



IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1306-1311/5/7/19 (T)
1349/5/7/20 (T)

BETWEEN

DUNE GROUP LIMITED
AND OTHERS

Claimants

-and-

- (1) MASTERCARD INCORPORATED**
- (2) MASTERCARD INTERNATIONAL INCORPORATED**
- (3) MASTERCARD EUROPE SA**
- (4) MASTERCARD/EUROPAY UK LIMITED**

Defendants

Case Nos: 1312-1325/5/7/19 (T)
1350/5/7/20 (T)

AND BETWEEN

DUNE SHOES IRELAND LIMITED
AND OTHERS

Claimants

-and-

- (1) VISA EUROPE LIMITED**
- (2) VISA EUROPE SERVICES LLC**
- (3) VISA UK LIMITED**

Defendants

ORDER

UPON the Claimants' applications dated 30 December 2020 for summary judgment (the "Summary Judgment Applications") in both Case Nos. 1306-1311/5/7/19 (T) and 1349/5/7/20

(“the Mastercard proceedings”) and Case Nos. 1312-1325/5/7/19 (T) and 1350/5/7/20 (“the Visa proceedings”)

AND UPON the application dated 22 January 2021 to amend the defences in the Visa proceedings (the “Amendment Application”)

AND UPON reading the evidence filed

AND UPON hearing Leading Counsel for the Claimants and the Defendants at a case management conference (“CMC”) heard remotely on 2 February 2021

IT IS ORDERED THAT:

Case Management

1. There be joint case management of the Mastercard proceedings and the Visa proceedings.
2. All issues save the issues concerning whether MIFs infringe Article 101 TFEU be stayed, pending the determination of those issues.
3. The parties shall liaise to seek to agree on the number and the criteria for selection of a manageable number of claimants whose claims will proceed first as sample claims.
4. By 4pm on 2 March 2021 all parties shall file written submissions recording their agreement or insofar as not agreed their proposals regarding:
 - a. the appropriate criteria for selection of a manageable sample of claimants;
 - b. the size of the sample; and
 - c. the method of selection of individual claimants according to those criteria.

The Summary Judgment Applications

5. The Summary Judgment Applications be heard jointly in all of the cases.
6. The following directions shall apply to the Summary Judgment Applications.
 - a. The Defendants are to file evidence in response by 4pm on 3 March 2021;
 - b. The Claimants are to file any reply evidence by 4pm on 31 March 2021;

- c. Skeleton arguments are to be exchanged by 4pm, 4 working days before the date of the hearing;
- d. A hearing be listed for the first available date after 13 April 2021, with a time estimate of two days and an additional day in reserve.

The Amendment Application

7. Permission is granted to re-amend paragraph 106 of the defence in Case 1350/5/7/20(T) and insert paragraphs 106A-106C in accordance with the draft annexed to the Amendment Application.
8. The balance of the Amendment Application is adjourned to be heard together with the Summary Judgment Applications.
9. Re-service of the defence is dispensed with pending determination of the balance of the Amendment Application.

Preliminary issue – Italian law

10. The question of which law governs the claims by the Italian claimants in Cases 1349/5/7/20 (T) and 1350/5/7/20 (T) shall be heard as a preliminary issue.
11. The following directions shall apply to the preliminary issue:
 - a. The Claimants shall indicate to the Defendants by 10 February 2021 whether they propose to file any evidence and, if so, shall file the evidence on which they propose to rely by 4 pm on 17 February 2021.
 - b. The Defendants shall file any evidence in response or on which they propose to rely by 4 pm on 3 March 2021
 - c. Skeleton arguments are to be exchanged by 4 pm 4 working days before the date of the hearing.
 - d. A hearing be listed for the first available date after 24 March 2021 with a time estimate of one day.

Costs information

12. From 1 July 2021, the parties shall exchange information every three months as to the costs and disbursements that they have incurred and which they reasonably believe would likely to be recoverable from the opposing parties in the event of a costs order being made in their favour. Such information shall be exchanged for sums incurred in Q1 at the beginning of Q3; in Q2 at the beginning of Q4; in Q3 at the beginning of Q1 of the following year; and in Q4, at the beginning of Q2 of the following year.
13. The costs of the CMC be in the cases.
14. There be liberty to apply.

The Hon Mr Justice Roth
President

Tim Frazer

Paul Lomas

Made: 2 February 2021
Drawn: 5 February 2021