



IN THE COMPETITION
APPEAL TRIBUNAL

1427/5/7/21

BETWEEN:

BELLE LINGERIE LIMITED

Claimant

- v -

(1) WACOAL EMEA LTD
(2) WACOAL EUROPE LTD

Defendants

REASONED ORDER

UPON the Tribunal's order made on 14 March 2022 (the "Directions Order")

AND UPON reading the application, by letter from the solicitors for the Defendants dated 17 June 2022, for an extension of time for the filing and service of a signed written report from their industry expert (the "Application")

AND UPON considering the correspondence regarding the Application from the solicitors for the Claimant dated 17 and 20 June 2022, and the solicitors for the Defendants dated 19 June 2022

IT IS ORDERED THAT:

1. Paragraph 15 of the Directions Order shall be varied such that the parties shall (if necessary) file and serve reply statements of witnesses of fact by 4pm on 30 June 2022.

2. Paragraphs 17 to 19 of the Directions Order shall be varied such that:
 - (a) The time for the filing by the Defendants, and service by both parties, of a signed written report from their respective industry expert shall be extended until 4pm on 24 June 2022.
 - (b) The parties shall each file and serve signed reply expert reports from their respective industry expert by 4pm on 5 July 2022.
 - (c) The parties' industry experts shall meet, on a without prejudice basis, to discuss their respective reports by no later than 19 July 2022.
3. Costs in the case.
4. Liberty to apply.

REASONS:

1. The Defendants seek an extension of time of one week to 4pm on 24 June 2022 in order to finalise their industry expert's report which was due for filing and service by 4pm on 17 June 2022. This is principally due to difficulties relating to the drafts provided by their expert (who has not given evidence in English proceedings before), his availability and that of their legal advisor. I am advised that the earliest the expert will be able to review the next draft is the morning of 21 June 2022 (Mumbai time).
2. The Claimant does not oppose a short extension, but considers a week to be too long. The Claimant submits that any extension should only be until 4pm on Tuesday 21 June, or until 12 noon on Wednesday 22 June 2022. The Claimant raises various criticisms to the effect that the Defendants could and should be able to file their industry expert report sooner. The Claimant points out that all parties are under pressure given the order for expedition in this case, but that it has managed to file its own industry expert report on time. The Claimant submits that it would be unfair to order a longer extension, in circumstances where the parties' reply witness statements are due to be filed on 24 June 2022, and the Claimant may need to review the Defendants' industry expert reports

before finalising evidence in reply. Further, the Claimant submits that the reply industry expert reports are due by 1 July 2022, so the proposed timing will leave the Claimant's expert and legal team with one week rather than two weeks to review the expert report, and prepare and finalise the reply report.

3. The requested extension is a short one of one week. Due to the time difference between Mumbai and the UK, I am not convinced that an extension only to noon on 22 June 2022 is sufficient. That is particularly so in light of the various exchanges of correspondence with the Tribunal, continuing even this morning. If I order an extension only to 23 June 2022, that will not give the Claimant much time to review the industry expert reports before finalising reply witness statements (if and to the extent that is necessary).
4. I will grant an extension to 4pm on 24 June 2022 for the Defendants to file their industry expert report. I will also grant permission to the Claimant to file an updated version of its report by 4pm on 24 June 2022 (as envisaged in the letter from the solicitors for the Claimant dated 17 June 2022, which is not objected to by the Defendants), and to serve its industry expert report on the Defendants by 4pm on 24 June 2022 (as envisaged in the letter from the solicitors for the Claimant dated 20 June 2022).
5. I also make the following further variations to the Directions Order: the time for filing reply industry expert reports shall be extended to 4pm 5 July 2022, and the time by which the industry experts shall meet is extended to 4pm on 19 July 2022. The date for filing a statement of matters agreed and not agreed shall remain 27 July 2022.
6. The time for filing witness statements in reply shall be extended to 4pm on 30 June 2022.

Bridget Lucas QC

Chair of the Competition Appeal Tribunal

Made: 21 June 2022

Drawn: 21 June 2022