



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1468/7/7/22

BETWEEN:

JUSTIN GUTMANN

Applicant/Proposed Class Representative

- v -

(1) APPLE INC

(2) APPLE DISTRIBUTION INTERNATIONAL LIMITED

(3) APPLE RETAIL UK LIMITED

Respondents/Proposed Defendants

ORDER (CONFIDENTIALITY RING)

UPON reading the correspondence from the legal representatives of all the parties to these proposed proceedings relating to the establishment of a confidentiality ring by consent in relation to the Litigation Funding Agreement and Funder Adverse Costs Indemnity Insurance Policy dated 23 March 2022, exhibited to the Proposed Class Representative's Witness Statement dated 16 June 2022

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 "**Confidential Information**" means:

- (a) the information which was redacted from the non-confidential version of the Litigation Funding Agreement of 23 March 2022 exhibited to the Proposed Class Representative's Witness Statement dated 16 June 2022, excluding the redactions (if any) that will remain notwithstanding the Confidentiality Ring; and
- (b) the information which was redacted from the non-confidential version of the Funder Adverse Costs Indemnity Insurance Policy dated 23 March 2022 exhibited to the Proposed Class Representative's Witness Statement dated 16 June 2022, excluding the redactions (if any) that will remain notwithstanding the Confidentiality Ring.

being the material contained in the Relevant Documents in respect of which a claim of confidentiality is made by the Proposed Class Representative pursuant to Rule 99 and/or Rule 101 of the Tribunal Rules.

- 1.2 “**Confidentiality Ring**” means the group of individuals given access to the Confidential Information pursuant and subject to the terms of this Order.
- 1.3 “**Relevant Advisers**” are those persons 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 who has 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.
- 1.4 “**Relevant Documents**” means the Litigation Funding Agreement of 23 March 2022 and the Further Adverse Costs Indemnity Insurance Policy dated 23 March 2022, both exhibited to the Proposed Class Representative's Witness Statement dated 23 March 2022.
- 1.5 “**Support Personnel**” are those persons who provide necessary secretarial and other support for any Relevant Adviser, including litigation support services, administrative and clerking services, IT, reprographic staff and clerks, acting under the supervision of

any of those persons identified in paragraph 1.3, above, for the purpose of the proceedings, provided that such Support Personnel have been informed of the confidential nature of the Confidential Information and the terms of the Schedule to this Order.

2. The Proposed Class Representative shall hereafter disclose to the other parties the 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, who shall treat such documents in accordance with the terms of the undertaking each of them has given, and to their Support Personnel.
3. Relevant Documents 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 for each Relevant Adviser and their respective Support Personnel becomes effective upon the receipt by the Tribunal of the Relevant Adviser's signed undertaking.
5. 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 counsel's notes, and to the extent permitted by law or any applicable professional conduct regulations, copies of all or any (as appropriate) un-redacted Relevant Documents containing Confidential Information / material 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. Each party shall notify the other parties that such documents have been destroyed:
 - 8.1 at the conclusion of these proceedings; and/or
 - 8.2 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. Costs be reserved.
11. There be liberty to apply.

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 [●] [*date*] 2022 (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 Tribunal Rules, 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 counsel's notes, and to the extent permitted by law or any applicable professional conduct regulations, at the conclusion of these proceedings, any and all copies of the un-redacted Relevant 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.

8. The present proceedings for these purposes shall include any further appeals from the Tribunal to a higher court, 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:

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Signed:

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Date:

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