than 1782 Confidential Information) that would otherwise be treated as confidential pursuant to the General Approach to Confidentiality;
- b. if so advised, Qualcomm and any third party shall file a very short application notice and (if necessary) brief evidence identifying the information in respect of which confidential treatment (in respect of information other than 1782 Confidential Information) is requested that departs from the General Approach to Confidentiality and the reasons for the request.

21. By **10.00 am on 2 September 2025**, any party requesting or disputing confidential treatment in respect of any particular document (other than 1782 Confidential Information) shall file and serve a skeleton argument not exceeding 20 pages (complying, so far as relevant, with the requirements for the formatting of skeleton arguments and written closing submissions as set out in paragraph 29 below).

22. Any applications requesting or disputing confidential treatment (in respect of materials other than 1782 Confidential Information) shall be heard on **4 September 2025** before Justin Turner KC sitting as Chair, with a time estimate of half a day.

23. Insofar as necessary to give effect to the process set out at paragraphs 15 to 20 above (in respect of materials other than 1782 Confidential Information), paragraphs 8.1.2 – 8.1.4 of the Revised CRO are varied.

24. The 1782 Confidential Information shall be added to the electronic Trial 1 bundle in a confidential stand-alone folder, with access subject to the terms of the 1782 CRO.

25. There be liberty for any affected third party to apply to vary the process set out at paragraphs 15 to 20 above. Any such application shall be made in writing by **4.00 pm on 8 August 2025**, to be resolved by the Chair on the papers.

## **Further steps in relation to Trial 1**

26. By **4.00pm on 19 September 2025**, the parties shall:
- a. file and exchange skeleton arguments (of no more than 80 pages including any annexes) for Trial 1 (and for these purposes the deadline for skeleton arguments in the amended trial timetable in the Annex to the Tribunal's Order made on 8 November 2024 shall be amended); and
  - b. file a core bundle comprising (i) the pleadings, (ii) the parties' witness statements excluding annexes / exhibits, (iii) the hearsay tables produced in accordance with paragraphs 5 and 6 of this Order, (iv) the revised joint expert statements of the technical and industry experts produced in accordance with paragraph 2 of this Order, (v) the joint statement of the expert economists and (vi) the reports of the expert economists insofar as relevant to Trial 1; and
  - c. file an agreed list of pre-reading for Trial 1, identifying any parts of the expert economic reports that the parties agree that it is not necessary for the Tribunal to pre-read.
27. By **4.00 pm on 25 September 2025**, the Class Representative shall file an agreed bundle of authorities.
28. The parties shall file and exchange written closing submissions (of no more than 120 pages including any annexes) by no later than **10.00 am on 29 October 2025**. The parties' written closing submissions shall be self-contained documents, superseding (and not cross-referring to) the parties' skeleton arguments for Trial 1.
29. The parties' skeleton arguments and written closing submissions shall comply with the following formatting requirements:
- a. A minimum font size of 12-point Times New Roman, 11-point Arial (or equivalent font size) for the main text, with at least 1.5 line spacing (including 1.5 line spacing between paragraphs).
  - b. A minimum font size of 11-point Times New Roman, 10-point Arial (or equivalent font size) for any footnotes, with at least single line spacing.
  - c. Minimum margins of 2.5cm at the top, bottom and sides of the document.



- d. References to the trial bundle and authorities bundle in bold and in the main text rather than in footnotes.
- e. Table of contents at the start, cross-referenced to paragraphs and/or page numbers.

### **Provisions relating to oral evidence at Trial 1**

- 30. The parties shall not be permitted to put any document to any witness in cross-examination if that document has not been either (i) mentioned by the witness in his or her evidence; (ii) specifically pleaded; or (iii) specifically referred to in the reports of the parties' respective experts, unless:
  - a. The party that intends to put the document to the witness has provided notice to the party calling the witness of its intention to do so. Such notice shall be provided at least three clear business days prior to the relevant witness being called and shall identify the document(s) that the notifying party intends to put to that witness; or
  - b. The Tribunal otherwise gives permission for the relevant document(s) to be put to the witness.
- 31. The expert economic evidence at Trial 1 shall be heard in the following format (as reflected in the timetable in the Annex to this Order):
  - a. 2.5 days of concurrent evidence, with the questioning led by the Tribunal.
  - b. Up to 1 day of cross-examination for each party's expert economist. The parties will not be required to put their full case to the experts in cross-examination.
  - c. The parties' expert economists shall remain under oath/affirmation during the concurrent evidence session, before being released from their oath/affirmation and then re-sworn at the commencement of their respective cross-examination sessions.
  - d. During the concurrent evidence session (but not during cross-examination), the expert economists shall be permitted to have access to any hard copy notes and any annotated hard copy versions of their expert reports and their joint statement.
- 32. In any case where a witness of fact or expert witness is under oath/affirmation overnight, the relevant party is permitted to send that witness a transcript of that day's oral evidence.

**Other**

- 33. Liberty to apply.
- 34. Costs in the case.

**The Hon Mrs Justice Bacon**

Chair of the Competition Appeal Tribunal

Made: 29 July 2025

Drawn: 31 July 2025

**ANNEX**

**TIMETABLE FOR TRIAL 1**

<b>PRE-TRIAL</b>	<b>AM/PM<sup>1</sup></b>	<b>Step</b>
Monday 29 September		Reading day
Tuesday 30 September		Reading day
Wednesday 1 October		Reading day
Thursday 2 October		Reading day
Friday 3 October		Reading day
<b>TRIAL WEEK 1</b>	<b>AM/PM</b>	<b>Step</b>
Monday 6 October		Class Representative's opening submissions
Tuesday 7 October		Defendant's opening submissions
Wednesday 8 October		Class Representative's factual witnesses (Mr Grubbs followed by Mr Blumberg)
Thursday 9 October		<i>Tribunal not sitting</i>
Friday 10 October		Defendant's factual witness (Mr Rogers)
<b>TRIAL WEEK 2</b>	<b>AM/PM</b>	<b>Step</b>
Monday 13 October <sup>2</sup>		Defendant's factual witnesses (Mr Gonell followed by Mr

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<sup>1</sup> Full day unless otherwise stated.

<sup>2</sup> Mr Gonell and Mr Katouzian are to make themselves available for cross-examination on both Monday 13 October and Tuesday 14 October 2025, and it is for the Class Representative to decide how time is allocated between the cross-examination of the two individuals over those two days.

		Katouzian)
Tuesday 14 October		Defendant's factual witnesses (Mr Gonell followed by Mr Katouzian)
Wednesday 15 October <sup>3</sup>		Industry and technical expert evidence
Thursday 16 October <sup>4</sup>		Hot tub of competition economics experts
Friday 17 October		<i>Tribunal not sitting</i>
<b>TRIAL WEEK 3</b>	<b>AM/PM</b>	<b>Step</b>
Monday 20 October		Hot tub of competition economics experts
Tuesday 21 October	AM	Hot tub of competition economics experts
	PM	Cross examination of Class Representative's competition expert (Mr Noble)
Wednesday 22 October	AM	Cross examination of Class Representative's competition expert (Mr Noble)
	PM	Cross examination of Defendant's competition expert (Dr Padilla)
Thursday 23 October	AM	Cross examination of Defendant's competition expert (Dr Padilla)
	PM	<i>Tribunal not sitting</i>

<sup>3</sup> To the extent the parties can complete cross examination of the industry and technical experts in less than 1 day, the parties will be on notice with flexibility as to the remainder of the timetable.

<sup>4</sup> To the extent the hot tub/cross-examination of the competition experts can be completed in less than the time allocated, the parties will be on notice with flexibility as to the remainder of the timetable.

Friday 24 October		<i>Tribunal not sitting</i>
<b>TRIAL WEEK 4</b>	<b>AM/PM</b>	<b>Step</b>
Monday 27 October		Parties to prepare written closing submissions
Tuesday 28 October		Parties to prepare written closing submissions
Wednesday 29 October		Parties to file and serve written closing submissions with the Tribunal by 10 a.m.
Thursday 30 October		Tribunal reading day and parties to prepare oral closing submissions
Friday 31 October		
<b>TRIAL WEEK 5</b>	<b>AM/PM</b>	<b>Step</b>
Monday 3 November		Class Representative's oral closing submissions, Defendant's oral closing submissions, and Class Representative's reply submissions
Tuesday 4 November		
Wednesday 5 November		
Thursday 6 November		<i>Tribunal not sitting</i>