



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1382/7/7/21

BETWEEN:

CONSUMERS' ASSOCIATION

Applicant/Proposed Class Representative

- v -

QUALCOMM INCORPORATED

Respondent/Proposed Defendant

ORDER

UPON reading the application by the Proposed Class Representative for a Collective Proceedings Order pursuant to section 47B of the Competition Act 1998 and Rule 75 of the Competition Appeal Tribunal Rules 2015 (the “Tribunal Rules”) filed on 18 February 2021 (the “CPO Application”)

AND UPON reading the application by the Proposed Defendant pursuant to Rule 34 of the Tribunal Rules to dispute the Tribunal’s jurisdiction filed on 25 May 2021 (the “Jurisdiction Challenge Application”)

AND UPON the Proposed Defendant withdrawing the Jurisdiction Challenge Application

AND UPON reading the written submissions of the parties filed in advance of a case management conference (“CMC”)

AND UPON hearing Leading Counsel for the parties at a CMC held remotely on 9 November 2021

IT IS ORDERED THAT:

Forum

1. Pursuant to Rules 18, 52 and 74 of the Tribunal Rules, the CPO Application is to be treated as proceedings in England and Wales.

Confidentiality

2. The Parties shall liaise and agree the terms of a confidentiality ring and shall file an agreed draft order to the Tribunal by 4 pm on 3 December 2021. In the event that the parties cannot reach agreement, they shall file a composite draft showing the areas of agreement and disagreement for the Tribunal to determine on the papers.

Publicity

3. The Proposed Class Representative shall publicise the CPO Application by 15 November 2021 according to the proposal set out in paragraphs 5.28-5.31 and Annexure D (as amended by the Tribunal) of the Notice and Administration Plan (contained in the Litigation Plan) that is exhibited to the First Witness Statement of Charmian Averty at [CA-1/77-170 at 116-117 and 158-164].
4. The Proposed Class Representative shall publicise by 15 November 2021, in accordance with paragraphs 3 and 9 of this Order, the right under Rule 76(10)(c) of persons with an interest to object to the CPO Application or the authorisation of the Proposed Class Representative.
5. The Proposed Class Representative shall publicise by 15 November 2021, in accordance with paragraphs 3 and 10 of this Order, the right under Rule 79(5) of members of the proposed class to make an application to the Tribunal for permission to make oral submissions at the hearing of the CPO Application.

Response and replies to the CPO Application

6. The Proposed Defendant shall file and serve its response to the CPO Application, and any application for summary judgment and/or strike out of all

or part of the proposed collective proceedings, together with any accompanying factual and expert evidence, by 4pm on 22 December 2021.

7. The Proposed Class Representative shall file and serve any reply to the Proposed Defendant's response to the CPO Application, and any reply to any application for summary judgment and/or strike out, together with any accompanying factual and expert evidence, by 4pm on 11 February 2022.
8. Any strike-out/summary judgment application shall be case managed alongside, listed and heard at the same hearing as the CPO Application.

Objections to the CPO Application and applications for permission to make observations

9. Any person with an interest (including any member of the proposed class) may object to the CPO Application or the authorisation of the Proposed Class Representative by writing to the Tribunal stating their reasons for objecting by 4pm on 7 January 2022.
10. Any person with an interest (including any member of the proposed class) who seeks permission to make written and/or oral observations at the CPO Application hearing is to make such application, supported by reasons, to the Tribunal by 4pm on 7 January 2022.

Hearing

11. The parties shall liaise with the Tribunal Registry to fix a date for a pre-hearing review, which shall be listed for half a day, to be vacated if not needed.
12. The hearing of the CPO Application shall be listed for 30-31 March 2022, with a time estimate of 2 days (with 1 April 2022 held over in reserve).
13. The hearing shall take place in person before the Tribunal but the Tribunal may, if necessary, consider holding it virtually if circumstances require.

14. The parties shall seek to agree the hearing and authorities bundles in accordance with the Tribunal's Guide to Proceedings 2015 and Practice Direction of 25 February 2021. The parties shall file the agreed hearing bundles in electronic form and six copies of a hard copy agreed core hearing bundle by 4pm on 16 March 2022. The parties shall file the agreed authorities bundle in electronic form by 4pm on 23 March 2022. The hard copy core bundle shall be limited to a single lever arch file (printed double-sided).
15. The parties are to file and exchange skeleton arguments by 4pm on 18 March 2022.
16. The parties shall inform the Tribunal in advance if they intend to engage the services of an external document management platform and/or transcription provider for the hearing.

Costs

17. The Proposed Defendant shall pay, within 28 days of the date of this Order, the Proposed Class Representative's costs of responding to the Jurisdiction Challenge Application, which have been agreed in the sum of £220,000, inclusive of VAT.
18. The parties have agreed that 25% of the Proposed Class Representative's solicitors' fees, 25% of the Proposed Class Representative's counsels' fees, and 100% of the Proposed Class Representative's expert's fees as set out in the Proposed Class Representative's Schedule of Costs dated 8 November 2021, shall be apportioned to, and treated as, costs in the CPO Application.
19. The costs of this CMC shall be costs in the CPO Application.

Miscellaneous

20. There be liberty to apply.

The Hon Mrs Justice Bacon

Chairwoman of the Competition Appeal Tribunal

Made: 9 November 2021

Drawn: 11 November 2021