



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

Case No: 1250/5/7/16

**B E T W E E N:**

- (1) BREASLEY PILLOWS LIMITED**
- (2) COMFORTEX LIMITED**
- (3) DRURY-ADAMS LIMITED**
- (4) FIBRELINE LIMITED**
- (5) G.N.G. FOAM CONVERTERS (LANCS) LIMITED**
- (6) PLATT & HILL LIMITED**

Claimants

- v -

- (1) VITA CELLULAR FOAMS (UK) LIMITED**
- (2) VITA INDUSTRIAL (UK) LIMITED**

Defendants/Rule 39 Claimants

- and -

- (1) CARPENTER LIMITED**
- (2) CARPENTER CO**
- (3) RECTICEL LIMITED**
- (4) RECTICEL N.V./S.A.**

Rule 39 Defendants

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**ORDER**

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**UPON** reading the application made on 18 May 2016 by the Defendants/Rule 39 Claimants under Rule 31(2) of the Competition Appeal Tribunal Rules 2015 (the "Tribunal Rules") for permission to serve the claim form for an additional claim on the Second Rule 39 Defendant

**IT IS ORDERED THAT:**

1. The Defendants/Rule 39 Claimants be permitted to serve the Second Rule 39 Defendant outside the jurisdiction
2. This order is without prejudice to the rights of that Rule 39 Defendant to apply pursuant to Rule 34 of the Tribunal Rules to dispute the jurisdiction

## **REASONS**

1. The Defendants/Rule 39 Claimants are serving the proceedings on the First, Third and Fourth Rule 39 Defendants, for which no permission is required.
2. It appears very likely, as the Claimants and Defendants/Rule 39 Claimants all submit, that the proceedings will be treated as taking place in England and Wales under rule 18 of the Tribunal Rules.
3. I am satisfied that the Second Rule 39 Defendant is a necessary and proper party to the claim being pursued against the First, Third and Fourth Rule 39 Defendants in that: (a) the claim brought against the Rule 39 Claimants, in respect of which they claim contribution and/or indemnity is a follow-on claim for damages caused by infringement of EU competition law following the European Commission's decision of 29 January 2014 (Polyurethane foam) addressed to all the Rule 39 Defendants; and (b) the European Commission's decision states that the Second Rule 39 Defendant has acknowledged that it was liable for the single and continuous infringement as a parent company of the first Rule 39 Defendant; and (c) the Defendants/Rule 39 Claimants allege that all the Rule 39 Defendants are jointly and severally liable for any loss that the Claimants have suffered.
4. Further, the main claim is a claim in tort for damage sustained within the jurisdiction and the additional claim seeks a contribution and/or indemnity in respect of that claim.
5. By reason of the matters set out in paragraph 3 above, the Defendants/Rule 39 Claimants clearly have a real prospect of success in claiming contribution and/or indemnity from the Second Rule 39 Defendant.
6. This is a contribution claim stemming from a follow-on damages claim that is already before the Tribunal. It would be extremely burdensome and costly if the Defendants/Rule 39 Claimants, domiciled in the UK, had to bring separate proceedings against the Second Rule 39 Defendant in the USA.

**The Honourable Mr Justice Roth**  
President of the Competition Appeal Tribunal

Made: 2 June 2016  
Drawn: 2 June 2016