



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1295/5/7/18 (T)

BETWEEN

- (1) DAWSONGROUP PLC
- (2) DAWSONGROUP UK LIMITED
- (3) DAWSONGROUP TRUCK AND TRAILER LIMITED
- (4) DAWSONGROUP MATERIAL HANDLING LIMITED
- (5) DAWSONGROUP SWEEPERS LIMITED

Claimants

-and-

- (1) DAF TRUCKS N.V.
- (2) DAF TRUCKS DEUTSCHLAND GMBH
- (3) PACCAR INC
- (4) DAF TRUCKS LIMITED
- (5) DAIMLER AG
- (6) MERCEDES-BENZ CARS UK LIMITED
- (7) AKTIEBOLAGET VOLVO (PUBL)
- (8) VOLVO LASTVAGNAR AB
- (9) VOLVO GROUP TRUCKS CENTRAL EUROPE GMBH
- (10) RENAULT TRUCKS SAS
- (11) VOLVO GROUP UK LIMITED

Defendants

DIRECTIONS ORDER

UPON hearing Leading Counsel for the Claimants and Leading Counsel for the Defendants at a Case Management Conference on 2 and 3 May 2019 (the “CMC”)

AND UPON the following definitions applying for the purposes of this Order:

- “**Main Claim**” means the Part 7 claim issued in the High Court under claim number CP-2017-000020 and subsequently transferred to the Competition Appeal Tribunal under case number 1295/5/7/18(T);
- “**Additional Claims**” means the Part 20 claims (including by way of contribution notices) issued in connection with these proceedings in the High Court under claim number CP-2017-000020 and subsequently transferred to the Competition Appeal Tribunal under case number 1295/5/7/18(T);

- **“Confidentiality Ring Order”** means the Order of Mr Justice Roth dated 18 December 2018;
- **“Defendants”** means the Defendants to the Main Claim and the Defendants in the Additional Claims;
- **“DAF Defendants”** means the First to Fourth Defendants.
- **“Daimler Defendants”** means the Fifth to Sixth Defendants.
- **“Volvo/Renault Defendants”** means the Seventh to Eleventh Defendants.
- **“Settlement Decision”** means the European Commission’s Decision dated 19 July 2016 in Case AT.39824 – Trucks;
- **“Scania Decision”** means the European Commission’s Decision dated 27 September 2017 in Case AT.39824 – Trucks;
- **“Recitals Schedule”** means the schedule produced by the Claimants pursuant to paragraph 10 of the Order of the Tribunal dated 19 December 2018;
- The **“Other Trucks Claims”** means the claims in *Cases 1284/5/7/18 (T) (Royal Mail Group Limited v DAF Trucks Limited and Others)*, *1290/5/7/18 (T) (BT Group PLC and Others v DAF Trucks Limited and Others)*, *1291/5/7/18 (T) (Ryder Limited and Another v MAN SE and Others)*, *1293/5/7/18 (T) (Veolia Environment S.A. and Others v Fiat Chrysler Automobiles N.V. and Others)*, *1292/5/7/18 (T) (Suez Groupe SAS and Others v Fiat Chrysler Automobiles N.V. and Others)* and *1294/5/7/18 (T) (Wolseley UK Limited and Others v Fiat Chrysler Automobiles N.V. and Others)*.
- **“Outer Confidentiality Ring”** means individuals permitted to access Outer Confidentiality Ring Information on the terms set out in Part C of the Schedule to the Confidentiality Ring Order.

IT IS ORDERED THAT

Disclosure of the Scania Decision

1. Scania shall prepare a consolidated provisional non-confidential version of the Scania Decision incorporating the redactions of each of the Addressee Defendants and disclose it into the Outer Confidentiality Ring by 31 May 2019.

Liability of Non-Addressee Defendants

2. By 31 May 2019, the Defendants may (if so advised) file and serve amended versions of their pleadings on the liability of Non-Addressee Defendants.
3. To the extent that any Non-Addressee Defendant has admitted that it was aware of the fact of some or all of the infringement admitted by the Addressee Defendants, such Defendant(s) shall by 31 May 2019 file and serve amended versions of their pleadings on the liability of Non-Addressee Defendants particularising the basis of any such plea (if not already provided) including:

- (a) The times at which the relevant Defendant was so aware;
- (b) The identity of the individual(s) who were so aware and the positions they held at the relevant Defendant.

Amendments to statements of case

- 4. By 28 June 2019, the Claimants shall provide the Defendants with draft Amended Particulars of Claim including:
 - (a) Further particulars of the infringement which is the subject of their Claim and the alleged resultant loss (including in particular, further particulars of the loss claimed by the First Claimant); and
 - (b) Clarification that the Claimants are not advancing claims in relation to Truck superstructures.
- 5. The Defendants shall confirm by 19 July 2019 whether they consent to the proposed amendments pursuant to CPR 17.1(2)(a). If the Defendants (or any of them) do not consent, the Defendant(s) shall provide reasons for withholding consent.
- 6. If the Defendants consent to the amendments sought, the Claimants shall file at the Tribunal their Amended Particulars of Claim within 7 days of receipt of consent.
- 7. To the extent that the Defendants do not consent to the amendments sought, the Claimants may make an application to the Tribunal for permission to amend their Particulars of Claim within 14 days of consent being withheld.
- 8. The Defendants shall make any consequential amendments to their pleadings by the later of: (i) 4 October 2019, or (ii) if they do not provide consent pursuant to paragraph 5 above, within 28 days of the grant by the Tribunal of permission (if it is forthcoming).
- 9. The Claimants shall (if so advised) file and serve an Amended Reply (or Amended Replies, as they case may be) within 28 days of service of the Defendants' amended pleadings.

Disclosure

- 10. By 26 July 2019, the applicants shall file and serve a Redfern Schedule containing each party's position in relation to any disputed disclosure requests along with a list of categories which are agreed between the parties. The parties are to cooperate in relation to the completion of the said Schedule. Should they be unable to agree the dates by which they shall each complete the Schedule, they shall have liberty to apply.
- 11. By 6 September 2019, the parties shall file and exchange witness statements in support of their respective positions on the issues of quantum disclosure in dispute, limited to:
 - (a) One statement from a solicitor per party (or group of parties where they are represented by the same firm of solicitors).

- (b) One statement from an expert economist per party (or group of parties where they are represented by the same firm of solicitors).
- 12. By 13 September 2019, the parties shall file and serve skeleton arguments for the hearing.
- 13. There shall be a hearing on the issue of quantum disclosure in dispute on 19 and 20 September 2019.

Preliminary Issue

- 14. There shall be a trial (in these claims together with the Other Trucks Claims) of the preliminary issue relating to the binding nature of certain recitals in sections 3, 4 and 7 of the Settlement Decision.
- 15. The parties shall write to the Tribunal by 31 May 2019 to set out:
 - (a) if agreed between the parties, the precise wording on the preliminary issue;
 - (b) if not agreed between the parties, the precise wording on the preliminary issue sought by each of the parties.
- 16. By 31 May 2019, Daimler AG is to update the schedule it filed on 5 February 2019 to set out which of the recitals it:
 - (a) contends are not binding as they do not form an essential basis of the Settlement Decision;
 - (b) admits as a matter of fact or law; and
 - (c) where Daimler AG does not admit all of the facts and matters in a recital, whether there are any parts of that recital which are admitted.
- 17. A hearing of the preliminary issue shall be listed for 3, 5 and 6 December 2019. In preparation for the said preliminary issues trial:
 - (a) By 19 July 2019, the Claimants, together with the claimants in the Other Truck Claims shall file and serve a table of recitals or parts of recitals, in the Settlement Decision upon which they wish to rely, which are not admitted by one or more Addressee Defendants, and which they contend are binding on the Addressee Defendants (in each case specifying whether that is said to be because they form part of the essential basis of the Settlement Decision or on abuse of process grounds) (the “**Table**”). That said table shall contain columns corresponding to each Addressee Defendant (or, where appropriate, each group thereof) in which the said Defendants can set out their own positions (the “**Defendant Columns**”).

- (b) By 20 September 2019, the Addressee Defendants shall file and serve a version of the Table in which the Addressee Defendants set out in the Defendant Columns their respective positions on whether each Recital or part of Recital included in the Table is binding on them.
- (c) By 18 October 2019, the Claimants shall be at liberty to file and serve a pleading pertaining to the preliminary issue.
- (d) By 8 November 2019, the Addressee Defendants shall file and serve a pleading in response to the pleading at paragraph 17(c) above.
- (e) The parties shall file and serve skeleton arguments by no later than 1 week prior to the said hearing.

Further case management conference

18. A further Case Management Conference is to be listed for 6 and 7 February 2020.

Extension of time limits

19. The parties may agree to extend any time period in this Order for a period or periods of up to 28 days in total without reference to the Tribunal, provided that this does not affect the date given for any case or costs management conference or any other court hearing or pre-trial review or the date of the trial. The parties shall notify the Tribunal in writing of the expiry date of any such extension. Paragraph 20 of the Order of 21-22 November 2018 is revoked.

Costs

20. The costs arising from and occasioned by the case management conference on 2-3 May 2019 shall be costs in the case.

Other

21. Liberty to apply.

The Hon Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 2-3 May 2019
Drawn: 13 June 2019