



Neutral citation [2025] CAT 62

IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1702/5/7/25 (T)

BETWEEN:

LENZING AG & OTHERS

Claimants

- v -

WESTLAKE VINNOLIT GMBH & CO. KG & OTHERS

Westlake Defendants

Part 20 Claimants/Defendants

REASONED ORDER (AMENDMENT OF PLEADINGS)

UPON the application of the Claimants dated 16 September 2025 requesting permission to re-amend the Amended Particulars of Claim (the “Amendment Application”)

AND UPON the response to the Amendment Application from the Westlake Defendants dated 22 September 2025

AND UPON reading the letter from Stewarts, solicitors for the Claimants, dated 13 October 2025 (the “Stewarts Letter”)

AND UPON reading the letters from Willkie Farr & Gallagher, solicitors for the Westlake Defendants, dated 22 September 2025 and 15 October 2025 (the “Willkie Letters”)

IT IS ORDERED THAT:

1. The Amendment Application is refused in relation to the proposed amendments to paragraphs 29, 33, 38-41, 48, 56 and Annex B of the Amended Particulars of Claim.
2. The Claimants have permission to amend the Amended Particulars of Claim as proposed in the Amendment Application, other than those paragraphs identified in paragraph 1 of this Order.
3. The Re-Amended Particulars of Claim shall be filed with the Tribunal and served on the Defendants within five working days of the date of this Order.
4. Costs are reserved.
5. Liberty to apply.

REASONS:

1. When seeking to amend a claim, whether under rule 17.1 of the *Civil Procedure Rules* or rule 32 of the *Tribunal Rules*, a party must either have the written consent of all parties, or permission of the Court/Tribunal. As the Amendment Application is opposed by the Defendants, the Claimants require permission of the Tribunal to make the proposed amendments.
2. The Amendment Application was made following a settlement agreement (the “Settlement Agreement”) between the Claimants and the Seventh to Thirteenth Defendants (“Ineos”), and the consequential dismissal of the claims against Ineos by Order of the Chair dated 30 June 2025 (the “Dismissal Order”). The Amendment Application was said to be “*purely made in order to give effect to the settlement of the claim against the Ineos/Inovyn Undertaking, and are without prejudice to the Claimants’ continued ability to pursue their claims against the Westlake / Vinnolit Defendants.*”
3. To the extent that the proposed amendments simply correct the identity of the defendants to the ongoing claims in these proceedings, they are unobjectionable. Accordingly, I grant permission for the Claimants to amend all paragraphs other than those specifically mentioned in paragraphs 4 and 5 below, as proposed in the draft Re-Amended Particulars of Claim (“RAPOC”) included in the Amendment Application.
4. The Stewarts Letter suggests that “*the Claimants have sought to remove direct references to the Ineos Entities’ participation in the alleged cartel, while at the same time making clear that the relevant proposed amendments are not the result of any particular factual allegations concerning the operation of the alleged cartel being abandoned.*” However, my view is that a natural reading of the proposed amendments identified below, is that they remove both the allegation of Ineos’ participation in the alleged cartel, and the specific conduct in which Ineos is alleged to have engaged in furtherance of the alleged cartel. These amendments therefore change the alleged facts underlying the operation of the alleged cartel, not just in relation to the settled claims against Ineos, but also in relation to the ongoing claims against the Westlake Defendants. No

cogent basis for why permission for such amendment should be granted has been advanced. Rather, this category of amendments appears contrary to the Claimants' stated position. Accordingly, permission to amend paragraphs 29, 33, 38-41, 48, 56 and Annex B as set out in the RAPOC is refused.

5. I further note that a proposed amendment to paragraph 40 of the RAPOC sought to make the definition of Non-Defendant Cartelists non-exhaustive. Permission to make that amendment is refused because the amendment is vague and unparticularised. If it chooses to do so, the Claimant has permission to remove the definition of "Defendant Cartelists" from paragraph 40 and to include Ineos within the list of "Non-Defendant Cartelists". If further Non-Defendant Cartelists are identified following disclosure, permission for them to be specifically included in the RAPOC can be sought at that time, in the usual way.
6. In the Stewarts Letter, the Claimants suggested that *"[i]f the Chair is not satisfied that the position in the draft RAPOC is sufficiently clear...the Claimants will consider, following receipt of the Chair's formal determination of the Application, whether it is necessary to propose alternative amendments"*. Any application for further amendments will be considered on its merits by reference to the specific amendments sought. However, I would be more likely to allow amendments to factual matters concerning Ineos' participation in the alleged cartel, if such amendments are accompanied by a confirmation that the Claimants no longer rely on any specific acts or conduct by Ineos to prove their case on liability and quantum as against the Westlake Defendants. Any such confirmation should be made expressly within the Claimants' amended pleadings. If it is to be part of the Claimants case at trial that Ineos was a participant in the Cartel and the conduct and actions of Ineos are relied upon, then that should be expressly stated and particulars of Ineos conduct relied upon should be particularised as it is currently the in APOC. It would not be permissible for the Claimants to leave open, or unclear, what the Claimants' case is in relation to conduct undertaken by Ineos, as is the case in the current draft RAPOC.
7. In principle I am minded to order that the Claimants pay the costs of the Amendment Application, as well as the costs of, and occasioned by, the

amendments. Costs can be dealt with once the Claimants have sorted out their pleaded case.

Hodge Malek K.C.
Chair

Made: 16 October 2025
Drawn: 16 October 2025