



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1570/5/7/22 (T)

BETWEEN:

JJH ENTERPRISES LIMITED
(trading as VALUE LICENSING)

Claimant

- v -

(1) MICROSOFT CORPORATION
(2) MICROSOFT LIMITED
(3) MICROSOFT IRELAND OPERATIONS LIMITED

Defendants

ORDER

UPON the fifth Case Management Conference on 24 February 2025

AND UPON the Defendants' application for further disclosure for the Liability Trial (as defined in the Order of 16 December 2024) dated 20 December 2024 (the "**Defendants' Disclosure Application**")

AND UPON the Claimant's application for further disclosure from the Defendants for the Liability Trial dated 20 December 2024 (the "**Claimant's Disclosure Application**")

AND UPON reading the parties' evidence and written submissions

AND UPON hearing Counsel for the Claimant and Counsel for the Defendants

IT IS ORDERED THAT:

Further disclosure by the Claimant for the Liability Trial

1. By 4pm on 28 April 2025, the Claimant shall provide to the Defendants:
 - a. Any trackers within its possession or control in respect of its Dynamics CRM database (“CRM”); and
 - b. Any metadata in its possession or control in respect of its Verba database.
2. By 4pm on 28 April 2025, the Claimant shall provide the Defendants with the contents of the Claimant’s CRM system and Verba recordings, subject to redaction or withholding of privileged material.
3. By 4pm on 27 May 2025, the Claimant shall:
 - a. Disclose known adverse documents within the meaning of PD57AD;
 - b. Give further disclosure in accordance with Schedule 1 to this Order;
 - c. A reasonable search for documents falling within categories 52.3, 57, 59, and 61-62 of Schedule 1 to this Order shall include the following:
 - i. The Claimant shall liaise with each of the individuals named in 1 below, and shall use best endeavours to liaise with those named in 2 below (best endeavours to include checking whether the Claimant has the benefit of any ongoing cooperation clause (or similar) in respect of any of the above individuals and, if so, taking all reasonable steps to enforce the same as necessary), as to where any documents responsive to each of the above categories are or might be located:
 1. Jonathan Horley, David Hubbard, and Rosie Willis;
 2. Stephen Akers, Stephen Cook, Nick Humphries, David Boon, Michael Judd, and Kevin McGuire; and
 - ii. The Claimant shall carry out a reasonable search of the identified documents or document locations (which is to include liaising with the above individuals further as necessary).
 - d. File and serve a witness statement by a legal representative of the Claimant:
 - i. Setting out the steps taken as part of the disclosure exercise undertaken pursuant to this Order;
 - ii. Confirming that reasonable searches have been carried out in respect of the disclosure categories set out in Schedule 1 to this Order; and

- iii. Confirming that the Claimant had undertaken, or caused to be undertaken, searches for documents in a responsible and conscientious manner to fulfil the stated purpose of the search and in accordance with the Claimant's obligations as set out in this Order.

Further disclosure by the Defendants for the Liability Trial

4. By 4pm on 27 May 2025, the Defendants shall:
 - a. Disclose known adverse documents within the meaning of PD57AD;
 - b. Give disclosure on the issues, and in accordance with the parameters, set out in Schedule 2 to this Order, save in respect of disclosure resulting from database searches which will be provided at a later date to be set by the Tribunal if not agreed between the parties; and
 - c. File and serve a witness statement by a legal representative of the Defendants:
 - i. Setting out the steps taken as part of the disclosure exercise undertaken pursuant to this Order;
 - ii. Confirming that reasonable searches have been carried out in respect of the disclosure categories set out in Schedule 2 to this Order; and
 - iii. Confirming that the Defendants have undertaken, or caused to be undertaken, searches for documents in a responsible and conscientious manner to fulfil the stated purpose of the search and in accordance with the Defendants' obligations as set out in this Order.
5. In respect of the provisions of Schedule 2 provisionally directing the Defendants to undertake searches of unstructured data on their database "VL Central Approvals", the Defendants have liberty to apply to vary that order, with any such application to be supported by evidence as to any technical issues, the associated costs, timing, and proportionality. Any such application is to be heard at the case management conference listed pursuant to paragraph 6 of this Order.

Directions for the hearing of a further Case Management Conference

6. A further case management conference will be listed with a time estimate of 2 days ("CMC-6"). To the extent they remain in issue, CMC-6 will address the following applications:
 - a. The Defendants' application for further disclosure by the Claimant in respect of matters not agreed and directed pursuant to paragraph 23.a of this Order;
 - b. The Claimant's application for further disclosure arising from the Defendants' alleged waiver of privilege in respect of the CELA presentation;
 - c. The Claimant's application for trial of preliminary issues dated 27 January 2025 and any issues as to forum;

- d. The Defendants' application to amend the Defence dated 21 February 2025, insofar as not consented to;
- e. Any application by the Defendants made pursuant to paragraph 5 of this Order; and
- f. Further directions to the Liability Trial.

7. Liberty to apply.

8. Costs in the case.

Justin Turner KC
Chair of the Competition Appeal Tribunal

Made: 2 April 2025
Drawn: 2 April 2025

SCHEDULE 1

Disclosure by the Claimant for the Liability Trial

Applicable date range: 1 January 2011 – 31 March 2023

Category No.	Category	Mechanics for disclosure
Issue A2		
Documents concerning the Claimant’s activities in relation to relevant software		
2.1	<p>Documents showing the identity and location of the first acquirer of any version of Windows, Office and/or CAL Suites and the terms on which C bought the licence from the first acquirer, and the volume of such acquisitions, namely:</p> <p>(a) Copies of any:</p> <p>(i) software licence agreement received from the first acquirer,</p> <p>(ii) photographs or records of physical software media,</p> <p>(iii) invoices or receipts from first acquirer,</p> <p>(iv) contracts of sale or other agreements or warranties between C and the first acquirer, which C received from the first acquirer upon resale of such software to C;</p> <p>(b) Copies of all communications between C and the first acquirer (including via anyone acting on behalf of C, such as sales agents, contractors or intermediaries) from whom any licence of the software was obtained by C prior to the conclusion of such sale;</p> <p>(c) Records of payment (including bank statements, receipts and invoices) made to the first acquirer (or anyone acting</p>	<p>Reasonable search to include:</p> <p>Custodian searches for:</p> <p>Carrie Middleton David Boon David Hubbard Jonathan Horley Kevin Maguire Michael Judd Stephen Akers Stephen Cook</p> <p>Across the following repositories:</p> <p>Quickbooks Sage Emails File and Print Database Teams Skype SMSs</p>

	<p>on their behalf) for any software licence obtained by C;</p> <p>(d) Documents showing the location and domicile of the first acquirer, and the location of the devices on which the software was installed;</p> <p>(e) Contact details for the first acquirer;</p> <p>(f) The original purchase receipt, contract or other licence document received from the first acquirer;</p> <p>(g) Insofar as not covered by (a) above, any invoices, receipts, contracts or other records of any acquisition from any third party by C or anyone acting on C's behalf of a time-bound SA licence for any Microsoft software product;</p> <p>(h) Communications between C and its sales agents, contractors or intermediaries responsible for acquiring product keys, volume licences or other entitlements to use Microsoft software in relation to any actual or proposed transactions for the same.</p>	<p>WhatsApp Imaged Laptops</p> <p>Using keyword search terms for the names of each of C's suppliers of licences (to include the following 34 Customer name keywords and sensible shorter formulations, trading names, abbreviations, and acronyms):</p> <p>MJN Colston Honister Capital Comet Group Ltd AudioNova International WT Burdens Ltd E Pihl & Son A/S TS Operations Limited t/a Blockbuster Phones 4u Limited Maire Tecnimont Howard Smith Paper Group Ltd DSM Nutritional Products PLP (Royal Imtech N.V.) Welcome Financial Services Ltd Heijmans Nederland B.V. equensWorldline GGZ Noord-Holland-Noord GGZ Friesland Exact Holding BV Gemeente Haarlemmermeer Ballast Nedam ICT B.V. Getronics Services UK Limited Carillion Construction Ltd Facilicom Bedrijfsdiensten B.V. Damen Global Business Services BV Achmea Interne Diensten N.V.</p>
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2.2	Documents showing whether the first acquirer paid to the Defendants all fees due for its use of each such copy, including under a time-bound SA licence, and fulfilled any preconditions to the grant of a perpetual licence had been met.	As per 2.1

2.3	<p>Documents showing whether the first acquirer took steps to render their copy of the software unusable at the time of its resale and did not continue to use the product in any format, namely:</p> <ul style="list-style-type: none"> (a) Copies of all product keys, volume licence keys or other similar mechanisms in respect of any Microsoft Office, Windows and/or CAL software obtained by C from the first acquirer; (b) Written communications between C and the first acquirer after the conclusion of any sale to C discussing the first acquirer's use of Microsoft products; (c) Copies of any written confirmation received by C from the first acquirer concerning its non-use and/or deletion of the relevant Microsoft product; <p>Copies of all records relating to the disposal of hardware belonging to the first acquirer on which any copy of the relevant Microsoft product was installed.</p>	As per 2.1
2.4	<p>Documents showing whether the first acquirer did not make any further copies of the Microsoft product on a non-original medium, namely:</p> <ul style="list-style-type: none"> (a) Documents recording the format of the original physical media received by C from the first acquirer; <p>Written communications between C and the first acquirer before or after the conclusion of any sale to C discussing the first acquirer's copying of the relevant Microsoft software products.</p>	As per 2.1
2.5	<p>Documents showing whether, if the first acquirer had a multi-user or multi-product licence, the resale related to the licence for all of those users and products, namely:</p> <ul style="list-style-type: none"> (a) Records showing how many sales were made, of what software, and at what prices, by C (or anyone acting on C's behalf), together with the identity of the Microsoft product and the nature and source of the licence or 	As per 2.1, but with the addition of searches by reference to a full list of the Claimant's <u>customers</u> (and corresponding sensible shorter formulations, trading names, abbreviations, and acronyms). It is agreed that these searches shall initially be made, and disclosure given, by reference to the following customers by the date specified in the CMC-5 Order, with disclosure resulting from the searches in relation to the remaining customers to follow within 10 weeks thereafter:-

	<p>entitlement being resold;</p> <p>(b) A list of the product keys, volume licences or other entitlements to use any Microsoft software product in the form being resold or offered for sale by C;</p> <p>(c) For each such product key, volume licence or other entitlement being resold or offered for sale by C, a copy of the corresponding licence agreement received from the first acquirer showing the number of such keys, volume licences or other entitlements held by that first acquirer and the number obtained by C;</p> <p>(d) Invoices, payment records and transaction data showing sales made by C to any third party of any product key, volume licence or other entitlement to use any Microsoft software product and showing the product key, volume licence or other entitlement purportedly attaching to such sale;</p> <p>Also to include any internal communications (including emails, text/instant messages, and chat logs) and/or communications between C and any supplier, reseller, customer or potential customer of licences to a Microsoft product or CAL concerning the practice of “splitting” or sub-dividing licences.</p>	<p>(a) Customers with a cumulative transaction value of more than £50,000;</p> <p>(b) An agreed sample of 100 customers in the £0-£1000 transaction value range; and</p> <p>(c) An agreed sample of 100 customers in the £1000-£50,000 range.</p>
<p>Issue B1</p> <p>The extent and propensity of organisations in the Relevant Territories purchasing POLs for Office Windows and/or CALs in place of, or in addition to, new perpetual licences or subscriptions to M365 during the Relevant Period.</p>		

7.1	<p>Documents and data relating to the extent and incidence of organisations in the Relevant Territories purchasing POLs in place of, or in addition to, new perpetual licences or subscriptions to M365 during the Relevant Period.</p> <p>Examples of such documents include studies on the market size for relevant POLs, measures of total market value or revenue of relevant POLs, business planning materials on the opportunity/potential scope of VL's activities, business development/marketing materials.</p>	<p>Reasonable search to include:</p> <p>Repositories:</p> <ul style="list-style-type: none"> Sharepoint File and Print Database Emails Teams Skype Personal emails Imaged Laptops <p>The Claimant's solicitors shall also identify and disclose all successful sales in a report generated from the Claimant's Quickbooks and Sage systems, and search those customer names within the Dynamics CRM system and the File and Print Database, for instances where an opportunity may have been mislabelled.</p> <p>Keywords:</p> <p>sale* OR sell* OR procure* w/5 strateg*</p> <p>market OR SWOT OR demand OR sales OR competition w/5 analys* OR size OR share</p> <p>"business plan"</p> <p>current OR past OR historic OR future OR sale* OR sell* OR purchas* OR buy* w/5 opportunit*</p> <p>"market size" OR "market value" OR "market stud*" w/5 perpetual OR license* OR licence*</p>
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Issue B2		
What factors might affect whether an organisation in the Relevant Territories would have considered purchasing POLs for Office Windows and/or CALs in place of, or in addition to, new perpetual licences or subscriptions to M365 during the Relevant Period?		
7.2	Documents (such as market research studies on consumer preferences, cost/benefit analysis, relevant communications with clients, marketing material) and data showing the relative benefits and/or detriments for enterprise customers in the Relevant Territories from the use of POLs for each relevant software, as opposed to: a) new perpetual licences and b) M365 subscriptions, as well as from the use of M365 as opposed to new perpetual licences, including documents and data relevant to the matters pleaded at Defence [31.2].	Reasonable search
Issue B3		
What factors (other than the Impugned Terms) might affect whether enterprise customers that subscribe to M365 decide to sell, retain, destroy or otherwise deal with their existing perpetual licences?		
10	Documents and data showing any factors that might affect whether enterprise customers that subscribe to M365 decide to sell, retain, destroy or otherwise deal with their existing perpetual licences. This includes documents and data relevant to the allegedly relevant factors pleaded at Defence [36.2]. Examples of such documents include: customer/market research studies, product lifecycle analysis, licence management studies and correspondence with clients in relation to migration to M365.	Reasonable search to include: Custodians: Carrie Middleton David Boon David Hubbard Jonathan Horley Kevin Maguire Michael Judd Nick Humphries Stephen Akers Stephen Cook

		<p>Also keyword searches of:</p> <p>Work Emails Microsoft Teams Skype for Business Personal Emails Imaged Laptops Sharepoint File and Print Database</p> <p>Personal text, WhatsApp and Signal messages from Messrs Horley, Akers, and Hubbard</p> <p>Keywords:</p> <p>security /5 concern*</p> <p>legal OR reputational OR security /10 risk OR uncertain*</p> <p>inconvenient* /10 sale* OR sell*</p> <p>sign-off OR sign* pre/1 off /10 legal OR internal OR committee</p> <p>worth /5 risk OR time OR investment OR discussion*</p> <p>(delete* OR uninstall* OR destroy*) w/5 (licence* OR license*)</p>
13	Documents, including internal correspondence, memoranda, reports and minutes of meetings concerning the impact of the Defendants' introduction of subscription-based licences on the market for POLs.	<p>Reasonable search to include:</p> <p>Custodians:</p> <p>Andrew Meikle Ben Markwell Carl Pearson Claire Hartley Daniel Hillard David Boon</p>

		<p>David Hubbard Davide Di Leonardo Emily Targett Ettore Varotto Ian Wilson-Hart James Campbell Jo Reeve Joe Mayes Jonathan Horley Kevin McGuire Laura Willis Lee Bannister Lina Cruz Mark McNeish Michael Judd Michelle Shilock Michelle Wylly Nick Humphries Patricia Shaw Peter Meades Phillip Hozack-Scott Roman Didzus Stephen Akers Stephen Cook Tracey Corbett-Shipley Agnese Kromane Andrea McNeish</p> <p>Repositories:</p> <p>Breathe HR (as a document)</p> <p>Keyword Searches of:</p> <p>Emails</p>
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		<p>Microsoft Teams Skype for Business Personal text, WhatsApp and Signal messages from Messrs Horley, Akers, and Hubbard SharePoint File and Print Database Personal Emails Imaged Laptops</p> <p>Keywords:</p> <p>impact* OR opportunit* OR ~Usedsoft OR risk /10 Cloud OR transition OR O365 OR M365 OR "Office 365" OR "Microsoft 365"</p>
<p>Issue D2</p> <p>The Defendants' use of Custom Anti-Resale Terms in the Relevant Territories during the Relevant Period.</p>		
16.1	<p>All agreements between the Defendants and/or their Partners on the one hand and customers containing or referencing Custom Anti-Resale Terms.</p>	<p>Reasonable search</p> <p>Agreed as not needing prescriptive search terms</p>
16.2	<p>Documents and data concerning</p> <p>(a) how many customers were offered Custom Anti-Resale Terms</p> <p>(b) how many customers agreed to such terms; and</p> <p>(c) in respect of how many perpetual licences in the Relevant Territories during the Relevant Period</p>	<p>Reasonable search</p> <p>Agreed as not needing prescriptive search terms:</p> <p>The Claimant to provide all instances of this category of documents which it is aware of which are the basis of its claim.</p>
16.3	<p>Correspondence between the Defendants and/or their Partners on the one hand and customers on the other hand, referencing the use or proposed use of Custom Anti-Resale Terms.</p>	<p>Reasonable search</p> <p>Agreed as not needing prescriptive search terms</p>

16.4	Agreements between the Defendants and/or their Partners on the one hand and customers on the other hand containing or referencing the New From SA Condition.	Reasonable search Agreed as not needing prescriptive search terms.
16.5	Correspondence between the Defendants and/or their Partners on the one hand and customers referencing the use or proposed use of the New From SA Condition.	Reasonable search Agreed as not needing prescriptive search terms.
Issue D4		
Other elements of the alleged Campaign		
25.1	Documents, including correspondence, recordings of telephone discussions, memoranda, reports and minutes of meetings evidencing instructions and/or advice (including advice given orally) by the Defendants and/or their Partners to customers concerning reselling their perpetual licences.	Reasonable search Agreed as not needing prescriptive search terms
25.2	Documents, including correspondence, memoranda, reports and minutes of meetings relating to policies or incentives provided by the Defendants to their sales teams and/or Partners to dissuade customers from reselling their POLs.	Reasonable search Agreed as not needing prescriptive search terms
25.3	Documents and data, including but not limited to correspondence, memoranda, reports and minutes of meetings concerning any policies or guidance in force, prior to the imposition of the New From SA Condition, concerning any link between the availability of new and/or renewed From SA SKUs to customers, and such customers' treatment of their existing perpetual licences.	Reasonable search Agreed as not needing prescriptive search terms

25.4	Documents and data, including available recordings of telephone discussions, evidencing communications between the Defendants (and/or their Partners) and their customers concerning any link between the availability of new and/or renewed From SA SKUs and such customers' treatment of their existing perpetual licences.	Reasonable search Agreed as not needing prescriptive search terms
Issue F1 The extent to which the alleged Campaign has restricted the supply of POLs: absent the Impugned Terms and/or other pleaded aspects of the alleged Campaign, how many more POLs would have been available for resale and purchase in the Relevant Territories during the Relevant Period?		
33	Documents and data relating to the incidence and propensity of enterprise customers in the Relevant Territories (absent the Impugned Terms and/or other pleaded aspects of the alleged Campaign) selling, retaining, destroying or otherwise dealing with their existing perpetual licences.	Reasonable search to include: Custodians: Carrie Middleton David Boon David Hubbard Jonathan Horley Kevin Maguire Michael Judd Nick Humphries Stephen Akers Stephen Cook Repositories: Emails Microsoft Teams Skype for Business SharePoint File and Print Database Imaged Laptops Lead Forensics Data Click Dimensions Data

		<p>Keywords:</p> <p>For Emails, Microsoft Teams, Sharepoint, Imaged Laptops, WhatsApp, Signal and SMS messages of Stephen Akers, Jonathan Horley and David Hubbard:</p> <p>"speed bump"</p> <p>"offer to purchase"</p> <p>legal OR reputational OR security w/10 risk OR uncertain*</p> <p>inconvenient* w/10 sale* OR sell*</p> <p>sign-off OR sign* pre/1 off w/10 legal OR internal OR committee</p> <p>worth w/5 risk OR time OR investment OR discussion*</p>
38.1	<p>Documents (e.g. management summaries, board reports/minutes, internal briefing notes or memoranda) relating to the Claimant's alleged loss in the form of lost profits on sales of pre-owned perpetual licences, and evidence that any such loss is continuing</p> <p>Documents showing whether the Claimant has passed on any loss to its own customers, and the extent to which the Claimant has received any tax advantages as a result of suffering any losses.</p>	<p>The Claimant will provide reports from its CRM, Quickbooks and Sage systems. This is expected to be in conjunction with the experts.</p> <p>Reasonable search to include:</p> <p>Repositories:</p> <p>Emails Microsoft Teams Skype for Business Personal text, WhatsApp and Signal messages from Messrs Horley, Akers, and Hubbard SharePoint File and Print Database Personal Emails Imaged Laptops</p> <p>Keywords:</p>

		<p>resell* OR sale* OR transfer* OR eligibility OR right w/10 tied OR "bound up" OR linked OR connected OR connecting</p> <p>rate OR margin OR offer w/5 licence OR license OR sale</p>
44.1	<p>Data on licences bought, sold, facilitated or brokered in the UK and EEA area between 2011 and March 2023, broken down at the licence level (or if not available, then at transaction level) by:</p> <ul style="list-style-type: none"> (a) Relevant product bought, sold, facilitated or brokered, including the major version of such product, different packages, editions (b) Buying and selling transaction ID (c) Unique identifiers for the licences bought, sold, facilitated or brokered (d) Price at which bought and sold respectively, by transaction and by product (e) The volume bought/sold/facilitated/brokered for each transaction, by transaction and by product (f) Date of each transaction (for buying, selling, facilitating and brokering) (g) The country where the licences were bought by the Claimant (or relevant party in a brokered/facilitated transaction) and sold by the Claimant (or relevant party in a brokered/facilitated transaction) respectively 	<p>Reasonable search to include:</p> <p>The Claimant to produce this data in the form of reports from:</p> <p>Quickbooks Sage</p>

	<p>(h) Unique identifier of the company from whom licences were bought, and to whom the licences were sold, including information on the sector in which they operate and their size (e.g., number of employees).</p> <p>(i) Costs related to the transaction, including the direct costs of acquisition of the licences purchased and the costs of goods sold (reported by month/quarter/year as available).</p>	
47.1	<p>Documents and/or data (e.g. marketing analyses, competitor analyses, strategy documents, business planning materials) discussing or quantifying: a) the size and scope of the second-hand licence market in the UK and EEA, and b) the Claimant's market share; broken down by Microsoft product, by other 'office productivity suites', and by year. This includes documents and/or data of actual market activity as well as measures of market supply such as potentially available supply of second-hand licences, the total addressable size, industry estimates of potential supply, number of second-hand licences entering the market. This also includes documents and/or data of actual market activity in relation to market demand such as potentially available customers of POLs, the total addressable size, industry estimates of potential demand.</p>	<p>Reasonable search to include:</p> <p>Custodians:</p> <p>Jonathan Horley Stephen Akers Stephen Cook Nick Humphries David Boon David Hubbard Michael Judd Kevin McGuire Andrea McNeish Agnese Kromane</p> <p>Repositories:</p> <p>Emails Microsoft Teams Skype for Business Personal text, WhatsApp and Signal messages from Messrs Horley, Akers, and Hubbard SharePoint File and Print Database</p>

		<p>Imaged laptops Personal email</p> <p>Keywords:</p> <p>market OR SWOT OR demand OR sales OR competition w/5 analys* OR size OR share</p> <p>“market size” OR “market value” OR “market stud*” w/5 perpetual OR license* OR licence*</p>
47.2	<p>Documents (e.g. marketing analyses, competitor analyses) showing what share of sales in the second-hand market the Claimant occupies in the different geographies, including: their main rivals in those geographies, their relative success or failure in identifying buyers and/or sellers or second-hand licences, the potential reasons for that success or failure and any SWOT analyses of competitors. Further, any competitive advantage the Claimant enjoyed in those geographies in the date range that the Claimant says sales were allegedly lost, and assumes it would have occupied but for the alleged Campaign.</p>	<p>As for 47.1 above.</p>
47.3	<p>Documents (e.g. competitor analyses, benchmarking studies, business strategy and planning materials) showing the assumptions, if any, the Claimant has made regarding the actions of its competitors.</p>	<p>Reasonable search</p> <p>Agreed as not needing prescriptive search terms</p>
52.1	<p>Documents showing the Claimant’s actual and projected demand, revenues and costs during the period 2011 to March 2023 (including business plans prepared in 2011 and all years since, as applicable), and the equivalent used in the Claimant’s damages quantum methodology. This would include any projections or commentary on the expected viability of the secondary perpetual licence market.</p>	<p>Reasonable search to include:</p> <p>Repositories:</p> <p>SharePoint File and Print Database Quickbooks Sage Imaged Laptops</p>

		The Claimant agrees to manual searches of the same.
52.3	Documents, including any commentary, on factors limiting the demand for second-hand licences, including: the process and steps adopted by the Claimant to source licences for meeting the demand for second-hand licences, any challenges that the Claimant has faced in increasing its revenue and how it planned or plans to address those challenges, whether set out in business plans or elsewhere.	Reasonable search to include: Custodians: Jonathan Horley Stephen Akers Stephen Cook Nick Humphries David Boon David Hubbard Michael Judd Kevin McGuire Repositories: Work emails Microsoft Teams Skype for Business Personal text, WhatsApp and Signal messages from Messrs Horley, Akers, and Hubbard SharePoint File and Print Database Imaged Laptops Personal Emails Keywords: broker* w/10 sale*

		<p>Reasonable search shall also include the following:</p> <p>See paragraph 3(c) of the Order.</p>
52.4	<p>Claimant’s communications with its target or prospective customers for sale of POLs, including its customers who have expressed interest and disinterest.</p> <p>Claimant’s communications with sellers or potential sellers of licenses concerning their potential interest (or disinterest) in selling licences.</p> <p>This would include communications or commentary on the longer term viability of the secondary perpetual licence market</p>	<p>Reasonable search to include:</p> <p>Custodians:</p> <p>Jonathan Horley Stephen Akers Stephen Cook Nick Humphries David Boon David Hubbard Michael Judd</p> <p>Repositories:</p> <p>Emails Microsoft Teams Skype for Business Personal text, WhatsApp and Signal messages from Messrs Horley, Akers, and Hubbard SharePoint File and Print Database Imaged Laptops</p> <p>The Claimant proposes using its Quickbooks and Sage accounts systems to identify every entity from which it purchased and to whom it sold licences with a value of over £50,000. The names of those entities will be keywords, which will be searched on all listed Repositories for this category.</p>

		<p>The Claimant will also disclose visitors to its website from its Lead Forensics and Click Dimensions</p>
52.5	<p>Documents, including any commentary, on reasons why putative buyers choose against buying second-hand licences generally, or choose not to buy those products via the Claimant specifically.</p>	<p>Reasonable search to include:</p> <p>Custodians:</p> <p>Jonathan Horley Stephen Akers Stephen Cook Nick Humphries David Boon David Hubbard Michael Judd</p> <p>For internal communications and documents, the Claimant will undertake a manual search for internal sales reports, reports on the challenges the Claimant faced in persuading its customers to buy perpetual licences, alongside keyword searches of:</p> <p>Repositories:</p> <p>Emails Microsoft Teams Skype for Business Personal text, WhatsApp and Signal messages from Messrs Horley, Akers, and Hubbard Personal emails SharePoint File and Print Database Imaged Laptops</p>

		<p>The Claimant will also disclose visitors to its website from its Lead Forensics and Click Dimensions.</p> <p>Keywords:</p> <p>offer for sale</p> <p>benefit* OR cost* OR opportunit* OR saving* OR incentiv* w/5 migrat* OR Cloud OR subscription</p> <p>hybrid OR cloud OR on-premise OR "on premise" OR "on prem" OR on-prem w/5 solution</p> <p>spread* OR flexib* OR certain* OR reduc* OR staff* OR amortis* w/5 cost* OR pric* OR spend* OR package*</p> <p>sale* OR sell* OR procure* w/5 strateg*</p> <p>suce*ul OR unsuce*ul w/5 sale* OR sell* "on pre/1 prem* OR on pre/2 prem*</p> <p>compliance w/5 burden</p> <p>“RFP” OR “Request for Proposal”</p>
56	The Claimant’s company and management accounts for 2011-2023	To be provided.
57	Documents going to organisational changes within the Claimant and/or any other steps taken in anticipation of the opportunity to purchase perpetual licences from companies going to the Cloud in 2016, in areas including: (i) marketing; (ii) human resources; (iii) IT system and technical infrastructure; (iv) accounts and sales recording; (v) sales, including sales systems, training, guidance and/or policies; (vi) procurement, including procurement training, guidance and/or policies; and (vii) board and company secretarial documents.	<p>Reasonable search to include:</p> <p>See paragraph 3(c) of the Order.</p>

58	Data regarding the types of companies buying and selling second-hand licences to/from the Claimant (e.g. size of organisation, type of organisation), including any commentary on the differences between buyer and seller firms or organisations. This would include factors such as whether the company was in liquidation/administration/financial distress	Reasonable search to include: Sage Quickbooks
59	Data or documents on challenges that the Claimant has faced in increasing its supply of second-hand licences, and how it addressed or planned to address these challenges. This includes any challenges and/or limitations in the Claimant sourcing second-hand licences from companies in administration or liquidation during the Relevant Period.	Reasonable search to include: See paragraph 3(c) of the Order.
61	Documents, including any commentary, on differences in demand for second-hand licences: i. across different industry sectors; ii. between the public and private sector; and across different geographies in Europe.	Reasonable search to include: Reports from Quickbooks and Sage relating to this category to be agreed by experts, as well as data from the Dynamics CRM, Lead Forensics and Click Dimensions systems. See also paragraph 3(c) of the Order.
62	Any commentary (internal or not) and any information on differences in appetite for solvent companies selling second-hand licences: i. across different industry sectors; ii. between the public and private sector; and across different geographies in Europe.	As for 61 above. See also paragraph 3(c) of the Order.

SCHEDULE 2

Disclosure by the Defendants for the Liability Trial

Issue 6: What was the object and/or purpose of the Impugned Terms and/or other pleaded aspects of what VL pleads constituted the alleged Campaign?

Issue 6(i): Documents, including internal correspondence, memoranda, reports and minutes of meetings evidencing Microsoft's consideration of the reselling of POLs and/or the prevention of such reselling.

Date range: 1 January 2014 – 25 May 2020

Custodians: Ryan Baker, Randy Levitt, Patricia Ricciardi, David Jacquette, Carlos Cruz, Nikoleta Gamanova, Mike Hughes

Keywords:

1. (relinquish* OR dissuad*OR surrender OR prevent) NEAR(5) (sell* OR resell* OR resale* OR licence* OR license OR L OR SHS OR second*hand OR 2nd hand)
2. “negotiat*” AND (SHS OR second*hand OR 2nd hand)
3. (connect OR linking) NEAR(5) (perpetual OR “From SA” OR underlying)

Databases: Unstructured data associated with Empowerment Guide, LCC CRM, MS Policy

Issue 6 (ii): Documents, including internal correspondence, memoranda, reports and minutes of meetings concerning the impact of the Defendants' introduction of subscription-based licences on the market for POLs.

Date range: 1 January 2014 – 25 May 2020

Custodians: Ryan Baker, Randy Levitt, Patricia Ricciardi, David Jacquette, Carlos Cruz, Nikoleta Gamanova, Mike Hughes

Keywords: (“sub*” AND “model”) OR “add*on”) AND ((SHS OR “second*hand” OR “2nd hand”)

Databases: Unstructured data associated with Empowerment Guide, MS Policy

Issue 6 (iii): Documents, including internal correspondence, memoranda, reports and minutes of meetings concerning the consideration, introduction, use and/or monitoring the impact of the Custom Anti- Resale Terms and the rationale behind their introduction and use.

Date range: 2 December 2012 – 31 December 2021

Shared Mailboxes: Any documents returned in response to the shared mailbox searches undertaken in relation to 7 (ii) are also to be reviewed for this category.

Custodians: Alessandra Brambilla, Francois Cornely, Inge Ginee, Joe Matz, Patrice Lefebvre, Steve Chawner, Walter Kool, Yana Dubrovskaya, Carlos Cruz, Nikoleta Gamanova, Mike Hughes

Keywords:

1. (relinquish* OR dissuade* OR surrender OR prevent) NEAR(5) (sell* OR resell* OR resale* OR

- licence* OR license OR L OR SHS OR “second*hand” OR “2nd hand”)
2. (relinquish* OR dissuad* OR surrender OR prevent OR unusable) AND (“dark to cloud” OR "dark EA")
 3. “EmpGuide 1826”
 4. “Buy Back Licences via Credit”
 5. “EmpGuide 1004”
 6. “Amendment ID M541”
 7. “Credit for Past Purchase of Perpetual Licenses and Cloud Migration”
 8. “agreement to terminate the perpetual License(s) to the On-Prem Products”
 9. “which are intended to replace” NEAR(5) “previously purchased licences”

Databases: Unstructured data associated with Empowerment Guide, LCC CRM, MS Policy

Issue 6 (iv): Documents, including internal correspondence, memoranda, reports and minutes of meetings concerning the consideration, introduction, use and/or monitoring the impact of the New From SA Condition and the rationale behind its introduction and use.

Date range: 1 June 2019 – 30 June 2021

Custodians: Ryan Baker, Randy Levitt, Patricia Ricciardi, David Jacquette, Carlos Cruz, Nikoleta Gamavnova, Mike Hughes

Keywords:

1. “From*SA” NEAR(5) (transfer* OR qualifying OR renewal) NEAR(15) (licence OR license* OR perpetual OR L)
2. “From*SA” NEAR(5) (keep OR retain* OR retention)
3. (retain* OR retention OR buy*back) NEAR(5) (policy OR condition OR discount* OR “beneficial pricing”)
4. grey OR gray NEAR(5) market

Databases: Unstructured data associated with LCC CRM

Issue 7: During the Relevant Period, how many customers in the Relevant Territories were offered Custom Anti-Resale Terms and how many customers agreed to such terms, in respect of how many perpetual licences, and over what period(s)? This will include consideration of:

- (1) Insofar as customers were offered and/or accepted Custom Anti-Resale Terms, what did those terms consist of?**
- (2) What efforts, if any, did Microsoft make to check compliance with and/or enforce the Impugned Terms?**

Issue 7(i): All agreements between the Defendants and/or their Partners on the one hand and customers containing or referencing Custom Anti-Resale Terms.

Keywords:

1. relinq* OR surrender OR “buy*back”
2. “existing” AND (“perpetual” NEAR(15) “void”)
3. (M541)
4. 1826
5. “Buy Back Licences via Credit”

Databases:

- Unstructured data associated with VL Central Approvals (subject to liberty to apply).
- Sample searching of PaperVision and eAgreements, with the sample to be agreed between the parties.

Issue 7(ii): Documents and data concerning (a) how many customers were offered Custom Anti-Resale Terms; (b) how many customers agreed to such terms; and (c) in respect of how many perpetual licences in the Relevant Territories during the Relevant Period.

Shared Mailboxes: EOC Deal Desk; WCS BC Admin.¹

Keywords:

1. relinq* OR surrender OR “buy*back”
2. “existing” AND (“perpetual” NEAR(15) “void”)
3. (M541)
4. “agreement to terminate the perpetual Licence(s) to the On-Prem Products”
5. “replaces its perpetual License(s) to the Products listed below”
6. “which are intended to replace” NEAR(5) “previously purchased licences”

Databases: Unstructured data associated with GPS CRM and VL Central Approvals (subject to liberty to apply)

Issue 7(iii): Correspondence between the Defendants and/or their Partners on the one hand and customers on the other hand, referencing the use or proposed use of Custom Anti-Resale Terms.

Date range: 4 December 2012 – 31 December 2021

Shared Mailboxes: Any documents returned in response to the shared mailbox searches undertaken in relation to 7 (ii) are also to be reviewed for this category.

Custodians: Alessandra Brambilla, Inge Ginee, Joe Matz, Patrice Lefebvre, Steve Chawner, Walter Kool, Yana Dubrovskaya

Keywords:

1. relinq* OR surrender OR “buy*back”
2. “EmpGuide 1826”
3. “Buy Back Licences via Credit”
4. M541

Issue 8(iii): Correspondence between the Defendants and/or their Partners on the one hand and customers referencing the use or proposed use of the New From SA Condition

Date range: 1 May 2020 – 30 June 2021

Custodians: Ryan Baker, Randy Levitt, Patricia Ricciardi, David Jacquette

¹ Any documents returned in response to the searches undertaken in relation to Issue 7(ii) are also to be reviewed for relevance in relation to categories 6(iii) and 7(iii).

Keywords:

1. “From SA” NEAR(5) (transfer* OR qualifying OR renewal) NEAR(15) (licence OR license* OR perpetual OR L)
2. “From SA” NEAR(5) (keep OR retain* OR retention)
3. (connect OR linking) NEAR(5) (perpetual OR “From SA” OR subscription OR eligible)

Databases: Accounts, Opportunities, Leads, Cases and Activities where such relevant data fields exist associated with 23 customers for the keywords, and the names of 54 resellers, in MSX CRM, GPS CRMS, DD360

Issue 9: During the Relevant Period and prior to the institution of the New From SA Condition, did Microsoft purport to link existing or future discounts on subscription licences (including From SA subscription licences) to customers retaining, or otherwise not selling, perpetual licences, other than by the use CAR Terms?

Issue 9(i): Documents and data, including but not limited to correspondence, memoranda, reports and minutes of meetings concerning any policies or guidance in force, prior to the imposition of the New From SA Condition, concerning any link between the availability of new and/or renewed From SA SKUs to customers, and such customers’ treatment of their existing perpetual licences.

Date range: 1 January 2014 – 31 December 2019

Custodians: Ryan Baker, Randy Levitt, Carlos Cruz, Nikoleta Gamanova, Mike Hughes

Keywords:

1. “From SA” NEAR(5) (keep OR retain* OR retention)
2. FromSA AND ((retain* OR retention) NEAR(5) (policy OR condition))
3. FromSA AND ((retain* OR retention) NEAR(5) discount*)
4. (retain OR "not sell") NEAR(5) (licence* OR license* OR renew* OR renewal OR discount* OR L)
5. “future discount*” NEAR(5) (retain* OR keep OR retention OR relinquish OR "buy*back" OR "not sell" OR "no selling" OR "no sale*")
6. (sale* OR resale*) NEAR(5) (refuse OR decline*)
7. (connect OR linking) NEAR(5) (perpetual OR “From SA”)
8. M541

Databases: Accounts, Opportunities, Leads, Cases and Activities where such relevant data fields exist associated with 23 customers for the keywords, and the names of 54 resellers, in MSX CRM, GPS CRM, DD360

Issue 9(ii): Documents and data, including available recordings of telephone discussions, evidencing communications between the Defendants (and/or their Partners) and their customers concerning any link between the availability of new and/or renewed From SA SKUs and such customers’ treatment of their existing perpetual licences.

Date range: 1 January 2014 – 31 December 2019

Custodians: Ryan Baker, Randy Levitt, Carlos Cruz, Nikoleta Gamanova, Mike Hughes

Keywords:

1. “From SA” NEAR(5) (keep OR retain* OR retention)
2. FromSA AND ((retain* OR retention) NEAR(5) (policy OR condition))
3. FromSA AND ((retain* OR retention) NEAR(5) discount*)
4. (retain OR "not sell") NEAR(5) (licence* OR license* OR renew* OR renewal OR discount* OR L)
5. “future discount*” NEAR(5) (retain* OR keep OR retention OR relinquish OR "buy*back" OR "not sell" OR "no selling" OR "no sale*")
6. (sale* OR resale*) NEAR(5) (refuse OR decline*) (connect OR linking) NEAR(5) (perpetual OR “From SA”)

Databases: Accounts, Opportunities, Leads, Cases and Activities where such relevant data fields exist associated with 23 customers for the keywords, and the names of 54 resellers, in MSX CRM, GPS CRM, DD360

Issue 10: Has Microsoft, directly and/or through its partners, engaged in the other elements of the Campaign alleged at PoC §48 and, if so, in respect of how many customers and licences?

Issue 10(i): Documents, including correspondence, recordings of telephone discussions, memoranda, reports and minutes of meetings evidencing instructions and/or advice (including advice given orally) by the Defendants and/or their Partners to customers concerning reselling their perpetual licences.

Date range: 1 January 2014 – 31 December 2019

Custodians: Ryan Baker, Randy Levitt, Carlos Cruz, Nikoleta Gamanova, Mike Hughes

Keywords: (sell* OR sale* OR resell* OR resale*) NEAR(5) (licence OR license* OR perpetual* OR L) NEAR(5) (secondhand OR “secondhand” OR “SHS” OR "2nd hand" OR “pre-owned” OR preowned)

Databases: Accounts, Opportunities, Leads, Cases and Activities where such relevant data fields exist associated with 23 customers for the keywords, and the names of 54 resellers, in MSX CRM, GPS CRM, DD360