COMPETITION APPEAL TRIBUNAL

NOTICE OF A CLAIM FOR DAMAGES UNDER SECTION 47A OF THE COMPETITION ACT 1998

CASE No: 1077/5/7/07

The Registrar of the Competition Appeal Tribunal (the "Tribunal") gives notice of the receipt of a claim ("the claim") for damages on 9 February 2007, under section 47A of the Competition Act 1998 (the "Act"), by (1) Emerson Electric Co., a United States corporation with its principal place of business at 8000 West Florissant Avenue, St. Louis County, Missouri 63136, U.S.A.; (2) Valeo SA, a French corporation with its principal place of business at 43, Rue Bayen, 75848 Paris Cedex, France; (3) Robert Bosch GmbH, a German corporation with its principal place of business at Postfach 106050, D-70049 Stuttgart, Germany; (4) Visteon Corporation, a United States corporation with its principal place of business at One Village Center Drive, Van Buren Township Michigan 48111, U.S.A.; and (5) Rockwell Automation, Inc., a United States corporation with its principal place of business at 1201 South Second Street, Milwaukee, Wisconsin 53204, U.S.A. (the "claimants") against (1) Morgan Crucible Company plc, a company incorporated under the laws of England and Wales whose registered office is 55/57 High Street Windsor, SL4 1LP (the "first defendant"); (2) Schunk GmbH, a German company with its principal place of business at Parkstrasse 1, D-06502 Thale, Germany; and (3) Schunk Kohlenstoff GmbH, a German company with its principal place of business at Rodheimer Strausse 59, D-35432 Heuchelheim, Germany (the "second and third defendants"); and (4) SGL Carbon AG, a German company with its principal place of business at Rheingaustrasse 182-184, D-65203 Wiesbaden, Germany, (the "fourth defendant"), together (the "defendants").

The claimants' legal advisers are Crowell & Moring, 11 Pilgrim Street, London, EC4V 6RN (Ms Jane Wessel – reference JW/CW/101310.001).

The claim arises from a decision of the European Commission (C(2003) 4457 in Case C.38359), adopted on 3 December 2003, (the "decision") relating to proceedings under Article 81 of the Treaty establishing the European Community ("the EC Treaty") and Article 53 of the Agreement on the European Economic Area ("the EEA Agreement").

At Article (2) of the decision, the European Commission found that the defendants, together with a number of other undertakings, had participated in a cartel in respect of the sale of electrical and mechanical carbon and graphite products ("the Cartel Products") thereby infringing Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement in that they:

(a) agreed and occasionally updated a uniform, highly detailed method of calculating prices to customers, covering the main types of electrical and mechanical carbon and graphite products, different types of customers and all EEA countries where demand existed, with a view to arriving at identically or similarly calculated prices for a wide variety of products;

(b) agreed regular percentage price increases for the main types of electrical and mechanical products and all EEA countries where demand existed, for different types of customers;

(c) agreed on certain surcharges to customers, on discounts for different types of delivery and on payment conditions;

(d) agreed account leadership for certain major customers, agreed to freeze market shares in respect of those customers, and regularly exchanged pricing information and agreed specific prices to be offered to those customers;

(e) agreed a ban on advertising and on participation in sales exhibitions;

(f) agreed quantity restrictions, price increases or boycotts in respect of resellers that offered potential competition;

(g) agreed price undercutting in respect of competitors; and

(h) operated a highly refined machinery to monitor and enforce their agreements.

On 20 February 2004 the second, third and fourth defendants commenced proceedings before the Court of First Instance of the European Communities ("the CFI proceedings") seeking the annulment of the decision or alternatively a reduction in the amount of the penalties imposed on them.

In the light of the foregoing, the claimants have, pursuant to rule 31(3) of the Competition Appeal Tribunal Rules 2003 ("the Tribunal Rules") made an application for permission to make the claim against the second, third and fourth defendants before the end of the period referred to in rule 31(2)(a) of the Tribunal Rules. A copy of the rule 31(3) application can be found on the Tribunal's website: www.catribunal.org.uk together with a copy of the Order of the Chairman regarding the hearing of the application.

As the first defendant is not a party to the CFI proceedings, the Registrar has proceeded to serve the claim form on the First Defendant.

The claimants contend that (as direct purchasers of the Cartel Products who bought at prices that were artificially inflated and at a non-competitive level) they have suffered substantial monetary loss and damage and that the defendants have been unjustly enriched as a result of the infringement of Article 81 of the EC treaty and Article 53 of the EEA Agreement.

The claimant seeks the following relief:

(a) damages;

(b) exemplary damages;

(c) restitution;

(d) all necessary accounts and inquiries;

(e) an order for payment of all such sums as may be found to be due and payable by the defendants and each of them to the claimants upon the taking of such inquiry;

(f) interest pursuant to rule 56(2) of the Tribunal Rules at such rate and for such a period as the Tribunal determines is appropriate, and also in equity, including compound interest, to be assessed;

(g) costs, pursuant to rule 55 of the Tribunal Rules; and

(h) further or other relief.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively the Tribunal Registry can be contacted by post at the above address or by telephone (020 7979 7979) or fax (020 7979 7978). Please quote the case number mentioned above in all communications.

Charles Dhanowa
Registrar

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