



Neutral citation [2026] CAT 23

**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1761/7/7/26

Salisbury Square House  
8 Salisbury Square  
London EC4Y 8AP

18 March 2026

BETWEEN:

**JAMES DALEY CLASS REPRESENTATIVE LLP**

Applicant/Proposed Class Representative

– and –

**(1) APPLE INC.**

**(2) APPLE DISTRIBUTION INTERNATIONAL LIMITED**

**(3) APPLE RETAIL UK LIMITED**

**(4) APPLE EUROPE LIMITED**

**(5) APPLE PAYMENT SERVICES LIMITED**

Respondents/Proposed Defendants

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**REASONED ORDER (SERVICE OUT OF THE JURISDICTION)**

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**UPON** reading the Proposed Class Representative's (the **Applicant**) Collective Proceedings Claim Form (**Claim Form**) dated 22 January 2026 and supporting documents (together the **Claim Documents**), including the expert report of Mr Joseph Bell dated 21 January 2026

**AND UPON** considering the Applicant's application dated 22 January 2026 for permission to serve the Claim Documents on the First and Second Proposed Defendants out of the jurisdiction pursuant to Rule 31(2) of the Competition Appeal Tribunal Rules 2015 (the **Tribunal Rules**) (the **Application**)

**AND UPON** reading the witness statement of Mr James Oldnall dated 22 January 2026, made in support of the Application and its accompanying exhibits

**IT IS ORDERED THAT:**

1. The Applicant has permission to serve the Claim Documents out of the jurisdiction on:
  - (1) the First Proposed Defendant at One Apple Park Way, Cupertino, California, 95014, USA; and
  - (2) the Second Proposed Defendant at Hollyhill Industrial Estate, Hollyhill, Cork, Republic of Ireland.

Together, the **Foreign Proposed Defendants**.

2. The Foreign Proposed Defendants, pursuant to Rule 76 of the Tribunal Rules, shall have the following number of days after service of the Claim Documents to file an acknowledgment of service of the claim in the form provided by the Registrar:
  - (1) for the First Proposed Defendant, 22 days; and
  - (2) for the Second Proposed Defendant, 21 days.
3. This Reasoned Order is made without prejudice to the rights of the Foreign Proposed Defendants to apply to set aside or vary this Reasoned Order and/or apply pursuant to Rule 34 of the Tribunal Rules to dispute the jurisdiction of the Tribunal. The Foreign Proposed Defendants may apply to have this order set

aside or varied no later than the period disputing the Tribunal's jurisdiction under Rule 34 of the Tribunal Rules.

4. The costs of the Application are reserved.

## REASONS

1. By the Application dated 22 January 2026 the Applicant seeks permission pursuant to r. 31(2) of the Tribunal Rules to serve the Claim Documents out of the jurisdiction on two of the five Proposed Defendants, both of whom are based outside the jurisdiction. The Foreign Proposed Defendants are Apple Inc and Apple Distribution International Limited (**Apple Distribution**). Apple Inc is a US corporation incorporated under the laws of California. Apple Distribution is incorporated under the laws of the Republic of Ireland.
2. The Applicant relies on three jurisdictional gateways listed in CPR PD6B §3.1(9)(a) (damage was sustained, or will be sustained, within the jurisdiction), §3.1(9)(c) (the tort claim is governed by the law of England and Wales), and §3.1(3) (where anchor defendants are within the jurisdiction). The Application is supported by the first witness statement of Mr Oldnall of Milberg London LLP, solicitors to the Applicant, dated 22 January 2026, and the Claim Form is supported by an economic expert report of Mr Bell of Oxera Consulting LLP, dated 21 January 2026.
3. The Applicant is a limited liability partnership incorporated on 18 December 2024 for the purpose of pursuing collective proceedings in this Tribunal. Mr James Daley is the sole and managing member of the Applicant.
4. The Proposed Defendants are all members of the well-known Apple corporate group (the **Apple Group**):
  - (1) The First Proposed Defendant, Apple Inc, has its registered office in Cupertino, California, USA. It is the ultimate parent company of all the companies in the Apple Group, including, either directly or indirectly, the Second, Third, Fourth and Fifth Proposed Defendants.

- (2) The Second Proposed Defendant, Apple Distribution, has its registered office in Hollyhill, Cork, Republic of Ireland. It is a direct, wholly owned subsidiary of Apple Inc.
  - (3) The Third Proposed Defendant, Apple (UK) Limited, is registered in London, UK. It is a wholly-owned subsidiary of Apple Inc, although its immediate parent undertaking is Apple Operations International Limited, a company registered in the Republic of Ireland.
  - (4) The Fourth Proposed Defendant, Apple Europe Limited, is registered in London, UK. It is a wholly owned subsidiary of Apple Inc, although its immediate parent undertaking is Apple Operations International Limited, a company registered in the Republic of Ireland.
  - (5) The Fifth Proposed Defendant, Apple Payments Services Limited, is registered in London, UK. It is wholly owned by Apple Distribution, although its ultimate parent company is Apple Inc.
5. The Claim Form details a standalone claim for damages under s. 47B of the Competition Act 1998 (the **1998 Act**). It relates to damage allegedly caused by breaches of statutory duties by Apple in relation to its “Apple Pay” service: a cashless payments service developed and operated by Apple, which allows users to make payments using certain Apple devices, including iPhones. It is alleged that Apple’s conduct in this regard was in breach of s. 18 of the 1998 Act, Article 102 of the Treaty on the Functioning of the European Union (prior to 31 December 2020) and Article 54 of the Agreement on the European Economic Area. The Applicant seeks to be certified as class representative under a collective proceedings order.
  6. As to the alleged infringements, they are summarised in §§93(a)–(b) of the Claim Form as follows:

“93(a) Prior to October 2024, by (i) refusing to supply third parties with access to the NFC Input [(defined in the Claim Form as ‘a wireless communication technology relied upon to enable secure communication between a user’s payment card and a merchant’s physical point of sale terminal’)], and/or (ii) engaging in self-preferencing by treating third parties less favourably than its

own downstream services. Through that conduct, Apple leveraged its control over access to the NFC Input, and monopoly position in the market for the supply of developer NFC Input services, so as to preclude any competition and confer on itself a monopoly position in the market for Issuer Mobile Wallet Services [defined in the Claim Form as services which ‘enable Issuers to have cards they have issued (i) registered for use and stored on NFC-enabled mobile wallets on iPhones, and (ii) used to make contactless PPOS payments through such wallets’] and in the provision of Consumer Mobile Wallet Services [defined in the Claim Form as services which ‘enable consumers to (i) register their bank cards for use on NFC-enabled mobile wallets on iPhones and (ii) make contactless PPOS payments using such cards and wallets’]. Since October 2024, Apple has provided third parties with access to the NFC Input but on terms that are unfair and constitute a constructive refusal to supply, and/or amount to unlawful self-preferencing (the **First Abuse**);

93(b) Illegally tying Issuer Mobile Wallet Services [defined in the Claim Form as services which ‘enable Issuers to have cards they have issued (i) registered for use and stored on NFC-enabled mobile wallets on iPhones and (ii) used to make contactless PPOS payments through such wallets’] to Issuer Digital Wallet Services [defined in the Claim Form as services which ‘enable Issuers to have cards they have issued (i) registered for use and stored on mobile wallets on iPhones and (ii) used to make OPOS payments through such wallets’] (the **Second Abuse**), as it does not permit Issuers to take one service without the other (the **Tying Conduct**). Through this Tying Conduct, Apple has leveraged its dominant position in the market for Issuer Mobile Wallet Services – which to date have been the only commercially viable means for Issuers to enable their customers with iPhones to use their payment cards to make tap-to-pay payments on those devices – into the (potentially more competitive) markets around Issuer Digital Wallet Services and Consumer Digital Wallet Services [defined in the Claim Form as services which ‘enable Issuers to have cards they have issued (i) registered for use and stored on NFC-enabled mobile wallets on iPhones, and (ii) used to make contactless PPOS payments through such wallets’].”

7. The Applicant seeks to bring the proceedings on an opt-out basis on behalf of a proposed class, as defined in §20 of the Claim Form:

“Every individual who lived in the United Kingdom and acquired or held a Relevant Product, while aged 16 or over, during the period 22 January 2020 until 22 January 2026”.

8. It is alleged that as a result of the alleged infringements, Apple has been able to overcharge on Apple Pay fees, which were passed on (in full or in part) by banks or financial institutions issuing payment cards which participated in Apple Pay (the **Issuers**) to their customers through higher charges and/or reduced benefits for consumer finance products. These higher charges and/or reduced benefits are said to have been incurred by customers who hold these products regardless of whether or not they use Apple Pay, with the Issuers passing on the overcharge not exclusively to Apple Pay users but to their customers more generally.

9. The expert report of Mr Bell provides a preliminary view, based on publicly available information, on matters relevant to this claim, including the definition of the market(s) relevant to the abuse, assessing whether Apple is dominant in those markets, assessing the allegedly abusive conduct, assessing the effect of the conduct should it be found to be abusive, and providing a preliminary estimate of the quantity of any loss and the size of the proposed class. He estimates that the losses suffered by members of the proposed class to amount to between £591m and £1.5 billion in aggregate (including simple interest claimed at a rate of 8%) and between £8 and £22 on average for each member of the proposed class. It estimates that the proposed class comprises between 56.8m and 59.8m people.
10. The Applicant contends that the current proceedings are to be treated as taking place in England and Wales for the purpose of r. 18 of the Tribunal Rules. Therefore the Tribunal approaches service out of the jurisdiction on the same basis as the High Court under the CPR.
11. The principles and relevant test have been helpfully summarised by the Tribunal in *Epic v Apple* [2021] CAT 4 at §78, and again in *Which? v Apple* [2024] CAT 70:

“(a) There is a serious issue to be tried on the merits of the claim: i.e. that there is a real as opposed to fanciful prospect of success on the claim. This is the same test as would be applied if the PCR were resisting a summary judgment application by the defendant: *AK Investment CJSC v Kyrgyz Mobile Tel Ltd* [2011] UKPC 7 at [71].

(b) There is a good arguable case that the claim falls within one or more of the categories of case, generally referred to as ‘gateways’, set out in CPR Practice Direction 6B at para. 3.1. For this requirement, ‘good arguable case’ means that the PCR has the better of the argument on whether the claim comes within the gateway(s) relied upon. Where this depends on an issue of law, the Tribunal would normally decide that issue as opposed to determining whether there is a good arguable case on it: *AK Investment CJSC* at [81]. Insofar as this involves an issue on the facts, the effect of the test is as follows:

‘(i) that the claimant must supply a plausible evidential basis for the application of a relevant jurisdictional gateway; (ii) that if there is an issue of fact about it, or some other reason for doubting whether it applies, the court must take a view on the material available if it can reliably do so; but (iii) the nature of the issue and the limitations of the material available at the interlocutory stage may be such that no reliable assessment can be made, in which case there is a good arguable

case for the application of the gateway if there is a plausible (albeit contested) evidential basis for it.’

Per Lord Sumption in *Brownlie v Four Seasons Holdings Inc* [2017] UKSC 80 at [7], as approved in *Goldman Sachs International v Novo Banco SA* [2018] UKSC 34 at [9].

(c) In all the circumstances, England is clearly or distinctly the appropriate forum for the trial of the claim and the Tribunal ought to exercise its discretion to permit service of proceedings out of the jurisdiction. This is reflected in rule 31(3) of the [2015 Rules]. As regards this requirement, the task of the Tribunal is first, to identify the forum in which the case can be suitably tried for the interests of all the parties and for the ends of justice; and then to determine whether England is clearly or distinctly the appropriate forum: *VTB Capital Plc v Nutritek International Corp* [2012] EWCA Civ 808 at [101].”

**(1) Serious issues to be tried on the merits**

12. In support of its contention that there are serious issues to be tried, the Applicant relies the expert report of Mr Bell, and the facts stated in the Claim Form. *Prima facie* these material show there is a serious issue to be tried on the merits.

**(2) The gateways**

13. CPR PD 6B, §3.1 relied upon by the Applicant provides as follows:

“3.1 The claimant may serve a claim form out of the jurisdiction with the permission of the court under rule 6.36 where:

...

(3) A claim is made against a person (“the defendant”) on whom the claim form has been or will be served (otherwise than in reliance on this paragraph) and –

(a) there is between the claimant and the defendant a real issue which it is reasonable for the court to try; and

(b) the claimant wishes to serve the claim form on another person who is a necessary or proper party to that claim.

...

(9) A claim is made in tort where –

(a) damage was sustained, or will be sustained, within the jurisdiction;

(b) damage which has been or will be sustained results from an act committed, or likely to be committed, within the jurisdiction; or

(c) the claim is governed by the law of England and Wales.”

14. This claim is made in tort. As regards the gateway in §3.1(9)(a) (damage sustained within the jurisdiction), the Applicant contends that the overcharge on Apply Pay fees was imposed on UK-based Issuers, who then passed on that overcharge (in whole or in part) to the millions of UK-domiciled individuals who comprise the proposed class, in the form of higher charges and/or reduced benefits for consumer finance products acquired or held by them in the UK.
15. As regards the gateway in §3.1(9)(c) (claim governed by the law of England and Wales), it is contended that Apple provides its Apple Pay service to UK Issuers in the UK in respect of which UK Issuers pay an overcharge which is passed on to the proposed class. It is said it follows that the affected market is therefore the UK market and that UK law applies.
16. As regards the gateway in §3.1(3) (necessary and/or proper parties to the claim), the Applicant contends that the Foreign Proposed Defendants are proper parties to the claim and are jointly and severally liable for the acts complained of. It is said that Apple Inc is the ultimate parent company of the Second to Fifth Defendants, and is the ultimate decision-maker for the Apple Group, and that it bears ultimate responsibility for the terms of access to Apple Pay. It submits that it exercises decisive influence over its subsidiaries, which essentially carry out its instructions in relation to the Apple Pay services.
17. The CMA conducted a strategic market status investigation under the Digital Markets Competition and Consumers Act 2024 which culminated in a final decision dated 22 October 2025. It is said that in that decision, the CMA found that the Second Proposed Defendant was considered by the CMA to be the main Apple subsidiary responsible for carrying on its mobile platform digital activity, which would include access to Apple’s “NFC” technology and that it is to be expected that similar evidence would be available to this Tribunal. It is also said that it is a counterparty to the UK terms and conditions for iOS, alongside the First Proposed Defendant.

18. I consider there is a good arguable case that the claim articulated in the Claim Form falls within each of these gateways.

**(3) Proper forum**

19. I am satisfied that the UK (and this Tribunal) is the proper place in which to bring this claim and that the current proceedings are to be treated as taking place in England and Wales for the purpose of r. 18 of the Tribunal Rules.

20. The Applicant contends that the UK, and specifically the Tribunal sitting in England and Wales, is clearly the proper forum for the determination of the claims. I agree. I place weight in particular on the fact that the proposed class members, who are approximately 60 million in number, are based in the UK and are to claim in respect of loss and damages suffered in the UK. Further, the claim relates to an alleged abuse of a dominant position within the UK under UK law.

**(4) Conclusion**

21. Accordingly, I grant the application for service out of the jurisdiction.

22. Any application to set aside or vary this Reasoned Order should take into account the observations set out in *Epic* at §3. If the Foreign Proposed Defendants make any application to have this Reasoned Order set aside or varied and any Proposed Defendant makes an application to dispute the Tribunal's jurisdiction, those two applications will be heard and determined together.