



IN THE COMPETITION
APPEAL TRIBUNAL

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

BETWEEN:

LENZING AG & OTHERS

Claimants

- v -

WESTLAKE VINNOLIT GMBH & CO. KG & OTHERS

Defendants

Part 20 Claimants/Defendants

ORDER (CMC3)

UPON the Tribunal listing a third case management conference on 6 July 2026 (**CMC3**) in these proceedings

AND UPON the Order of the Chair, Mr Hodge Malek KC, dated 6 March 2026 (**CMC2 Order**)

AND UPON consideration of the parties' applications dated 19 June 2026 and the Defendants' supporting evidence

AND UPON consideration of the parties' responsive evidence dated 26 June 2026

AND UPON the Claimants indicating that they intend to make an application against Oil Price Information Service LLC, under section 1782 of Title 28 of the United States Code, for disclosure of documents and information which are relevant to these proceedings and held in the United States (**s.1782 Application**)

AND UPON the Tribunal having heard Counsel for the Claimants and Leading Counsel for the Defendants at CMC3

AND UPON consideration of the parties' further written submissions on matters on the agenda for CMC3 but not addressed in oral submissions

AND UPON the Tribunal's Ruling dated 3 August 2026, [2026] CAT 64 (the **Ruling**)

IT IS ORDERED THAT:

1. FURTHER DISCLOSURE INFORMATION AND WITNESS EVIDENCE REGARDING MOBILE DEVICES

1. By 30 September 2026, Mr Kempf and Mr Luderer shall each file and serve a witness statement, verified by a statement of truth, addressing the full circumstances of how their work mobile devices were wiped. Those witness statements shall include the information below.
 - (a) Which messaging applications and/or platforms they used on their work mobile devices during the period between 1 July 2017 to 28 February 2021 (**Relevant Period**);
 - (b) Their practices (if any) in relation to data backups during the Relevant Period, including any use of personal or business iCloud or other cloud storage solutions;
 - (c) Whether any action was taken to preserve any data (including contact lists) held on their devices before (in the case of Mr Kempf) he reset the relevant device or (in the case of Mr Luderer) he transferred his WhatsApp messages from his former work device to his personal device;
 - (d) Whether they retain or can access copies of their contact lists and call lists from the Relevant Period;
 - (e) Whether they retain or can access any back-ups of any phone messages, contact lists and call lists from the Relevant Period, and whether any relevant such back-ups have also been lost, and if so when and why such losses occurred; and

- (f) Whether they used any personal devices during the Relevant Period that have not been searched.
- 2. Before providing the witness statement referred to in paragraph 1 above, Mr Kempf shall be informed of his right against self-incrimination. In the event Mr Kempf wishes to invoke this right, the Defendants shall inform the Tribunal of (i) the basis on which the privilege is claimed; and (ii) the criminal offence in respect of which Mr Kempf asserts the privilege.
- 3. The Defendants shall, as soon as is reasonably practicable, in respect of the work mobile devices of Mr Luderer, Mr Kempf, Mr Quintus and Mr Schellerer, for the Relevant Period:
 - (a) Make enquiries as to the extent to which any relevant data is available from relevant telecommunications service providers; and
 - (b) Use reasonable endeavours to obtain any such available data, which is to be disclosed to the Claimants upon receipt.
- 4. By no later than 30 September 2026, the Defendants' solicitors shall write to the Tribunal, copied to the Claimants, describing the subject matter of the internal investigation referred to at paragraph 72(a) of the Defendants' global disclosure statement dated 30 June 2026, identifying who was conducting that investigation, and providing an explanation of the basis on which the Defendants allege that the investigation itself and/or all documents relating to the investigation are privileged.

2. FURTHER DISCLOSURE BY / INFORMATION FROM THE DEFENDANTS

(1) Further disclosure in relation to key current employees

- 5. By 30 September 2026, the Defendants shall search and give disclosure of any documents stored in Mr Schellerer's work mobile device responsive to Priority Disclosure Categories (**PDC**) 5(a)–(b) and/or Lenzing Redfern Schedule (**LRS**) Categories 1, 4 and 5. Further:

- (a) Insofar as not already searched for and provided, the Claimants have liberty to apply for an order that the Defendants give disclosure (accompanied by a disclosure statement) from all relevant repositories (including phone messenger apps, emails, the Defendants' European File Server and Salesforce Chatter) of Mr Schellerer covering the Relevant Period.
 - (b) The Claimants have liberty to apply for an order requiring the Defendants to search the phone messenger apps of other current employees.
- 6. By 30 September 2026, the Defendants shall manually review all messages from the Relevant Period that have been extracted from Mr Quintus's work mobile device for documents responsive to PDC 5(a)–(b) and LRS Categories 1, 4 and 5, insofar as such messages have not already been manually reviewed for those purposes, and give disclosure of any responsive documents so identified (accompanied by a disclosure statement).
- (2) Further steps in relation to key former employees**
- 7. By 10 September 2026, the Defendants shall write to each of Mr Hans-Joachim Fox, Mr Volker Wendt, Ms Kathrin Mühlischlegel and Ms Henriette Schreiber (the **Former Employees**), requesting that they make any personal mobile devices used during the Relevant Period, and any data from those devices (including back-up data), available to an independent expert for inspection for documents of relevance to the proceedings. The Defendants shall inform the Claimants of the outcome of these enquiries and give disclosure and inspection of any relevant documents (if any) obtained through this process.
- 8. The Claimants shall pay the reasonable costs of any exercise to be carried out by the independent expert in respect of searches of any personal mobile devices or backups, with any disagreement between the parties regarding the amount the Claimants are to pay to be determined by the Tribunal at CMC4.

(3) Further information in relation to key current employees

9. The Defendants shall confirm, by 4 September 2026, whether all current employees holding the same (or equivalent) job titles and/or roles as the Former Employees that were identified as key employees for the purposes of the Defendants' searches of phone messenger applications (and if not, explain why they were not so identified).

(4) Other further disclosure

10. In relation to LRS Category 1, the Defendants shall, insofar as they have not already done so and by 30 September 2026, give disclosure (accompanied by a disclosure statement) of communications between the Defendants and Argus Media Limited that are responsive to LRS Category 1 for the Relevant Period.
11. In relation to LRS Category 6, the Defendants shall, by 30 September 2026, undertake reasonable and proportionate searches for responsive documents, including the searches set out in Annex 1 to the Claimants' Application dated 19 June 2026, and give disclosure of any documents identified as responsive to LRS Category 6 (accompanied by a disclosure statement).
12. By 30 September 2026, the Defendants shall manually review all emails between the Defendants and the other alleged cartelists (and any related family documents) that have been extracted in respect of LRS Categories 4 and 5, insofar as those emails / family documents have not already been manually reviewed for those purposes, and give disclosure of any documents so identified (accompanied by a disclosure statement).

(5) Requests for information

13. The Defendants shall respond to the Claimants' requests for information in relation to the Defendants' IHS and Argus Submissions Information Statement dated 29 May 2026, as set out at paragraph 5 of Annex 4 to the Claimants' application. The Defendants shall indicate, by 4 September 2026, whether they intend to respond to those requests:

- (a) at this stage (in which case the Defendants' response shall be provided by 6 November 2026); or
 - (b) at the time of exchanging their witness evidence for trial, in which case the Claimants have liberty to renew their requests for information following receipt of the Defendants' trial witness statements.
- 14. The Defendants shall, by 30 September 2026, respond to the requests for information in relation to Commission Settlement Decision *Case AT.40410 – Ethylene* dated 14 July 2020 which are set out at paragraphs 6(c) and 8 of the extract set out in paragraph 82 of the Ruling.

3. FURTHER DISCLOSURE BY THE CLAIMANTS

- 15. By 31 August 2026, the Claimants shall provide the financing-related disclosure and information set out in Annex 1 to this Order.
- 16. By 30 October 2026, the Claimants shall give the pass-on disclosure set out in Annex 2 to this Order.
- 17. The Claimants shall give disclosure of documents relevant to the negotiation of contracts between the Claimants and their customers pursuant to Row 5 of Annex 2 to this Order, in respect of 25 contracts identified by the Defendants:
 - (a) The Defendants shall, by no later than 18 September 2026, identify 25 contracts in respect of which they seek disclosure of the underlying negotiating documents.
 - (b) The parties shall thereafter seek to agree the nature and scope of searches to be conducted in respect of the negotiation documents in connection with the 25 contracts identified by the Defendants.
 - (c) By 30 October 2026, the Claimants shall give disclosure of negotiation documents relating to the 25 contracts identified by the Defendants.

- (d) The Defendants have liberty to apply at CMC4 for disclosure of negotiation documents in relation to the remaining contracts beyond the initial 25 they have identified.

4. USE OF THE DEFENDANTS' DISCLOSURE FOR THE PURPOSES OF MAKING AN APPLICATION UNDER 28 U.S.C. § 1782

- 18. The Claimants' use of disclosure given by the Defendants in these proceedings in connection with the s.1782 Application does not constitute a collateral use in breach of Tribunal Rule 102(1). In any event, the Claimants have permission to use the Defendants' disclosure in connection with the s.1782 Application pursuant to Tribunal Rules 102(2)(b) and 102(3), subject to what is set out in paragraph 18 below regarding the use of any confidential Defendant documents.
- 19. Insofar as the Claimants wish to use, when making the s.1782 Application, any document(s) in the Defendants' disclosure which the Defendants have designated as containing confidential information under the Confidentiality Ring Order dated 14 April 2025 (the **CRO**):
 - (a) The Claimants shall, in advance of making the s.1782 Application, provide the Tribunal and the Defendants with a list of any such documents;
 - (b) The Defendants shall have a reasonable opportunity to comment on whether additional steps are required to protect the confidentiality of such documents; and
 - (c) The Tribunal shall rule on any disputes between the parties as to whether and/or how such documents may be used in the s.1782 Application.
- 20. For the purposes of paragraph 19 above, the Claimants will use a document when they exhibit it to the s.1782 Application, or refer to its contents therein.

5. CONFIDENTIALITY

21. Upon (i) confirming in writing that they are members of a relevant bar in the United States of America; and (ii) providing the relevant confidentiality undertaking under the CRO, Ms Ginzburg, Mr Goldstein, Mr Margolin, Mr Juenemann, and Ms Kelso shall be admitted to the confidentiality ring pursuant to paragraph 4.2 of the CRO.
22. The Claimants' applications for (i) re-designation of certain of the Defendants' documents as non-confidential and/or (ii) permission to provide those documents to Mr Wirth, Mr Innerhofer and Mr Nader, pursuant to paragraph 7.3 of the CRO, are adjourned to CMC4.
23. The Claimants shall prepare and provide to the Defendants for the purpose of seeking agreement, a draft order which makes provision, on an interim basis and pending preparation of the trial bundle, for the treatment of documents and information within the parties' disclosure which may contain third-party confidential information. Insofar as this cannot be agreed by the parties, the Tribunal will determine any disagreement on the papers.
24. The Claimants shall prepare and seek to agree with the Defendants a more specific order in relation to the treatment of documents and information within the parties' disclosure which may contain third-party confidential information for the purposes of the trial bundle. The draft order shall be provided to the Tribunal in advance of the CMC4, at which any disputes between the parties as to the appropriate terms of the order shall be determined.

6. DIRECTIONS FOR THE FUTURE CONDUCT OF PROCEEDINGS

25. Insofar as the Claimants intend to make any application for non-party disclosure and/or the provision of information against Argus Media Limited, they shall make that application by no later than 5 September 2026.
26. The trial currently listed to commence on 10 May 2027 is vacated, and paragraph 20 of the CMC2 Order is varied accordingly.

27. There shall be a further CMC listed in early 2027, with a time estimate of 1 day (with ½ a day in reserve).

7. OTHER ORDERS

28. Costs in the case.

29. Liberty to apply.

Hodge Malek KC

Chair of the Competition Appeal Tribunal

Made: 11 August 2026

Drawn: 11 August 2026

Annex 1 – Financing-related disclosure and information to be given by the Claimants

Row¹	Disclosure / Information Sought	Order
10.	How do the cost of debt figures reconcile to the average effective cost of debt figures provided in the Lenzing AG Group annual reports?	The Claimants shall respond to this request.
11.	How are the “floating” interest rates determined (e.g., are these calculated as the sum of a reference rate plus a margin)?	The Claimants shall respond to this request with respect to the floating interest rates set out in Annex 1 to the Financing Statement.
12.	What was the purpose and reason for each loan identified in [Confidential] Annex 1 of the Financing Statement?	The Claimants shall provide a table identifying the purpose of each loan, in accordance with paragraph 128 of the Ruling.
14.	The dividend policies as well as information on how dividends were determined (e.g., payout ratios, criteria for special dividends) and documents concerning the decision to reverse on the special dividends.	The Claimants shall respond to, and provide disclosure of documents responsive to, this request to the extent the relevant information has not already been provided. The Claimants are not required to conduct searches in order to respond to this request if they are able to provide identifiable internal documents that are responsive to this request.
15.	Which Lenzing entities (including non-Claimant entities) were inside the cash pool and which (including any foreign entities) were outside the cash pool? Please provide a breakdown of the cash deposits that were held by each entity.	The Claimants shall respond to this request, with the breakdown of cash deposits given on a three-monthly basis across the Relevant Period.

¹ All references are to rows in the table set out in Annex 1 of the Fourth Witness Statement of Inge Lucy Forster dated 26 June 2026.

Annex 2 – Pass-on-related disclosure to be given by the Claimants

Row ²	Disclosure Sought	Order
1.	Information on how (changes in) caustic soda prices were taken into account in the price setting of Lenzing's downstream products (category 15(a) in the Defendants Redfern Schedule (DRS)). Board and committee papers, including meeting minutes, in which pricing for Lenzing's downstream products were considered and/or approved (DRS category 15(d)). Proposed and/or implemented changes in prices of Lenzing's downstream products and the reasons for those changes (DRS category 15(e)).	The Claimants shall provide disclosure in relation to these requests in respect of cellulose fibres and dissolving wood pulp. In relation to internal sales of dissolving wood pulp for the period from 1 January 2018 onwards, the Claimants shall disclose the CCF Hardwood Index values referred to at paragraph 21 of the Claimants' Pricing Statement dated 10 April 2026 and the production costs for the Fourth Claimants (to the extent not provided under DRS 18).
2.	Margin targets or sales targets for Lenzing's downstream products and whether those targets were reached (DRS category 15(c)).	The Claimants shall make enquiries of relevant individuals as to whether there are any documents responsive to this request (and if so, where those documents may be located), and give disclosure of any documents so identified.
3.	How Lenzing accounts for the cost of caustic soda when negotiating DWP prices with external customers.	The Claimants shall provide disclosure in relation to this request.
4.	How the arm's length internal price of DWP is determined for sales between Lenzing group entities, and to what extent this price reflects the underlying costs of caustic soda for the production of DWP.	The Claimants shall provide disclosure in relation to this request. In relation to internal sales from 1 January 2018 onwards, the Claimants shall disclose the CCF Hardwood Index values referred to at paragraph 21 of the Claimants' Pricing Statement dated 10 April 2026 and the production costs for the Fourth Claimants (to the extent not provided under DRS 18).

² All references are to rows in the table set out in Annex 1 of the Fourth Witness Statement of Inge Lucy Forster dated 26 June 2026.

Row ²	Disclosure Sought	Order
5.	Fixed term contracts (which are to be disclosed under category 16 of Westlake's Redfern Schedule) and documents setting out the negotiation of these contracts.	The Claimants shall give disclosure in response to this request in accordance with paragraph 17 of this Order.
6.	The 2025 written pricing policy (described at paragraph 34 of the Pricing Statement) and documents relating to the extent to which this policy reflects the pricing practice that was already in place during the Relevant Period (even if it had not been formalised in writing at that point).	The Claimants shall give disclosure of the 2025 written pricing policy described at paragraph 34 of the Pricing Statement but not the related documents sought.
9.	How the cost of caustic soda was taken into account in the pricing of by-products.	The Claimants shall provide a pricing statement which sets out how the cost of caustic soda was taken into account in the pricing of by-products. The Defendants have liberty to apply after the further pricing statement.

Temporal Scope: Broad Temporal Period (1 July 2015 – 29 February 2024) save where otherwise specified.