



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1248/5/7/16

PEUGEOT S.A. AND OTHERS

Claimants

-v-

(1) NSK LTD.
(2) NSK EUROPE LTD.
(3) NTN CORPORATION
(4) JTEKT CORPORATION
(5) AB SKF
(6) ~~INA HOLDING SCHAEFFLER GMBH & CO. KG~~
(7) ~~SCHAEFFLER HOLDING GMBH & CO. KG~~
(8) ~~SCHAEFFLER AG~~

Defendants

ORDER

UPON reading the correspondence from the legal representatives of all the parties to this Claim relating to the establishment of a confidentiality ring

UPON considering the skeleton arguments filed by the Claimants and the Defendants on 7 October 2016

AND UPON hearing the legal representatives of all the parties to this claim at a Case Management Conference on 11 October 2016

AND HAVING REGARD TO the Tribunal's powers under the Competition Appeal Tribunal Rules 2015 (the "**Tribunal Rules**")

AND UPON the Parties having agreed to the terms of this Order

IT IS ORDERED BY CONSENT THAT:

1. For the purposes of this Order:

- 1.1. “**Commission Decision**” means the European Commission Decision dated 19 March 2014 in Case COMP/39922 – *Bearings*.
- 1.2. “**Confidential Information**” means:
 - 1.2.1. the information which was redacted from the public version of the Commission Decision; or
 - 1.2.2. any other information;

contained in the Relevant Documents in respect of which a claim of confidentiality is:
(a) agreed by the parties or upheld by the Tribunal; or (b) has been or will be made to the Tribunal by a party pursuant to Rule 99 and/or Rule 101 of the Tribunal Rules.
- 1.3. “**Commercially Sensitive Pricing Information**” is confidential pricing information the disclosure of which would or might significantly harm the legitimate business interests of the undertaking to which it relates.
- 1.4. “**Confidentiality Ring**” means all the Relevant Advisers.
- 1.5. “**Relevant Advisers**” are those persons:
 - 1.5.1. whose admission to the Confidentiality Ring has received the consent of the parties pursuant to paragraph 5(1) below or has been authorised by the Tribunal pursuant to paragraph 5(2) below; and
 - 1.5.2. who have given a signed undertaking to the Tribunal in the terms of the Schedule to this Order, of which a copy has been provided to the Tribunal.
- 1.6. “**Relevant Documents**” means all pleadings and other documents served or disclosed by any of the parties.
2. Each of the parties shall (as and when disclosure is required) hereafter disclose to the other parties Relevant Documents containing Confidential Information on the condition that such un-redacted versions and any Confidential Information contained therein shall be disclosed only to the Relevant Advisers, and in the case of Commercially Sensitive Pricing Information (or information contended by a party to be so pending a ruling or agreement), only to the Relevant Advisers who are not In-house Counsel, who shall treat such documents in accordance with the terms of the undertaking each of them has given.

3. Any such Relevant Document that a party considers to contain Confidential Information shall be marked so as to indicate the parts in relation to which confidential treatment is claimed, in the manner referred to in paragraph 7.46 of the Tribunal Guide to Proceedings 2015.
4. Membership of the Confidentiality Ring becomes effective upon the receipt by the Tribunal of the Relevant Adviser's signed undertaking.
5. The parties may agree that a different set of Relevant Advisers may be included in the Confidentiality Ring for particular purposes. If any party wishes to add any person as a Relevant Adviser for the purpose of this Order, they may either:
 - 5.1. obtain the written consent of each of the other parties to the admission of that individual to the Confidentiality Ring and inform the Tribunal in writing accordingly (copying the representatives of the other parties); or
 - 5.2. apply to the Tribunal for an order authorising the admission of that individual to the Confidentiality Ring.
6. If any party wishes one of its Relevant Advisers to be removed from the Confidentiality Ring, they shall inform the Tribunal in writing (copying the representatives of the other parties).
7. When a Relevant Adviser is admitted to or removed from the Confidentiality Ring the relevant party will provide to the Tribunal an up-to-date list of the membership of the Confidentiality Ring.
8. With the exception of solicitors' or counsels' notes, and to the extent permitted by law or any applicable professional conduct regulations, copies of all or any (as appropriate) Confidential Information disclosed pursuant to this Order (in both hard and soft copy) must be destroyed insofar as is technologically possible or made inaccessible at the conclusion of these proceedings, or when a Relevant Adviser ceases to be involved in these proceedings. Each party shall notify the other parties that the Confidential Information has been destroyed:
 - 8.1. at the conclusion of these proceedings;
 - 8.2. when a Relevant Adviser ceases to be involved in these proceedings; and/or
 - 8.3. if it is ordered that all or any (as appropriate) of the Confidential Information is no longer relevant to and/or disclosable in these proceedings.
9. For the avoidance of doubt, in the event of any anticipated or actual breach of this Order, any party may seek to enforce the terms of this Order.

10. The parties shall make available without charge to any person on request an up-to-date list of the members of the Confidentiality Ring.

11. Costs be reserved.

12. There be liberty to apply.

The Honourable Mr Justice Green
Chairman of the Competition Appeal Tribunal

Made: 11 October 2016
Drawn: 7 November 2016

SCHEDULE

UNDERTAKING

I, *[name]*, of *[firm, company or establishment]* being *[legal or other qualification]* and regulated so far as my professional conduct is concerned by *[regulatory body, if any]* undertake to the Tribunal as follows:

1. I have read a copy of the Tribunal's Order of 11 October 2016 (the "**Tribunal's Order**") and understand the implications of the Tribunal's Order and the giving of this undertaking.
2. Save in respect of provision to the Tribunal, I will not disclose the Confidential Information (as defined in the Tribunal's Order) to any person who is not a Relevant Adviser (as defined in the Tribunal's Order) without the express written consent of the person which originally disclosed the Confidential Information ("**the Disclosing Person**") or the permission of the Tribunal.
3. I will use the Confidential Information only for the purpose of these proceedings and for the purpose of no other current or future proceedings, dispute, complaint, or other use whatsoever without the express consent of the Disclosing Person.
4. I have read, and understand the implications of, Rule 102 of the Competition Appeal Tribunal Rules 2015, and will use the Confidential Information only in accordance with that Rule.
5. The Relevant Documents (as defined in the Tribunal's Order) containing the Confidential Information will remain in my custody or the custody of another Relevant Adviser at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access or disclosure.
6. The production of further copies by me of the Relevant Documents containing the Confidential Information shall be limited to those required for the use of the Relevant Advisers for the purposes of these proceedings and shall be held in accordance with paragraph 5 of this undertaking.
7. With the exception of solicitors' or counsels' notes, and to the extent permitted by law or any applicable professional conduct regulations, any and all copies of the documents containing the Confidential Information will be securely disposed of insofar as is technologically possible or rendered inaccessible from any computer systems, disk or device so that the Confidential Information is not readily available to any person at the conclusion of these proceedings.

8. The present proceedings for these purposes shall include any further appeals from the Tribunal to a higher court and/or any references to the European Courts, save in so far as that higher court orders otherwise.
9. Save that none of the requirements listed at paragraphs 2 to 7 above shall prevent Relevant Advisers from disclosing Confidential Information to persons who have already legitimately seen it.

Name:

Signed:

Date: