

# OPUS 2

## INTERNATIONAL

Sainsbury's Supermarkets Ltd v. (1) MasterCard Inc, (2) MasterCard International Inc, (3) MasterCard Europe S.P.R.L.

Day 15 Redacted

February 23, 2016

Opus 2 International - Official Court Reporters

Phone: +44 (0)20 3008 5900  
Email: [transcripts@opus2.com](mailto:transcripts@opus2.com)  
Website: <http://www.opus2.com>

10:01:25 1 Tuesday, 23rd February 2016  
 10:13:41 2 (10.30 am)  
 10:13:46 3 (Open session)  
 10:34:35 4 MR SPITZ: Good morning.  
 10:34:36 5 MR JUSTICE BARLING: Good morning, Mr Spitz. Are you doing  
 10:34:39 6 the hard work today?  
 10:34:41 7 MR SPITZ: Some of it. Sir, we would like to call Mr Paul  
 10:34:47 8 Reynolds as the next witness, please.  
 10:34:58 9 MR PAUL NICHOLAS REYNOLDS (affirmed)  
 10:35:02 10 Examination-in-chief by MR SPITZ  
 10:35:08 11 MR JUSTICE BARLING: Thank you, Mr Reynolds.  
 10:35:13 12 MR SPITZ: Morning, Mr Reynolds.  
 10:35:15 13 A. Good morning.  
 10:35:15 14 Q. If you could be shown bundles D2 and D2.1. You have  
 10:35:24 15 prepared three expert reports for this case and I would  
 10:35:27 16 like to identify those with you. The first is D2,  
 10:35:32 17 tab 1, starting on page 1. If you could just flick  
 10:35:41 18 through that to confirm that it is your expert report  
 10:35:47 19 and work your way to page 26, the first report.  
 10:35:52 20 A. Yes, that's my report.  
 10:35:54 21 Q. That's your signature on page 26 and this first report  
 10:35:57 22 is the 27th August 2015?  
 10:36:01 23 A. That is correct.  
 10:36:02 24 Q. Then, if you go to D2.1, tab 5, beginning at page 705.  
 10:36:21 25 That's your second report. Page 734 is the last page of

1

10:36:40 1 the report.  
 10:36:45 2 A. Yes, that is my report.  
 10:36:46 3 Q. You will see your signature and the date of this report,  
 10:36:50 4 11th December 2015?  
 10:36:53 5 A. That is correct.  
 10:36:54 6 Q. Then, your third and final report is in the same bundle,  
 10:36:58 7 D2.1, at tab 7, beginning on page 770. You will see at  
 10:37:11 8 page 777 the last page of that report with your  
 10:37:16 9 signature?  
 10:37:17 10 A. That's my report and that is my signature.  
 10:37:19 11 Q. That's dated 22nd January 2016. Do you confirm that  
 10:37:25 12 these three reports represent your true and complete  
 10:37:28 13 professional opinions on the matters to which they  
 10:37:31 14 refer?  
 10:37:31 15 A. Yes, I do.  
 10:37:33 16 MR SPITZ: Thank you very much. Mr Cook, I believe, will  
 10:37:34 17 have some questions for you.  
 10:37:36 18 Cross-examination by MR COOK  
 10:37:38 19 MR COOK: Sir, you will be disappointed to know that there  
 10:37:40 20 are no new documents today.  
 10:37:42 21 MR JUSTICE BARLING: Oh dear.  
 10:37:44 22 MR COOK: In terms of confidentiality, sir, the other side  
 10:37:48 23 very kindly sort of rose to my invitation last week to  
 10:37:53 24 try to see if they could address some of the  
 10:37:55 25 confidentiality.

2

10:37:57 1 They have done so. It is still the case that there  
 10:37:59 2 are key parts of the material that I'm going to be going  
 10:38:02 3 to today which deals with the detailed figures to do  
 10:38:08 4 with things like cost of capital and things like that.  
 10:38:11 5 It is Sainsbury's confidential information and that is  
 10:38:13 6 interleaved into the course of the evidence and  
 10:38:15 7 therefore the questions I was going to be asking.  
 10:38:20 8 On that basis, sir, I think in practice --  
 10:38:22 9 MR JUSTICE BARLING: It is not going to work.  
 10:38:24 10 MR COOK: It is not going to work. It is something where we  
 10:38:26 11 would be sending people in and out on a fairly regular  
 10:38:29 12 basis for what, I hope, will not be that long  
 10:38:32 13 a cross-examination in any event, sir. My suggestion  
 10:38:34 14 would be that it is all held in camera.  
 10:38:41 15 MR JUSTICE BARLING: Okay, I'm sorry if there's anybody here  
 10:38:43 16 then who is not in the confidentiality ring, except  
 10:38:52 17 those who -- there may be some people who are entitled  
 10:38:58 18 to stay for Sainsbury's, but not MasterCard's  
 10:39:03 19 confidential information. So I would think this is  
 10:39:06 20 going to mean that the whole of today's  
 10:39:09 21 cross-examination then?  
 10:39:11 22 MR COOK: Indeed, sir, yes.  
 10:39:12 23 MR JUSTICE BARLING: So I'm very sorry.  
 10:39:20 24 (10.38 am)  
 25

3

10:39:25 1 (End of open session)  
 10:39:27 2 (Beginning of yellow confidentiality session - REDACTED)  
 10:39:31 3 (12.42 pm)  
 4  
 5  
 6  
 7  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

4

---

	INDEX	
		PAGE
10:39:35	1	
10:39:35	2	
10:39:35	3	(Open session) .....1
10:39:35	4	MR PAUL NICHOLAS REYNOLDS (affirmed) .....1
10:39:35	5	Examination-in-chief by MR SPITZ .....1
10:39:35	6	Cross-examination by MR COOK .....2
10:39:35	7	(End of open session) .....4
10:39:35	8	(Beginning of yellow confidentiality .....4 session - REDACTED)
	9	
	10	
	11	
	12	
	13	
	14	
	15	
	16	
	17	
	18	
	19	
	20	
	21	
	22	
	23	
	24	
	25	



<p><b>A</b></p> <p>address (1) 2:24  affirmed (2) 1:9 5:4  anybody (1) 3:15  asking (1) 3:7  August (1) 1:22</p>	<p>identify (1) 1:16  INDEX (1) 5:1  information (2) 3:5,19  interleaved (1) 3:6  invitation (1) 2:23</p>	<p>2:9,10  sir (6) 1:7 2:19,22 3:8  3:13,22  sorry (2) 3:15,23  sort (1) 2:23  Spitz (7) 1:4,5,7,10,12  2:16 5:5  starting (1) 1:17  stay (1) 3:18  suggestion (1) 3:13</p>	<p>777 (1) 2:8</p>			
<p><b>B</b></p> <p>BARLING (6) 1:5,11  2:21 3:9,15,23  basis (2) 3:8,12  beginning (4) 1:24 2:7  4:2 5:8  believe (1) 2:16  bundle (1) 2:6  bundles (1) 1:14</p>	<p><b>J</b></p> <p>January (1) 2:11  JUSTICE (6) 1:5,11  2:21 3:9,15,23</p>	<p><b>T</b></p> <p>tab (3) 1:17,24 2:7  terms (1) 2:22  Thank (2) 1:11 2:16  things (2) 3:4,4  think (2) 3:8,19  third (1) 2:6  three (2) 1:15 2:12  today (3) 1:6 2:20 3:3  today's (1) 3:20  true (1) 2:12  try (1) 2:24  Tuesday (1) 1:1</p>				
<p><b>C</b></p> <p>call (1) 1:7  camera (1) 3:14  capital (1) 3:4  case (2) 1:15 3:1  complete (1) 2:12  confidential (2) 3:5,19  confidentiality (5)  2:22,25 3:16 4:2  5:8  confirm (2) 1:18 2:11  Cook (7) 2:16,18,19  2:22 3:10,22 5:6  correct (2) 1:23 2:5  cost (1) 3:4  course (1) 3:6  cross-examination (4)  2:18 3:13,21 5:6</p>	<p><b>K</b></p> <p>key (1) 3:2  kindly (1) 2:23  know (1) 2:19</p> <p><b>L</b></p> <p>long (1) 3:12</p> <p><b>M</b></p> <p>MasterCard's (1) 3:18  material (1) 3:2  matters (1) 2:13  mean (1) 3:20  morning (4) 1:4,5,12  1:13</p>	<p><b>U</b></p> <p><b>V</b></p> <p><b>W</b></p> <p>way (1) 1:19  week (1) 2:23  witness (1) 1:8  work (4) 1:6,19 3:9,10</p>				
<p><b>D</b></p> <p>D2 (2) 1:14,16  D2.1 (3) 1:14,24 2:7  date (1) 2:3  dated (1) 2:11  deals (1) 3:3  dear (1) 2:21  December (1) 2:4  detailed (1) 3:3  disappointed (1) 2:19  documents (1) 2:20  doing (1) 1:5</p>	<p><b>N</b></p> <p>new (1) 2:20  NICHOLAS (2) 1:9 5:4</p> <p><b>O</b></p> <p>Oh (1) 2:21  Okay (1) 3:15  open (4) 1:3 4:1 5:3,7  opinions (1) 2:13</p>	<p><b>X</b></p> <p><b>Y</b></p> <p>yellow (2) 4:2 5:8</p> <p><b>Z</b></p> <p><b>0</b></p> <p><b>1</b></p> <p>1 (5) 1:17,17 5:3,4,5  10.30 (1) 1:2  10.38 (1) 3:24  11th (1) 2:4  12.42 (1) 4:3</p>				
<p><b>E</b></p> <p>entitled (1) 3:17  event (1) 3:13  evidence (1) 3:6  Examination-in-chie...  1:10 5:5  expert (2) 1:15,18</p>	<p><b>P</b></p> <p>page (10) 1:17,19,21  1:24,25,25 2:7,8,8  5:2  parts (1) 3:2  Paul (3) 1:7,9 5:4  people (2) 3:11,17  please (1) 1:8  pm (1) 4:3  practice (1) 3:8  prepared (1) 1:15  professional (1) 2:13</p>	<p><b>2</b></p> <p>2 (1) 5:6  2015 (2) 1:22 2:4  2016 (2) 1:1 2:11  22nd (1) 2:11  23rd (1) 1:1  26 (2) 1:19,21  27th (1) 1:22</p>				
<p><b>F</b></p> <p>fairly (1) 3:11  February (1) 1:1  figures (1) 3:3  final (1) 2:6  first (3) 1:16,19,21  flick (1) 1:17</p>	<p><b>Q</b></p> <p>questions (2) 2:17 3:7</p> <p><b>R</b></p> <p>REDACTED (2) 4:2 5:8  refer (1) 2:14  regular (1) 3:11  report (11) 1:18,19,20  1:21,25 2:1,2,3,6,8  2:10  reports (2) 1:15 2:12  represent (1) 2:12  Reynolds (5) 1:8,9,11  1:12 5:4  ring (1) 3:16  rose (1) 2:23</p>	<p><b>3</b></p> <p><b>4</b></p> <p>4 (2) 5:7,8</p>				
<p><b>G</b></p> <p>go (1) 1:24  going (6) 3:2,2,7,9,10  3:20  Good (3) 1:4,5,13</p>	<p><b>S</b></p> <p>Sainsbury's (2) 3:5,18  second (1) 1:25  see (3) 2:3,7,24  sending (1) 3:11  session (6) 1:3 4:1,2  5:3,7,8  shown (1) 1:14  side (1) 2:22  signature (4) 1:21 2:3</p>	<p><b>5</b></p> <p>5 (1) 1:24</p> <p><b>6</b></p> <p><b>7</b></p> <p>7 (1) 2:7  705 (1) 1:24  734 (1) 1:25  770 (1) 2:7</p>				
<p><b>H</b></p> <p>hard (1) 1:6  held (1) 3:14  hope (1) 3:12</p> <p><b>I</b></p>						

