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IN THE COMPETITION
APPEAL TRIBUNAL

Case Nos: 1342/5/7/20,
1409/5/7/21(T), 1410/5/7/21(T)

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

Thursday 6th October 2022

Before:
The Honourable Mr Justice Marcus Smith
Peter Anderson
Michael Cutting
(Sitting as a Tribunal in England and Wales)

BETWEEN:

Sportradar AG and Another

Claimants

v

Football DataCo Limited and Others

Defendants

And

Soft Construct (Malta) Limited and
Others

Interveners

AND BETWEEN:

Football DataCo Limited

Claimant

v

Sportradar AG and Others

Defendants

AND BETWEEN:

Betgenius Limited

Claimant

v

Sportradar AG and Others

Defendants

AND
IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INTELLECTUAL PROPERTY LIST (ChD)

Claim Nos: IL-2021-000002, IL-2021-000003

Before:

The Honourable Mr Justice Marcus Smith
(Sitting as a Judge of the High Court of England and Wales)

BETWEEN:

Football DataCo Limited Claimant

v

Sportradar AG and Others Defendants

AND BETWEEN:

Betgenius Limited Claimant

v

Sportradar AG and Others Defendants

A P P E A R A N C E S

Ronit Kreisberger KC, Alistair Lindsay, Alan Bates, Ciar McAndrew, Robert Howe KC, Barnaby Lowe (instructed by Sheridans appeared on behalf of Sportradar AG & Another)
Kassie Smith KC, Thomas Sebastian, Will Perry, Lindsay Lane KC and Henry Edwards (instructed by DLA Piper UK LLP appeared on behalf of Football DataCo Limited & Others)
Tom de la Mare KC, Tristan Jones, Timothy Lau, Ian Mill KC, Hollie Higgins (instructed by Macfarlanes LLP appeared on behalf of Genius Sports Group Limited & Another)
Conall Patton KC, Greg Adey (instructed by Reynolds Porter Chamberlain LLP appeared on behalf of Soft Construct (Malta) Limited & Others)

Thursday, 6 October 2022

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(11.00 am)

Discussion re settlement

MS KREISBERGER: Good morning, Sir.

THE PRESIDENT: Thank you very much for your note or
Mr Howe's note, which we have read. We are very
grateful.

MS KREISBERGER: Sir, there have been some developments
overnight and the parties are in discussions about
settlement. Now, what we would like to ask the
Tribunal, and with the Tribunal's permission, is to have
a short adjournment today until 2 o'clock only to see if
progress can be made. If progress is made, then we can
update the Tribunal on the position. If progress has
not been made by 2 o'clock, we propose to press ahead at
that stage, calling Mr Lampitt, with the Tribunal's
permission.

THE PRESIDENT: Well, as you know, all courts are keen to
encourage settlement. The reason I am hesitating is
because Mr de la Mare quite rightly indicated that there
were time pressures with Mr Lampitt generally, even with
an 11 o'clock start. Assuming things do not go well,
how are we going to make up the lost two hours? First
of all, is Mr Lampitt free on Monday? That is the --

MS KREISBERGER: Yes, we can confirm he is free on Monday.

1 THE PRESIDENT: He is free on Monday.

2 MR DE LA MARE: That is the plan I think, my Lord.

3 THE PRESIDENT: Right.

4 MR DE LA MARE: It is implicit in the request that

5 Mr Lampitt will be available for all of Monday and

6 effectively that will give us our two and a half days.

7 THE PRESIDENT: Okay. Well, Mr de la Mare, if you are

8 content that we can rise until 2 o'clock to enable

9 discussions, then I am not going to stand in the way of

10 what is obviously a very sensible proposal.

11 MR DE LA MARE: I think I can say from the part of all on

12 this side of the court, and I hope I speak for Ms Smith,

13 we would not be doing this if we thought we were wasting

14 your time.

15 THE PRESIDENT: I know. It is if things go badly, I would

16 not want the trial to be disrupted.

17 MR DE LA MARE: No. Nor would we.

18 THE PRESIDENT: But clearly not.

19 MR DE LA MARE: Nor would we.

20 THE PRESIDENT: Nor would you. I know. Very good.

21 Well, we will in that case adjourn until 2 o'clock

22 and I hope you have some profitable discussions.

23 MS KREISBERGER: I am very grateful, Sir.

24 THE PRESIDENT: Thank you very much.

25 (11.05 am)

1 (The court adjourned until 2.00 pm)

2 (2.00 pm)

3 THE PRESIDENT: Ms Kreisberger, good afternoon.

4 MS KREISBERGER: Good afternoon, Sir. Thank you.

5 I am pleased to report some progress. The position
6 is this: no doubt my learned friends will leap up if
7 I do not fairly reflect what has been agreed, but I am
8 confident we have an agreement for the purposes of this
9 afternoon, which is that key commercial terms of
10 settlement have been agreed between the parties. The
11 parties are also agreed that they will work together to
12 enter into a short-form settlement agreement by 10.00 am
13 tomorrow morning.

14 Now, I am in the Tribunal's hands. We will
15 obviously let the Tribunal know as soon as such an
16 agreement is reached, if it is, as to whether you would
17 like the parties to appear at 10.30 am tomorrow, if
18 there is such an agreement. If there is not, we proceed
19 with the evidence tomorrow morning.

20 On the basis that there is a short-form settlement
21 agreement, the parties will then convert that into
22 a long-form settlement agreement by Monday morning. If
23 the long-form settlement agreement is not reached, then
24 again we proceed with the trial, and I should say it has
25 been specifically agreed that the parties will

1 collectively take the hit on curtailing the evidence to
2 fit the remainder of the trial window. So it will be
3 shared between the parties fairly.

4 THE PRESIDENT: Yes, I see. Anything to add? Mr Mill?

5 MR MILL: My Lord, insofar as the word "fairly" means
6 "equally", that is one third each, there is nothing that
7 I need to add.

8 THE PRESIDENT: Thank you.

9 I just want to put down a slight concern, which is
10 that I have done a number of trials where the parties
11 have managed to squeeze a five-week trial into
12 a four-week period and I must say they do it extremely
13 well. What it does do, however, is significantly
14 multiply the difficulties of the court. It adds
15 probably about 50% judgment writing time because you
16 have to unpack what has been gone through at great
17 speed. What the parties are asking is that we lose
18 effectively, or run the risk of losing two days of
19 evidence.

20 MR MILL: One day, my Lord.

21 THE PRESIDENT: One day.

22 MR MILL: On the basis that Monday will be a day which would
23 be a sitting day. Under the original timetable, it is
24 not.

25 THE PRESIDENT: Well, this is true, but I was already

1 committing Monday yesterday. Before, this settlement
2 was moot so --

3 MR MILL: True. True, my Lord, but nonetheless, if one
4 looks at the number of days of sitting, by reference to
5 the timetable that was agreed before the beginning of
6 this trial, we have only lost -- we will only have lost
7 one day.

8 THE PRESIDENT: Well, that is fair, but I think I took
9 Mr de la Mare's points about his time pretty seriously
10 yesterday.

11 MR DE LA MARE: Yes.

12 THE PRESIDENT: I had well in mind that we would do our
13 level best to obtain Monday and, since Mr Lampitt is
14 free, I had -- it may be that it is not agreed in the
15 timetable, but it was in my mind that the white space
16 that is presently a not sitting Monday is a day that is
17 marked in green for Mr Lampitt. So I think we are
18 losing two days. The reason that is the metric that
19 I think we need to focus on is because we regard the
20 evidence as important to get in. So, yes, we are not
21 going to stand in the way of the parties reaching an
22 attempt to settle. That would be wrong.

23 I take it that the parties do not want us to run the
24 settlement process and the trial in parallel, because
25 that would be an alternative. I mean, we could have

1 Mr Lampitt in the box now and various of the team could
2 go off and discuss settlement and the various others
3 could conduct the case. That is extraordinarily high
4 pressure for the teams before me, I understand that;
5 I have been in that situation a couple of times myself
6 and it is pretty horrible, but that would be something
7 which we could do. But I am detecting a certain
8 reluctance on Ms Kreisberger's part.

9 MS KREISBERGER: Sir, can I just take instruction on that?

10 THE PRESIDENT: Of course. (Pause).

11 MR MILL: My Lord, I do not think I need to take
12 instructions. Our position is clear. The settlement
13 needs to be achieved or not achieved before the
14 commencement of the --

15 THE PRESIDENT: Sorry, Mr Mill?

16 MR MILL: My Lord, I am so sorry, I was speaking while you
17 were talking.

18 From Genius' point of view, either there will be
19 a settlement before the evidence starts or there will
20 not. So we do not, I am afraid, take the view that that
21 is an alternative that would be convenient to us or
22 indeed in line with our thinking in the settlement
23 discussions that are taking place.

24 THE PRESIDENT: So what you are saying is the commencement
25 of the evidence means that the talking is over.

1 MR MILL: My Lord, I believe that is so.

2 THE PRESIDENT: Okay.

3 Ms Kreisberger, is that also your position?

4 MS KREISBERGER: It is also our position. We think the
5 window is the efficient way, but we have well in mind
6 your observations, Sir, and I think it depends on
7 counsel operating efficiently and nimbly in the revised
8 timetable, should that be the case.

9 THE PRESIDENT: Okay. Well, you can take it that we would
10 be driving the parties pretty hard to maximise the
11 evidence and ensure that we make up the time. How we do
12 that, well, we will consider it if we need to. But at
13 the moment, I think one of our number is commuting from
14 Scotland and I think Mr Anderson needs to ensure that he
15 is present for Monday.

16 MS KREISBERGER: That is understood. So, Sir, the first
17 stage is tomorrow morning, given we want to keep the
18 window as short as possible.

19 THE PRESIDENT: Yes.

20 MS KREISBERGER: So we will inform the Tribunal in advance
21 if short-form settlement has been achieved by then.

22 THE PRESIDENT: Okay.

23 MS KREISBERGER: But I think, Sir, we should assume that we
24 will be back in at 10.30 am tomorrow.

25 THE PRESIDENT: Yes.

1 MS KREISBERGER: Unless the Tribunal lets us know otherwise.

2 THE PRESIDENT: Well, look, you do not need to attend if you
3 have achieved your short-form settlement. In other
4 words, simply let us know that the day is not required
5 and do not show up. There is no point if you are going
6 to be simply rehashing what we have already discussed
7 and will decide this once and not revisit it. So turn
8 up if we are going on with the trial; do not turn up,
9 but let us know that you are not turning up, if your
10 short-form settlement is achieved and you are going on
11 to discuss heads of terms.

12 MS KREISBERGER: Yes. Sir, we are very grateful to the
13 Tribunal for its flexibility on this.

14 THE PRESIDENT: Well, I wish you all the best in terms of
15 achieving an outcome and if there is any other way in
16 which the Tribunal can be of assistance, I suspect not,
17 but if there is, you need only ask.

18 So we are contingently adjourned until 10.30
19 tomorrow and I hope you will not take it in the wrong
20 spirit if I say I very much hope I do not see you
21 tomorrow.

22 Thank you all very much. Contingently adjourned
23 until 10.30 tomorrow.

24 (2.12 pm)

25 (The hearing adjourned)

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