



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1601/7/7/23

BETWEEN:

DR SEAN ENNIS

Class Representative

- v -

(1) APPLE INC.

(2) APPLE DISTRIBUTION INTERNATIONAL LIMITED

(3) APPLE CANADA INC.

(4) APPLE PTY LIMITED

(5) APPLE SERVICES LATAM LLC

(6) ITUNES K.K.

(7) APPLE (UK) LIMITED

(8) APPLE EUROPE LIMITED

Defendants

ORDER

UPON the Defendants’ application for there to be a trial of preliminary issues pursuant to Rule 53(2)(o) of the Competition Appeal Tribunal Rules 2015 (the “**Tribunal Rules**”) filed on 26 March 2025 (the “**Preliminary Issues Application**”)

AND UPON hearing counsel for the Class Representative and the Defendants at a case management conference on 14 April 2025

AND HAVING REGARD TO the fact that the Defendants gave disclosure in *Dr Rachael Kent v Apple Inc. and Apple Distribution International Limited* (case no 1403/7/7/210) (“*Kent*”)

AND HAVING REGARD TO the Tribunal’s powers under the Competition Appeal Tribunal Rules 2015

IT IS ORDERED THAT:

THE PRELIMINARY ISSUES APPLICATION

1. By 4pm on **5 June 2025**, the Defendants shall provide to the Class Representative, and shall file with the Tribunal, a draft list of agreed and non-agreed facts relevant to the proposed preliminary issues (as identified in the Preliminary Issues Application).
2. By 4pm on **7 July 2025**, the Class Representative shall provide to the Defendants, and shall file with the Tribunal, comments on the draft list of agreed and non-agreed facts relevant to the proposed preliminary issues prepared by the Defendants.
3. By 4pm on **11 July 2025**, the Defendants shall file with the Tribunal, and provide to the Class Representative, their further observations in response to the Class Representative’s comments (if any).
4. Thereafter the Tribunal will rule on the Preliminary Issues Application.
5. In the event that the Tribunal upholds the Preliminary Issues Application, it will give consequential case management directions for the trial of the preliminary issues.

DISCLOSURE

6. By 4pm on **25 June 2025**:
 - a. the Defendants shall give inspection of the documents referred to at paragraphs 8-9 of the Defendants’ letter to the Class Representative dated 21 March 2025 (the “**Kent Disclosure**”), in accordance with a process to be agreed by the parties; and

- b. the Defendants shall make clear to the Class Representative what documents were in the trial bundles in *Kent* (and, to the extent not already done, provide the Class Representative with inspection of those documents).
7. The parties shall seek to agree the further categories of documents and data to be disclosed. Any matters that are not agreed shall be determined at a further case management conference to be listed pursuant to paragraph 8 below.
8. By 4pm on **28 November 2025**:
 - a. the Class Representative and the Defendants shall indicate to each other:
 - i. the number of expert witnesses they propose to call;
 - ii. those experts' respective fields of expertise; and
 - iii. the issues it is proposed that each of those experts will address; and
 - b. the Class Representative and the Defendants shall:
 - i. indicate to each other whether they propose to rely on survey evidence at trial; and
 - ii. if they do, set out their proposals on suitable directions for such evidence.
9. A further case management conference shall be listed for the first available date on or after **12 January 2026** with a time estimate of one day. The provisional agenda for that CMC shall include:
 - a. any further disclosure not agreed under paragraph 6 above;
 - b. directions as to expert evidence; and
 - c. any necessary directions as to survey evidence.

10. Subject to any further order, by 4pm on **13 March 2026**, the Defendants shall give disclosure in accordance with the terms agreed by the parties and/or as ordered by the Tribunal. Inspection shall be given in an electronic format and on an electronic medium to be agreed by the parties.

FACTUAL WITNESS EVIDENCE

11. By 4pm on **5 October 2026**, the parties shall serve signed witness statements from any witnesses of fact on whose evidence they intend to rely at trial.

12. By 4pm on **11 December 2026**, the parties shall serve signed witness statements from any witnesses of fact on whose evidence they intend to rely at trial in response to the statements served under paragraph 10 above.

EXPERT EVIDENCE

13. Subject to further order:

- a. By 4pm on **28 May 2027**, the parties shall serve signed expert reports.
- b. By 4pm on **23 July 2027**, the parties shall serve signed expert reports in response.
- c. By 4pm on **17 September 2027**, the parties' experts in each respective field shall meet on a without prejudice basis to discuss their respective reports.
- d. By 4pm on **1 October 2027**, the parties' experts in each respective field shall produce a joint statement of matters agreed and not agreed.

TRIAL

14. A pre-trial review shall be listed in the week beginning **13 December 2027**.

15. Subject to further order:

- a. By 4pm **3 weeks before the first day of trial**, the Class Representative shall file and serve his skeleton argument for trial.
- b. By 4pm **10 days before the first day of trial**, the Defendants shall file and serve their skeleton argument for trial.

16. The trial shall be listed from the first available date on or after **7 February 2028** with a time estimate of 8 weeks. Subject to further order the first week shall be a reading week for the Tribunal.

GENERAL

17. Costs shall be costs in the case.

18. There be liberty to apply.

Andrew Lenon KC
Chair of the Competition Appeal Tribunal

Made: 5 June 2025
Drawn: 5 June 2025