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1 Friday, 12th March 2004

2 (10.00 am)

3 (Proceedings in camera)

14 (10.10 am)

15 (Proceedings in open court)

16 THE PRESIDENT: Mr Ronnie, you are still under oath.

17 MR CHRISTOPHER RONNIE (continued)

18 Cross-examination by MR WEST-KNIGHTS (continued)

19 Q. Good morning, Mr Ronnie. We had been looking at
20 the note of the discussions between you and the OFT on
21 26th February 2002. I would like to take you back very
22 briefly if I may to Umbro pleading file 2, the yellow
23 file, and we are inside tab C of that bundle which is of
24 course an annexure to Umbro's own pleading.

25 THE PRESIDENT: Yes, and we are in the file note; is that

1 right?

2 MR WEST-KNIGHTS: We are in the note of the pleading which
3 starts a few pages into that. I was simply going to go
4 to two matters in here. First to paragraph 54, which
5 the tribunal will find at running page 20 in that file,
6 in that transcription by Umbro's lawyers.

7 Do you have paragraph 54 there, Mr Ronnie?

8 A. I do, thank you.

9 Q. Would you read it to yourself first, please? (Pause).

10 A. Okay.

11 Q. You told the tribunal that you have a clear recollection
12 of meeting Mr Ashley immediately after his visit to see
13 Mr Whelan and Mr Hughes; yes?

14 A. Correct.

15 Q. And his report of what was said there. But may
16 I suggest looking at paragraph 54 that as at
17 26th February 2002 you had no such clear recollection.

18 A. If you read the paragraph I correct myself to say that
19 the meeting was taking place because Mr Ashley had made
20 me aware of that.

21 Q. Just look to see what you said first:

22 "Christiane Kent asked if anybody had informed
23 Chris Ronnie that the June 8th meeting was taking place.
24 Chris Ronnie said that JJB had told him about it when he
25 had played football for JJB the day after the meeting."

1 You played football with JJB on the 9th?

2 A. Yes.

3 Q. You went on to say that you did not think that you had

4 been aware that the 8th meeting was taking place until

5 after it. You then corrected yourself and said that you

6 had been aware that the meeting was taking place because

7 Mike Ashley had told you.

8 I bluntly read that as saying that even then, you

9 only corrected yourself to say that Mike Ashley had told

10 you that it was going to take place.

11 A. But I corrected myself.

12 Q. Yes, that is the correction: I had not been aware that

13 it was taking place before it happened -- oh, sorry,

14 Mike Ashley told me. Read it.

15 A. I do not need to.

16 Q. Why not?

17 A. Because I know that I corrected myself as it says there

18 and I knew that the meeting was taking place.

19 Q. How did you come to get it wrong before you corrected

20 yourself?

21 A. Because, as you would imagine in a meeting such as

22 that -- it was the first time I had ever been to such

23 a meeting and it was fairly unusual and I corrected

24 myself, as you can see, towards the end of the sentence.

25 Q. You say this is important.

1 A. Sorry?

2 Q. You say this is an important event, the meeting?

3 A. Yes. It was an important event.

4 Q. So the sequence of events would have stuck in your mind,
5 the meeting of 8th June between Ashley and the others,
6 he comes straight to your office and tells you all about
7 it.

8 A. They would have done, you are absolutely right but as I
9 have explained, the meeting on the day with
10 Christiane Kent, I was in a new environment, I had never
11 been in there. Maybe nerves got involved.

12 Q. We will just move on, one more point, it is over the
13 page at page 21 of the bundle, page 9 of the transcript.

14 A. Sorry, can you tell me whereabouts this is?

15 Q. Over the page, page 21. I am going to read this
16 starting at paragraph 62:

17 "Christiane Kent asked what Umbro did as a result of
18 the pressure from Manchester United."

19 Because Mr Marsh had explained that Umbro was always
20 subject to the overriding pressure of the sponsorship
21 contract, can you see that?

22 THE PRESIDENT: Sorry, can you just read the passage you
23 want to go to, Mr West-Knights.

24 MR WEST-KNIGHTS: I will start at the top of the page.
25 Paragraph 61:

1 "[Simon Marsh] explained that Umbro was always
2 subject to the overriding pressure of the sponsorship
3 contract not being renewed beyond 2002.

4 "62. Christiane Kent asked what Umbro did as
5 a result of the pressure from Manchester United.

6 "63. Simon Marsh said that Umbro would sometimes
7 have conversations with retailers, but ultimately it was
8 out of Umbro's hands, it was up to the retailer's to
9 price the jerseys. It was typical of the clubs to apply
10 pressure to manufacturers. Simon Marsh said it was
11 important to bear in mind the pressure that Umbro was
12 under. Umbro had to be seen to be going through
13 the process of contacting retailers, even if, in fact,
14 this did not take place. It was important for Umbro to
15 protect its longer term commercial interests."

16 Are you with me so far, Mr Ronnie?

17 A. Yes, thank you.

18 Q. "Peter McGuigan explained that Umbro protected its
19 relationship with Manchester United through design,
20 delivery, developing the Manchester United brand, and by
21 offering a high level of service. Umbro was hopeful
22 that this would assist in renewing the contract.
23 Manchester United had told Umbro that the discussions on
24 renewal were confidential, but Umbro was then told by
25 David Hughes of Allsports, the official Manchester

1 United retailer, that Umbro's contract would not be
2 renewed. It was then leaked that Nike had been given
3 the deal, and both Manchester United and Nike were
4 terrified that the retailers which Umbro would supply
5 would do something on price.

6 "NS [that is Mr Stressle, who has been at these
7 proceedings] asked what Umbro did in face of this
8 pressure from Manchester United.

9 "Peter McGuigan said Umbro absorbed it.

10 "Christiane Kent asked if Umbro had any discussions
11 with retailers about the retail price of Manchester
12 United kit. Peter McGuigan said that he personally had
13 not had any such discussions.

14 "Simon Marsh said that he would often have
15 conversations with Chris Ronnie or Phil Fellone and
16 mentioned the pressure being applied by Manchester
17 United, but this was very much Umbro going through
18 the motions.

19 "Christiane Kent asked if SM did anything in
20 response to this pressure. SM said that he did not.

21 "70. Chris Ronnie said that, although Umbro was
22 under pressure from Manchester United, Umbro did not
23 have any discussions with the retailers, fortunately for
24 Umbro it did not need to do so because the retailers
25 took the matter into their own hands and agreed

1 the retail price amongst themselves."

2 That is the passage. In its context I want to put
3 to you that the only observation that is recorded here
4 as having been made by David Hughes about the Manchester
5 United contract is that he is said to have made
6 a statement of fact that the contract would not be
7 renewed, either an opinion or a statement of fact. Yes?

8 A. Who did he make the statement to? Myself at
9 the meeting, is that what you are referring to?

10 Q. No, I think you understood the question perfectly well,
11 Mr Ronnie, but let me try again. Mr McGuigan is
12 reporting that Umbro had been told by David Hughes of
13 Allsports that Umbro's contract would not be renewed.

14 A. Yes.

15 Q. Now, did you remember that or understand that to be, as
16 it were, a leaking by Mr Hughes of information which
17 he had authority to give, a leaking by Mr Hughes of
18 information that he should not have given or just
19 a guess on the part of Mr Hughes?

20 A. I could not tell you if it was a guess by Mr Hughes, but
21 he certainly made the statement to me in the meeting at
22 his office, where he made it very clear that if we did
23 not get the club under control in his view, we would not
24 be renewing the contract. "Club under control", he
25 meant retain the price point of 39.99 of Manchester

1 United products.

2 Q. That was neither a threat nor pressure, that remark.

3 A. Believe me, at the time it was taken as pressure.

4 We had the Manchester United contract. There were

5 a number of executives at Umbro in negotiation with

6 Manchester United with a view to extending. So

7 a comment like that from someone we knew had a very

8 close relationship with Manchester United we took that

9 as pressure. I immediately called Peter McGuigan when

10 I left the meeting with David Hughes to inform him of

11 the comment that David Hughes had made.

12 Q. The comment being that he did not think that you were

13 going to get the contract renewed?

14 A. The way that he made the comment to me I was very clear

15 that in his view he was confident that the contract

16 would not be renewed because we could not maintain

17 the 39.99 price point.

18 Q. In other words he was saying that MU would be unhappy

19 with you if the shirt was discounted?

20 A. Yes.

21 Q. And he was right about that, was he not?

22 A. Yes.

23 Q. So where is the threat?

24 A. That, to me, I took as pressure.

25 Q. How come?

1 A. Can I just finish what I was saying?

2 THE PRESIDENT: You explain it to us, Mr Ronnie.

3 MR WEST-KNIGHTS: You take all the time you want, Mr Ronnie.

4 A. The pressure as I explained at the time was because it

5 was a very important contract to Umbro, the Manchester

6 United contract, and we felt that with the negotiations

7 ongoing, it was important that we retain a certain

8 amount of confidentiality, to ensure that we were first

9 at the gate, if you like, in negotiation with

10 the club --

11 THE PRESIDENT: Yes.

12 A. -- to extend the contract. A comment such as that we

13 took as pressure.

14 MR WEST-KNIGHTS: How, why?

15 A. Because it was a very ... how can I put it? We had gone

16 through a period of time where there had been a great

17 deal of pressure on the brand, on Umbro regarding price

18 point, and it was a delicate time in negotiations and it

19 was a delicate time with the retailers around price.

20 Q. Mr Hughes said, perfectly accurately, that Manchester

21 United would be unhappy if the shirt were discounted.

22 It would be obvious --

23 A. No, sorry.

24 Q. -- everybody knew that MU wanted the price kept up?

25 THE PRESIDENT: Let the witness answer.

1 A. Mr Hughes stated very clearly that the contract would
2 not be renewed because we were not able to retain
3 the price point of 39.99 on the Manchester United
4 jersey.

5 Q. As if he had some power or influence on the matter?

6 A. Certainly as if he had some information passed through
7 to him by Manchester United.

8 Q. If it was just information it has to be a reported fact,
9 or it is an expression of opinion?

10 A. Unfortunately on the day there were only two of us in
11 the room. So I took it very clearly that there had been
12 a conversation with the club and it was a very clear
13 remark that he made on the day.

14 Q. And you reported to Mr McGuigan that you had felt
15 threatened?

16 A. No, I did not say I felt threatened, I said to Mr
17 McGuigan that it was unusual that David Hughes should be
18 so adamant that we would not get the contract renewed
19 and that my view was that he had had a conversation with
20 the club and something was happening regarding the
21 negotiations of the contract.

22 Q. Mr Hughes is small fry compared with, for instance,
23 Umbro in the sponsorship chain, is he not?

24 A. Mr Hughes is not small fry.

25 Q. We went through this yesterday. The big boys are

1 Vodafone, the next big boy is Umbro, and there are a lot
2 of little boys like McVities, Jaffa Cakes and Allsports?

3 A. They are not little boys because they have substantial
4 agreements with the football club, financial agreements.
5 As we said yesterday, they also have quite a major
6 presence at the ground. Allsports at the time were
7 the official retailer for Manchester United, so that was
8 quite an involvement with the football club.

9 Q. McVities were the official biscuit maker.

10 A. I was not aware of McVities, maybe it was Wagon Wheels
11 at the time.

12 Q. Even if it was Wagon Wheels, that gives you an idea,
13 does it not? All right Mr Ronnie, before we leave this
14 page, there is not a breath of suggestion on this page
15 that that statement was in any sense a threat or
16 pressure, is there? It is a reporting of a fact and
17 you are specifically asked by the Office whether
18 the pressure from MU was discussed with retailers, and
19 not a breath of any suggestion that this represented
20 pressure by Mr Hughes. Just have another look at it if
21 you want to?

22 A. I do not need to --

23 Q. You accept that, do you, that it does not contain
24 a breath -- do you accept that it does not contain a
25 breath of pressure?

1 A. If you would let me answer your questions, I will be
2 happy to, if you give me some time to answer.

3 THE PRESIDENT: You take your time, Mr Ronnie.

4 A. Could you repeat the question please?

5 MR WEST-KNIGHTS: Mr Ronnie, I am beginning to think that
6 you are spinning things out, is that right?

7 A. Believe me, I really want to get away from this court.

8 THE PRESIDENT: The tribunal is anxious to get the witness's
9 answer.

10 MR WEST-KNIGHTS: The question, for the third time, is do
11 you accept that that page contains not a breath of a
12 suggestion of pressure being brought by Mr Hughes in
13 respect of that remark.

14 A. No, because if I had been asked a question by the lady
15 who was taking the meeting at the time, did I feel it
16 was a remark made under pressure, I certainly would have
17 said that.

18 Q. Do you accept that this page contains not a breath of
19 a reference to Mr Hughes's remark representing pressure?

20 A. It does not say pressure, no.

21 Q. Thank you. We can close that now.

22 We need your witness statement bundle, Mr Ronnie.

23 File 3 of the witness statement bundles. Then
24 we are going to need file C2, which is blue.

25 Would you please turn up page 222 of the bundle,

1 which is the page that contains paragraph 15 of your
2 witness statement.

3 This is a passage headed "Allsports", and at
4 paragraph 15 you say that during the period 1999-2001:

5 "... Allsports was the official retailer of
6 Manchester United Football Club. This was an important
7 part of the Allsports business as they have areas of
8 most of their stores dedicated to the sale of
9 Manchester United Football Club merchandise. Allsports
10 have a very close working relationship with MUFC as
11 a result of this appointment."

12 Now, how many stores did Allsports have during that
13 period.

14 A. I could not be exact, but I would have thought around
15 180-200.

16 Q. In how many of their stores did they have areas
17 dedicated to the sale of Manchester United Football Club
18 goods?

19 A. I am sorry, I cannot tell you that answer.

20 Q. Well you do tell in this witness statement, you say
21 "most".

22 A. I do not give a number, though.

23 Q. What does most mean, Mr Ronnie?

24 A. Probably two-thirds of the stores, maybe.

25 Q. So you are giving the impression here that if Allsports

1 had 240 stores, which I think it did at the time,
2 two-thirds of them would have had some sort of shop
3 within a shop?

4 A. Yes, to the best of my knowledge.

5 Q. This is your sworn evidence, Mr Ronnie. So that would
6 be how many out of 240? It would be 160 would it not?

7 A. It was information that we had been given by the buying
8 director, Michael Guest. They would never go to exact
9 stores. But we knew it was a very important deal for
10 them, a contract for them, the official retailer with
11 Manchester United.

12 Q. Let us stick with the number of shops. Where did you
13 get the figure of two-thirds from?

14 A. It was just a rough guesstimate, two-thirds of
15 the stores.

16 Q. Based on what?

17 A. Based on, I would doubt if they would go into some areas
18 in Scotland with Manchester United product and some
19 areas maybe in South Wales where they had stores.

20 Q. The true figure is in fact 20, Mr Ronnie.

21 A. Is it?

22 Q. Yes.

23 A. That does surprise me.

24 Q. Does it?

25 A. Yes.

1 Q. Now what is the significance of Allsports being
2 the official retailer?

3 A. At the time of the agreement they had, it allowed them
4 to have perimeter board advertising at the ground, it
5 allowed them to have the database regarding
6 the membership, the club membership. It gave them some
7 other privileges that I am not sure about. But it was
8 certainly a good arrangement for Allsports because it
9 gave them a very strong profile within Manchester United
10 and their supporters.

11 Q. What is the significance to this case of their being
12 the official retailer?

13 A. I could not tell you, I am sorry.

14 Q. I beg your pardon? It has no significance to this case?

15 THE PRESIDENT: He can be asked about his witness statement,
16 but the significance is a matter for argument.

17 MR WEST-KNIGHTS: Are you saying that their status as
18 official retailers of Manchester United is irrelevant to
19 any question of pressure?

20 A. Only through the fact that they had a close working
21 relationship with the football club, closer than any
22 other retailer.

23 Q. So?

24 A. They would come into contact with the football club
25 quite a lot.

1 Q. So?

2 A. And the co-sponsors. As far as pressure is concerned,
3 as I said earlier, the meeting with David Hughes, he
4 made it clear to me that Umbro would lose
5 the contract -- or the contract would not be renewed
6 with Umbro, sorry -- if the price point was not retained
7 at 39.99.

8 Q. You did not think he had any authority to say that, did
9 you? You did not think he was speaking on behalf of
10 Manchester United?

11 A. Absolutely not.

12 Q. You did not think that?

13 A. I did not think that.

14 Q. Okay. Who is in charge of relations with the retailers
15 at Manchester United? Is it a man called Steve Richards
16 at this time?

17 A. At that time I think it was, he was there as
18 the merchandising director.

19 Q. Were you aware of the state of relations between
20 Mr Richards and Mr Hughes?

21 A. I was not aware of their relationship at the time, no.

22 Q. Did you not know that Mr Richards was a former employee
23 of Mr Hughes's companies?

24 A. I did know that.

25 Q. Did you know that they did not get on at all?

1 A. I did not know that.

2 Q. Okay. You see, the written representations put forward
3 by Umbro assert in terms that the reason that it is
4 significant that Allsports were the official retailers
5 was that the nature of the pressure that was put on
6 Umbro by Allsports was entirely different from
7 the pressure put on by anybody else.

8 THE PRESIDENT: Where is that, Mr West-Knights?

9 MR WEST-KNIGHTS: We are in bundle C2, tab 24, page 748, but
10 it may have a C on it in somebody's version. But at any
11 rate it is the page between 747 and 748, paragraph 80.

12 THE PRESIDENT: Yes.

13 MR WEST-KNIGHTS: Were you still the chief operating officer
14 of Umbro at the time, in July 2002?

15 A. Yes.

16 Q. Did you have any hand in the preparation of information
17 given in, so that people could say the things in these
18 written representations?

19 A. Did I have a hand in them? I was part of the team that
20 was involved with Miss Roseveare in putting
21 the information together.

22 Q. Yes --

23 THE PRESIDENT: I think we need to read it, Mr West-Knights.

24 MR WEST-KNIGHTS: Yes.

25 THE PRESIDENT: Would you just read paragraph 80, Mr Ronnie.

1 (Pause).

2 MR WEST-KNIGHTS: Have you read that paragraph, Mr Ronnie?

3 A. I have.

4 Q. Is it true or not?

5 A. They certainly did not have the buying power of JJB.

6 Turnover significantly less than all major retailers.

7 Their turnover was less than Sports Soccer and JJB with

8 Umbro.

9 Q. Go on.

10 A. But I would agree with the rest of it.

11 Q. So the first sentence you agree with, the pressure from

12 MUFC and its official retailer Allsports was of

13 a different kind. You agree it did not have the buying

14 power of a retailer such as JJB?

15 A. Correct.

16 Q. You accept that its turnover was significantly less than

17 JJB's?

18 A. Yes.

19 Q. But you do not accept that it was significantly less

20 than JD Sports or Blacks?

21 A. Not with Umbro, no.

22 Q. But as a fact its overall turnover was less than

23 the overall turnover of JJB, JD Sports, Sports Soccer

24 and Blacks; is that what you think that sentence means?

25 Because that would be true.

1 A. Is it true that their turnover is less than Blacks?
2 Q. Yes. It is in the decision, sir.
3 THE PRESIDENT: This is overall turnover.
4 A. You mean the total turnover, not their turnover with
5 Umbro.
6 MR WEST-KNIGHTS: Yes, I am trying to look for a way that
7 this statement can be true, Mr Ronnie.
8 A. I agree with it --
9 Q. If you are talking about overall turnover you agree with
10 it?
11 A. Sorry, I agree with the last paragraph which says that
12 the threats were Allsports and MUFC therefore focused
13 less on cancellation. They tended in the last six --
14 certainly six months of our involvement with Manchester
15 United with the contract, they focused on the renewal of
16 the contract because they kept saying to us, "You have
17 to keep it up at 39.99 to give it credibility".
18 They were concerned about the credibility of
19 the product.
20 Q. They kept saying this?
21 A. I think so, yes.
22 Q. Let us just keep on this paragraph for the minute.
23 The effect of this paragraph is to say that Allsports
24 was economically small fry except for its special
25 relationship with Manchester United?

1 A. They were not small fry, they were not small fry to
2 the industry and certainly not to Umbro. As I mentioned
3 yesterday, it was very important to Umbro for us to have
4 a strong relationship with Allsports to develop
5 the branded apparel and footwear business. Very
6 important.

7 Q. But it is being contrasted in paragraph 80 with
8 the position of other buyers. Particularly if you look
9 at paragraph 79, which is dealing with what Umbro were
10 then saying about JJB:

11 "In 2000 JJB was still the biggest customer. Umbro
12 could not afford for JJB to cancel significant orders,
13 as the Umbro business was still financially vulnerable.
14 JJB's withdrawal of support could have resulted in
15 the downfall of Umbro. This dilemma was one of the
16 major factor and events of 2000 and 2001."

17 That is as it were, order power, support power. At
18 paragraph 80 it says that the pressure laid against
19 Allsports was of a different kind, and there are
20 a couple of sentences indicating that Allsports is
21 a relatively small player and that the pressure is
22 threats.

23 A. They were not a small player, in the industry or with
24 Umbro.

25 Q. Thank you. Now, when you came to do Ronnie 4, you were

1 asked, were you not, to sit down and try to give a list
2 of the specific instances of pressure that you could
3 recall from Allsports on Umbro? Is that a correct
4 statement or not, Mr Ronnie?

5 A. I certainly cannot remember if, when I sat down to do my
6 statement 4, if that was a specific question that I was
7 asked. I would doubt that. I would approach my
8 statement in the usual way, which would be to the best
9 of my recollection to give an account for what happened
10 with Allsports.

11 THE PRESIDENT: Are we leaving this point?

12 MR WEST-KNIGHTS: We can put this bundle away.

13 THE PRESIDENT: Before we do, Mr West-Knights, I am not sure
14 from memory whether paragraphs like paragraph 86 on
15 page 750 are relied on against you.

16 MR WEST-KNIGHTS: No. Nothing in this document is relied on
17 against me, unless it is a cross-reference to a witness
18 statement which has been specifically identified as
19 being a witness statement where reliance is placed.

20 THE PRESIDENT: I was just going to see whether that is
21 a paragraph that needed to be put.

22 MR WEST-KNIGHTS: No, because I will demonstrate that there
23 is only one instance, and that is the one. And we will
24 have a look at the history from how that turned from
25 what it started off as, to what it ended up as.

1 MR MORRIS: Sir, could we have a moment to look at the point
2 and see if we would ask it to be put?
3 MR WEST-KNIGHTS: No, you can re-examine him it if is
4 relevant, please.
5 THE PRESIDENT: We will come back to it later Mr Morris, we
6 will carry on for the time being.
7 MR WEST-KNIGHTS: Can we now turn briefly to Ronnie 4 on
8 the subject, then. You will find Ronnie 4 starting at
9 page 237 of the bundle. Do you have that?
10 A. Yes.
11 Q. I wonder if you could turn to the second page, 238 in
12 the same bundle, witness statement 3.
13 Just taking it up from paragraph 3, you had read
14 the notices of appeal filed by Allsports and JJB and
15 the witness statements of Mr Hughes, Mr Whelan,
16 Mr Russell and Mr Bryant; is that right?
17 A. Yes.
18 Q. You were not shown the witness statement of Michael
19 Guest?
20 A. If I did not say that here, at the time, I was not, no.
21 Q. You see if you can remember, Mr Ronnie. This is only
22 a couple of months ago.
23 A. There is a lot that happened in the past couple of
24 months --
25 THE PRESIDENT: Can you remember being shown the witness

1 statement?

2 A. I cannot, I am sorry.

3 MR WEST-KNIGHTS: You go on to say:

4 "I make this statement to respond to the version of
5 events that they have put forward regarding (a)
6 the relationship between Umbro and the retailers, (b)
7 the conversations in May regarding the price of
8 the England team shirt, and (c) the purpose of Umbro's
9 monthly management reports."

10 Now, at paragraph 5 you are responding to
11 an assertion by Allsports that there was no basis for
12 the claim that Umbro's customers would be commercially
13 able to punish it in any way, especially where Umbro is
14 the monopoly supplier of replica kit; okay?

15 A. Mm-hm.

16 Q. And you say that:

17 "Although it is true that Umbro was the sole
18 supplier of certain replica shirts", and I interject
19 there, at the time the two most important. Yes?

20 A. Yes.

21 Q. "-- this was only one side of the business. Moreover,
22 at the time, Umbro was over-dependent on the sales of
23 replica" -- which you describe as "flagship products".
24 I think they are also described by Umbro as their
25 "statement product"?

1 A. Yes.

2 Q. "-- which are not stable and are susceptible to peaks
3 and troughs in demand according to whether particular
4 clubs or teams are doing well in high-profile
5 championships. Our business strategy at Umbro after
6 the Doughty Hanson acquisition was to try and expand
7 other areas of the business, namely branded
8 'essentials', apparel and footwear in order to offset
9 Umbro's vulnerability on replica kit. Global brands
10 such as Nike and Adidas had been much more successful
11 across a wide product range, and I wanted Umbro to
12 emulate that."

13 Okay, that is true, is it?

14 A. Yes.

15 Q. So if we go to paragraph 7:

16 "In order to achieve this strategy Umbro was reliant
17 on retailers 'supporting' or stocking a wide range of
18 Umbro products. This gave the retailers a lever with
19 which to exert pressure on Umbro in relation to replica
20 kit. Umbro was especially vulnerable as its top three
21 accounts, JJB, Sports Soccer and Allsports, accounted
22 for only ..."

23 And I think we can now say the number:

24 "... 60 per cent of its [Umbro's] total business.
25 JJB's business alone accounted for 24 per cent."

1 Would you tell the tribunal, please, what
2 the percentages were for Sports Soccer and Allsports
3 making up the balance of the 60 per cent.

4 THE PRESIDENT: Do it in broad terms if it is easier,
5 Mr Ronnie.

6 A. I can certainly say that in order of turnover, JJB,
7 Sports Soccer and Allsports was correct as one, two and
8 three. There was a distance between Sports Soccer as
9 the second account to Allsports as the third account.

10 MR WEST-KNIGHTS: The figures even on this basis would have
11 been put down fairly as, assuming the total of
12 60 per cent, Sports Soccer, which I notice you do not
13 list first, 32 per cent; JJB, 24 per cent; Allsports --
14 my clients -- 4 per cent.

15 Is that broadly right?

16 THE PRESIDENT: Can I just ask if that is total or replica?

17 MR WEST-KNIGHTS: Total. As are these figures purported to
18 be, the total percentage of the total business of Umbro.

19 MR COLGATE: Could I just clarify what period are we talking
20 about?

21 MR WEST-KNIGHTS: I am talking about the year 2000, which
22 can only be the sensible --

23 MR COLGATE: The whole of the year 2000?

24 MR WEST-KNIGHTS: Yes, we are not involved in any other
25 year.

1 A. Umbro's calendar year was January to December.

2 Q. Account year is a calendar year.

3 A. Sorry, their account year.

4 Q. In fact you say that JJB's business alone accounted for

5 24 per cent of Umbro's overall business in spring 2000,

6 but I am asking you about that other 2000 here. Do you

7 accept that broadly those are the right figures?

8 A. Broadly, yes.

9 Q. In fact Sports Soccer's importance to Umbro in

10 comparison with both JJB and Allsports was greater than

11 that, was it not?

12 A. At the time if we look at the importance of account,

13 the Sports Soccer account was going well, it was stable.

14 The JJB account took up the most focus because at

15 the time it was a buy/sell relationship with JJB, so it

16 was very important that we put a lot of focus on that

17 account.

18 Q. The question was --

19 A. Sorry, I am not finished. Also at the time JJB around

20 this period of 2000 during that year had taken

21 the Patrick brand in-house as their own brand, and they

22 affected the turnover with Umbro and it was going to

23 affect the turnover with Umbro going forward.

24 THE PRESIDENT: In what way, Mr Ronnie?

25 A. JJB would move the product over to the Patrick brand on

1 what we call branded apparel. That was Umbro's
2 business. An example would be that JJB would often run
3 a promotion where they would do a two for one, as they
4 used to call it, so you would buy two, get one free and
5 it --

6 THE PRESIDENT: So that had an adverse effect on your
7 business?

8 A. It did.

9 MR WEST-KNIGHTS: Can we now, with the greatest respect
10 Mr Ronnie, come back to my question which was, in fact,
11 during 2000, Sports Soccer was even more important to
12 Umbro than these figures suggest?

13 A. No.

14 Q. I do not ask you about JJB, just Sports Soccer.

15 A. No, they were not more important than JJB, they were at
16 the same sort of level. It was very important for us
17 that we continue to focus on the JJB account.

18 Q. Could the witness please be given a copy of his diaries
19 for 2001 which I think have been translated into
20 bundle E4, which ought also to be blue.

21 Bound into Mr Ronnie's diary for 2001 were some
22 additional pages which contained some turnover
23 information for JJB and Sports Soccer which we had not
24 otherwise seen.

25 THE PRESIDENT: When you say bound in?

1 MR WEST-KNIGHTS: I mean bound in, I mean it was
2 looseleaf -- it was a Filofax. They were bound into
3 the binding -- the original should be in court, so
4 we can just look at it. Is it?

5 MR MORRIS: Sir, I am trying to assist the tribunal.

6 MR WEST-KNIGHTS: I know the answer to the question, I was
7 just asking whether it was here.

8 THE PRESIDENT: You give us your understanding of
9 the situation.

10 MR WEST-KNIGHTS: It is a spiral bound Filofax type of thing
11 and these pages had been physically strung in with
12 a piece of string, permanently fixed. Do you remember
13 that Mr Ronnie?

14 A. You are right.

15 MR WEST-KNIGHTS: Somebody has taken it upon themselves to
16 reproduce the diary without those pages.

17 THE PRESIDENT: I would just like to ask Mr Morris a
18 question if you would just give me a moment Mr
19 West-Knights.

20 MR MORRIS: I do not know if the original is physically here
21 at the moment. It is being found out now, can I just
22 explain?

23 MR WEST-KNIGHTS: It will not help.

24 THE PRESIDENT: Just a minute, counsel is on his feet,
25 Mr West-Knights, and he wants to tell me something.

1 MR MORRIS: I can supplement it, if I may. The explanation
2 is that it was bound in, absolutely right. It has not
3 been included in E4, those pages, because there was
4 an Umbro confidentiality issue, they had concerns about
5 that information being placed in the bundle at that
6 stage. I am currently taking instructions both as to
7 where the original is, and secondly as to whether or not
8 the actual pages themselves, which have the financials,
9 have been placed anywhere else in the bundles. This was
10 done over the weekend at the beginning of
11 the proceedings.

12 THE PRESIDENT: I see, let us proceed.

13 MR WEST-KNIGHTS: The confidentiality thing has long since
14 been resolved because it is understood by everybody that
15 the only figures in these two documents that concern us
16 are the year 2000.

17 So far as the originals are concerned, my learned
18 friend Mr Peretz was asked by Umbro when he was in
19 possession of the originals, physically to un-bind them
20 and send them back to Umbro. He did that, but there was
21 then a question of whether we were allowed to retain
22 copies, and I said that I am retaining my copies, and
23 we have an arrangement that 2000 is not remotely
24 confidential.

25 MR MORRIS: Sir, I understand that Mr Peretz or Allsports

1 may still retain the originals, I think enquiries are
2 now being made.

3 THE PRESIDENT: There does not seem to be any dispute.

4 MR MORRIS: There is no dispute, it is just a matter of
5 tracking the documents down, there is absolutely no
6 dispute.

7 THE PRESIDENT: These figures were bound into the back of
8 your diary in the way that has been described.

9 A. We had working papers in the UK team which --

10 THE PRESIDENT: The witness is trying to tell me something.
11 If everyone could stop talking for a moment.

12 Yes, Mr Ronnie?

13 A. The UK management team had working papers which were
14 generated for the weekly management meeting, which
15 related to sales of the top three accounts, what we used
16 to call a "top-down" which listed number 1 to number 20
17 account as far as turnover in each product category,
18 the total turnover, and the margin that we were making
19 from the account.

20 So I always kept them at the back of my diary.

21 THE PRESIDENT: When you say the top three accounts, which
22 accounts do you mean?

23 A. JJB, Sports Soccer and Allsports.

24 MR WEST-KNIGHTS: Except that in your diary for
25 2001 the only figures bound in were JJB and

1 Sports Soccer.

2 A. Allsports would usually be there as well, I do not know

3 why it was not there but they would usually be there.

4 Q. They were not down in your 2000 diary either, were they?

5 A. They would usually be there, they were always generated

6 as the three accounts.

7 Q. When is usually? Not 2000, not 2001?

8 A. You will still get the information on Allsports in

9 the top-down 1-20.

10 Q. We do not have the top-down papers, we only have JJB and

11 Sports Soccer, but we do have copies.

12 A. I apologise for that.

13 THE PRESIDENT: Let us look at what it is we do have.

14 MR WEST-KNIGHTS: There is a slim bundle called

15 "Supplemental Skeleton of JJB", it is their

16 confidentiality bundle.

17 Do you have those figures now, Mr Ronnie? They

18 should be at tab 2 of that bundle, the JJB supplementary

19 skeleton bundle, sideways on, unhelpfully, the first

20 page in the bundle which I have being the figures for

21 JJB Sports as at Sunday 2nd December 2001; and

22 the second being the figures for Sports Soccer as at

23 the same date. Right?

24 A. Yes.

25 Q. And you may not remember, they were in fact bound into

1 your diary at the end of November, so in other words you
2 put them in at the appropriate date slot,
3 2nd December 2001?

4 A. That has no relevance because during the year they would
5 always be in the week prior to the week we were in.
6 That was only done because it was an old diary, I had
7 come to the end of the year and they were put at the
8 back, that was all.

9 Q. This is how the diaries look, and that piece of string
10 also went round these bits of paper.

11 THE PRESIDENT: I think the witness needs to look at this
12 and we need to have it identified for the purposes of
13 good order. (Handed).

14 Just look at the first one, Mr Ronnie, and tell me
15 what that is, if you would be so kind?

16 A. It is the year 2000 diary.

17 MR WEST-KNIGHTS: And also do you have the 2001 diary as
18 well?

19 A. I do.

20 THE PRESIDENT: Yes. Do you normally keep it like that or
21 do you keep it in a Filofax cover?

22 A. With a Filofax cover.

23 THE PRESIDENT: I think we had better make this an exhibit.
24 This is our first exhibit, so let us call it Exhibit 1
25 and Exhibit 2. I nearly made the shirts an exhibit, but

1 did not do so!

2 MR WEST-KNIGHTS: Tab 2, Mr Ronnie.

3 A. Do you want this back?

4 Q. Yes, perhaps they ought safely to go back in

5 an envelope. We have copies for the tribunal -- no,

6 hang on to them, Mr Ronnie.

7 THE PRESIDENT: Just put them to one side, Mr Ronnie, and

8 leave them there for the time being.

9 MR WEST-KNIGHTS: I have just remembered that there is

10 a document that I am going to need to ask Mr Ronnie

11 about which we have been asking about for weeks now,

12 which is an Umbro document which is still illegible as

13 to its writing and it is the notes for the meeting of

14 24th May. I see that Miss Roseveare is in court, and

15 perhaps she can make enquiries so that when the

16 shorthand writers break, she can tell us what has

17 happened to that.

18 THE PRESIDENT: Yes. We are going to adjourn in about ten

19 minutes.

20 MR WEST-KNIGHTS: Sports Soccer. I am just not interested

21 in the figures for the moment for 2001 because what it

22 has on the right-hand side is "Prior year 2000" and then

23 there is a column, "2002 bookings", I am not interested

24 in those either. It is just "Prior year 2000". Okay?

25 A. Yes.

1 Q. 1H and 2H presumably mean first half and second half?
2 A. Yes.
3 Q. As you have already told the tribunal, the account
4 period for Umbro is a calendar year?
5 A. Yes.
6 Q. So first half is January to June inclusive, and
7 the second half is July onwards?
8 A. That is correct.
9 Q. This divides down for Sports Soccer as follows: licensed
10 apparel, there is a total for the year 2000 of some
11 4 million-odd?
12 A. Yes.
13 Q. For branded apparel -- incidentally in respect of
14 licensed apparel it seems a lower figure for the second
15 half of 2001 than for the first?
16 A. Yes.
17 Q. Branded apparel, that is to say stuff that has the Umbro
18 logo on it but not anybody else's; yes?
19 A. That is correct.
20 Q. -- shows a total turnover for that period of 2000 of
21 51,000,244; yes, that is the figure there?
22 A. Correct.
23 Q. Equipment, the relatively modest sum of just over
24 a million?
25 A. Correct.

1 Q. Footwear, 3 million?

2 A. Yes.

3 Q. And clearance other, pennies?

4 A. Yes.

5 Q. Giving a grand total recorded at the back end of 2001 of

6 the 2000 turnover for Sports Soccer at 59 million-odd.

7 Yes, that is what this piece of paper says?

8 A. Correct.

9 Q. Going back a page, we have the equivalent exercise for

10 JJB --

11 THE PRESIDENT: Mr Morris is on his feet.

12 MR MORRIS: I have had a note passed to me effectively that

13 we may be trespassing or there may be confidentiality

14 concerns with these figures. The ones that have been

15 read so far are fine. I am instructed that some of

16 the JJB Sports figures -- I understand that on

17 the Sports Soccer schedule it is the three figures for

18 licensed apparel, branded apparel and the total which

19 are allowed to be read out. In relation to JJB Sports,

20 we think it is just the total. I just put a marker

21 down. I am sure my learned friend is not going to

22 trespass --

23 MR WEST-KNIGHTS: I am going to abide as I --

24 MR MORRIS: I am just putting a marker down, that is all.

25 MR WEST-KNIGHTS: I am going to abide, as I said, by

1 the permission which was granted by Umbro in respect of
2 the use of this document, namely, no problem with 2000,
3 full stop.

4 THE PRESIDENT: Miss Roseveare, do you want to help us with
5 this at all? We can all see the figures,
6 Mr West-Knights, I do not know if we need to physically
7 announce them in open court.

8 MR WEST-KNIGHTS: I have been reading out everything else.

9 MISS ROSEVEARE: I think these documents were provided last
10 Friday, and we did have some concerns with these
11 figures, because they are not the figures that we went
12 through in the original confidentiality exercise. These
13 figures are the 2001/2002 figures.

14 THE PRESIDENT: We are talking about the year 2000. So
15 they are four years old.

16 MISS ROSEVEARE: We have always submitted that we do have
17 a problem with historic documents. I know we have ruled
18 on that point before. If the tribunal suggests that
19 those figures are on here and we can see them, I do not
20 see why they have to be read out. If all possible,
21 I would appreciate that.

22 MR WEST-KNIGHTS: If I had been told that there was any
23 question of confidentiality in respect of these figures,
24 I would not have read them out. I was told precisely
25 the contrary, namely that the objection to figures in

1 this document was in respect of, particularly 2002, a
2 question mark over one or two figures in 2001, but
3 nothing, as you would expect, as regards 2000.

4 THE PRESIDENT: Well, we can read the figures.

5 MR WEST-KNIGHTS: It is, what, the JJB total that I cannot
6 mention?

7 LORD GRABINER: We have no problem with this. These figures
8 are irrelevant, irrelevant ancient figures.

9 MR WEST-KNIGHTS: I am completely at a loss to understand
10 Umbro's continued position that it thinks its figures
11 vis-a-vis JJB are confidential when they are four years
12 old and JJB could not give a hoot.

13 So what is it that I cannot read out, Mr Morris?

14 MR MORRIS: I understand the position to be that in relation
15 to the JJB schedule, if you take the third column of
16 the prior year 2000, the proposition is that it is
17 the bottom figure that can be read out, which is
18 the 30769, and the rest should not be read out.

19 THE PRESIDENT: Since we can all read the figures,
20 Mr West-Knights, I do not think it does any damage to
21 you.

22 MR WEST-KNIGHTS: It does not do any damage. I am just
23 appalled, frankly, that this should be raised in this
24 way, wasting yet more time for no purpose.

25 The figures for JJB first, in contrast to

1 the recorded turnover of Sports Soccer of 59 million,
2 the recorded total turnover is just over 30 million.
3 Yes?

4 A. Can I comment on that?

5 THE PRESIDENT: First of all answer the question, and if you
6 would like to add a comment, you can do so.
7 The question is: does this sheet show that JJB's
8 turnover is 30 million with Umbro as compared with
9 Sports Soccer's turnover of 59 million.

10 A. Yes.

11 THE PRESIDENT: You wanted to make a comment?

12 MR WEST-KNIGHTS: Before you do, be aware that you should
13 take this in bite-sized lumps because you may then say
14 something that would require us to go into camera.

15 A. Then, no, I do not want to make a comment.

16 Q. On the face of it, Sports Soccer's total turnover with
17 Umbro for the year 2000 is twice that of JJB; correct?

18 A. Correct.

19 Q. We can put the 2001 diary away now for the rest of these
20 proceedings. I do not propose to look at it again.

21 THE PRESIDENT: When you reach a convenient moment,
22 Mr West-Knights.

23 MR WEST-KNIGHTS: I am just going to finish dealing with
24 paragraph 7.

25 First, why did not paragraph 7 --

1 THE PRESIDENT: Sorry, forgive me. I am getting confused
2 with my files.

3 MR WEST-KNIGHTS: Too many bundles and boxes to move, sir,
4 I am sorry.

5 THE PRESIDENT: We are in Ronnie 4.

6 MR WEST-KNIGHTS: Yes, which is running bundle page 239.
7 I just want to go back to paragraph 7.

8 THE PRESIDENT: Just a moment, let me get there.

9 MR WEST-KNIGHTS: I am going to suggest to you that this is
10 a nasty little paragraph which has been deliberately
11 written as a piece of spin to make Allsports look more
12 important than it is, and certainly to conceal how
13 unimportant Allsports is. What do you say to that?

14 A. I disagree.

15 Q. Why did it not say: Umbro is especially vulnerable as
16 its top three accounts Sports Soccer, JJB and Allsports
17 accounted for -- let us assume the figure is
18 60 per cent -- of its total business, broken down as
19 follows, Sports Soccer 32, JJB 24 and Allsports 4?

20 A. Because Allsports were an important account to Umbro.

21 Q. Why did you not give the figures?

22 A. I did not see the need to break it down, because I have
23 always stated how important it all was to the Umbro
24 business.

25 Q. Yes, but only for the purposes of giving a false

1 impression of its capacity to put pressure on Umbro?

2 A. Totally wrong.

3 Q. Anything else on that aspect of this is comment.

4 The next question is: why did it not say that the top

5 three accounts, Sports Soccer, JJB and Allsports,

6 accounted for 76 per cent of Umbro's business, with

7 Sports Soccer at 48 per cent, JJB at 24 per cent and

8 Allsports at 4 per cent. When I say 4 per cent, it is

9 actually 4.4 something. If you want to say 4.5, I could

10 live with that. Now why did it not say that?

11 A. There was no need to because Allsports were a very

12 important customer to Umbro and to the rest of

13 the sports brands in the industry, otherwise they would

14 not be a key account.

15 Q. JD Sports and First Sport are a key account, are they

16 not?

17 A. Yes.

18 Q. And their turnover is to be measured, in one of

19 the instances, less than 1 million a year?

20 A. Correct.

21 Q. It does not say they are important, but they are small,

22 very small?

23 A. We had more potential within the Allsports group than

24 we had at the time with JD and First Sport.

25 Q. For support on brands and stuff?

1 A. Support and product generation through product
2 categories such as branded apparel and footwear. We saw
3 potential with that account.

4 THE PRESIDENT: Yes.

5 MR WEST-KNIGHTS: But the pressure that Allsports was
6 capable of putting on to Umbro was of an entirely
7 different kind, it related to the special relationship
8 between Allsports and Manchester United Football Club.

9 A. But it would have an overriding effect on the level of
10 Umbro's business.

11 Q. At 4 per cent?

12 A. That is why the focus was there with that account. It
13 was a small amount of turnover and the view was, clearly
14 with the management team, that there was potential with
15 Allsports.

16 Q. Of the actual figures in respect of Allsports for
17 the year 2000, which is something in the order of
18 5 million-odd. Can you just remind the tribunal how
19 much of that broadly was firstly, licensed kit and
20 secondly, apparel?

21 A. I am sorry I cannot remember the exact breakdown without
22 looking at the figures.

23 Q. I am not asking for an exact breakdown, I am asking for
24 an organic feely sort of answer, an "ish" answer.

25 A. I would, very roughly, have said that replica on

1 the total turnover of that year would have made up
2 between 2.5 and 3 million.

3 Q. And branded?

4 A. A very small amount.

5 Q. How much?

6 A. I cannot remember the exact number, I am sorry. It was
7 in the year 2000.

8 Q. 1 million, 1.5 million, that sort of figure?

9 A. I cannot remember the exact number.

10 Q. I am asking for the exact number. I am asking for an
11 "ish" answer.

12 A. I would not want to give a number, because I cannot be
13 accurate.

14 Q. Broadly, less than the licensed apparel, less than
15 replica?

16 A. I would say less than replica.

17 Q. Say, half the replica?

18 A. I am sorry, I cannot remember.

19 LORD GRABINER: That is all right Mr Ronnie.

20 MR WEST-KNIGHTS: That would be a convenient moment.

21 THE PRESIDENT: It might be possibly be useful at some stage
22 Mr West-Knights for some of these figures to be written
23 down.

24 MR WEST-KNIGHTS: They are in our supplementary skeleton,
25 the figures I have just given. Broken down into

1 licensed and branded et cetera, I have not made
2 a distinction in equipment of football, but the figures
3 are 4 million-ish for replica kit and less than
4 1.5 million for Allsports. We have done the same
5 exercise with JJB and Sports Soccer on the same page.

6 THE PRESIDENT: Thank you. A ten-minute break.

7 (11.15 am)

8 (A short break)

9 (11.30 am)

10 MR WEST-KNIGHTS: For your note and for the transcript,
11 you have been shown figures in respect of two particular
12 retailers. What I have not made good, although there
13 has been no dissent from the witness, is the total
14 turnover by which I have divided the respective figures
15 to arrive at the percentages. Those figures can be
16 found at witness bundle 2, that is to say one of
17 the salmon pink files, J-Q, page 240. And I should
18 explain that the way it fits in here --

19 THE PRESIDENT: Hang on, 240.

20 MR WEST-KNIGHTS: Assuming that my learned friend Mr Peretz
21 has not let me down, and he has not yet, this is
22 Exhibit PMG2, and it is referred to in a paragraph of
23 Mr McGuigan's witness statement, he being, of course,
24 the Chief Executive Officer at the material time, as
25 being a chart which shows the relative turnover in

1 licensed apparel on the one hand and other stuff on
2 the other over a period. I will not concern you with
3 any part of this document, although it is wholly and
4 always has been unredacted, in spite of containing
5 figures for 2002 and 2003, for the year 2000.

6 You will see that there is a breakdown in respect of
7 licensed which comes to a figure for the year in
8 question of 2000, licensed total of 38 million-odd, and
9 the branded total of 87 million-odd giving a whole
10 turnover of 125.8 million-odd.

11 As I hope indicated on the little table in
12 the skeleton, that was the turnover figure whence
13 the percentages are derived.

14 How it is that the United Kingdom division in
15 2002 is still reporting to itself that its turnover in
16 the United Kingdom was 125.8 million, whereas
17 the published accounts show a United Kingdom turnover of
18 83 million out of a total turnover of 103 -- I think it
19 may be 86, actually, at any rate, a much smaller figure,
20 I think it is 86 for the UK and 103 for the whole
21 operation -- is still shrouded in mystery until we get
22 the Umbro note.

23 THE PRESIDENT: Can I just look at the skeleton, briefly,
24 Mr West-Knights. I am sorry to take your time.
25 I specifically said to the solicitors do not break

1 the table after the heading, and that is exactly what
2 has happened. It is at paragraph 4. Do not worry about
3 this, Mr Ronnie, this is just housekeeping.

4 MR COLGATE: Can I just ask one question on this schedule
5 before we leave it, the sales analysis schedule. Could
6 I just see the context in which that has been supplied?

7 MR WEST-KNIGHTS: Could I just interrupt you for a second,
8 sir. Mr Morris wants the witness to have a copy of that
9 table. Bundle 2, page 240.

10 THE WITNESS: UK Sales Analysis 1997-2003? Yes, thank you.

11 MR COLGATE: I just would like to see the context in which
12 that schedule is supplied.

13 MR WEST-KNIGHTS: Yes, I can turn that up. It is in fact
14 an unredacted part of the witness statement in question.

15 I am sorry, I was not looking at my bundle when
16 I marked this up last night and I am not looking at my
17 bundle now, but we will find it quickly enough. It is
18 PMG2.

19 Sir, if I could ask you to turn back to page 128 of
20 this same witness bundle 2, and you will find yourself
21 in paragraph 11 of the witness statement made by
22 Mr McGuigan in February 2002; that is to say this is
23 McGuigan 2 in the same way as Ronnie 2. What he says at
24 paragraph 11 -- do you want to go there too, Mr Ronnie,
25 or not?

1 A. Yes, I am at 228, paragraph 11.

2 Q. "One of the objectives following the acquisition of
3 Umbro in 1999 was to reduce the number of owner of
4 sponsorship contracts and concentrate on a key number of
5 sponsorship contracts. Initially this included the
6 non-renewal of Scotland and Everton, as these contracts
7 were not efficient both financially and in terms of
8 management time. Please refer to ExhibitPMG2 which
9 demonstrates the recent trend of replica sales in the UK
10 as a percentage of Umbro business."

11 Although it is produced for a wholly different
12 purpose, it does give us the turnover figures.

13 MR COLGATE: Thank you for that. I think for later we
14 perhaps need to explore what is meant by "total gross
15 sales".

16 MR WEST-KNIGHTS: We tried the VAT trick and that does not
17 work. I have done an amateur job on those parts of the
18 Umbro accounts which are not part of the decision bundle
19 to see how I might reallocate costs which appear above
20 and below certain lines. We have not got to the
21 relevant figures but I can tell you what we have done,
22 which is, so far as possible on the limited information
23 available because we have no such breakdown in respect
24 of other customers, although their previous year's
25 figures are shown in the 2001 monthly management

1 reports, is that we do get back up to 125 million.

2 In other words there can be no question, for
3 instance, of the 60 million for Sports Soccer being
4 referable to anything other than the 125 million because
5 we would very rapidly otherwise, if you added 60 million
6 for Sports Soccer and 30 million for JJB, exceed the
7 reported UK turnover in new accounts. The answer is
8 that I have had a go but I am no accountant, and it is
9 something we are going to have to have a look at, but
10 insofar as percentages are concerned, it is not affected
11 by this analysis because I am taking these gross sales
12 figures, whatever they are, as a proportion of the whole
13 of the gross sales figures in arriving at 40 per cent,
14 24 per cent and 4 per cent.

15 The other thing I should have said -- I am sorry,
16 can we just drop back, Mr Ronnie, this is a two second
17 point -- the meeting of 26th February resulted in the
18 Office saying no leniency.

19 THE WITNESS: This is 26th February 2002?

20 Q. Where you were being cross-examined by the Office, yes?

21 A. Yes.

22 Q. That resulted at that meeting in a decision by the
23 Office, no leniency. Remember that, they told you there
24 and then?

25 A. To the best of my recollection, yes, I think that is

1 correct.

2 Q. Again, for the note and for the transcript, all of that
3 plainly is appended to Umbro's notice of appeal reply.
4 So consequently that is a document which the tribunal
5 will need to read in detail for itself in any event in
6 due course.

7 A. Yes.

8 Q. And the Office, in that same Umbro bundle, there is at
9 annex 3, a statement from Christiane Kent dealing with
10 the circumstances of the Office's decision at that
11 meeting not to allow Umbro to proceed any further with
12 any application for leniency.

13 (11.35 am)

14 MR WEST-KNIGHTS: This is a short witness statement but
15 again you will necessarily read that as part of
16 the Umbro penalty appeal. She explains in particular
17 the reaction of Umbro's people to the news.

18 Right. Sorry about that interruption, Mr Ronnie,
19 I was not meaning to be discourteous.

20 The next thing I was going to ask you about,
21 you will be pleased to hear, is paragraph 8 of your
22 fourth witness statement, page 239 of the third witness
23 bundle.

24 THE WITNESS: Sorry, I have a question for the panel. My
25 2000 diary seems to be missing.

1 MR WEST-KNIGHTS: No, it is not missing; I have it.

2 THE PRESIDENT: Let us just be clear what is going to happen
3 to these documents now. Where are they,
4 Mr West-Knights?

5 MR WEST-KNIGHTS: 2001 is over here, 2000 is here because
6 I have been looking at it and shortly I am going to ask
7 him some questions about it and in the course of that it
8 will be handed back to him, but I cannot pose the
9 question without looking at the original.

10 THE PRESIDENT: At the moment you have the original. I just
11 want to keep track on where these are.

12 MR WEST-KNIGHTS: I am bound to say that I think that each
13 of these two diaries should go into a plastic folder,
14 each marked with a firm Exhibit 1 and Exhibit 2. That
15 is where it is, Mr Ronnie, do not worry about it.

16 You say at paragraph 8 of Ronnie 4:
17 "When we received complaints from Allsports and JJB
18 about discounts offered by other retailers, there was
19 an underlying threat that they would withdraw support
20 for Umbro as a brand in their stores if we did not do
21 something about it."

22 This would have serious repercussions for Umbro's
23 business:

24 Given that the level of Allsports business with
25 Umbro on branded was less than 1.5 million in the year

1 in question, how do you justify that?

2 A. As I mentioned earlier, it was the potential of

3 the Allsports account. I worked with other sports

4 brands, with Allsports, before I joined Umbro where

5 the turnover was significantly higher in branded apparel

6 and footwear than Umbro were experiencing at the time

7 with Allsports. So the potential was always there.

8 Q. As far as JJB is concerned, the suggestion is that

9 the power that they can bring to bear in respect of

10 brands is that they do a huge amount of business in

11 respect of brands?

12 A. Yes.

13 Q. And the suggestion in respect of Allsports is they can

14 bring pressure to bear because they do virtually no

15 business in brands?

16 A. No, they do significant business in brands.

17 Q. Do they?

18 A. Within sports brands, significant.

19 Q. They do not fall into the same category, as it were, as

20 JD Sports and First Sport who you identified in

21 the May monthly report as being brands historically not

22 interested in branded and just the licensed product?

23 A. Again it is --

24 Q. Just answer that question, please?

25 A. They were at a similar level with JD and First Sport

1 within the branded apparel category with Umbro. But
2 again it was the potential that Allsports held. We knew
3 that they could do a lot more if we worked closely
4 enough with them.

5 Q. What about JD Sport and First Sport?

6 A. JD is very similar to Allsports. They had a very small
7 amount of turnover on branded apparel with Umbro, but
8 again a significant amount of turnover in that area with
9 other brands and it was always a potential that was
10 there. It was our job to ensure that we maxed out on
11 our potential.

12 Q. Do you remember that oddity in the May report -- I do
13 not want to go to it now if you do not -- where you talk
14 about JD Sport and First Sport being brands who had
15 historically irritated Umbro by wanting the statement
16 product but not supporting the brands, and then you went
17 on to say: we cannot allow these three accounts to buy
18 licensed product? Do you remember that slight oddity?

19 A. Yes.

20 Q. Can you remember now why you said three instead of two,
21 was it a slip of the tongue?

22 A. It was a slip because when I discussed the support that
23 the business was getting at the time I would always
24 refer to Allsports, JD and First Sport, because we were
25 not getting the support, we did not feel, at the time

1 that we should have had in branded apparel.

2 THE PRESIDENT: Yes.

3 MR WEST-KNIGHTS: So the position of the retailer is that

4 they are in a position to put pressure on you if they do

5 a lot of business with you and in a position to put

6 pressure on you if they do not do a lot of business with

7 you?

8 A. Yes.

9 Q. The next question is paragraph 9:

10 "Also perceived pressure because nothing was

11 explicitly stated ..."

12 That is right, is it, nothing was explicitly stated?

13 A. Correct.

14 Q. "... came in the form of order cancellations, a sudden

15 reduction in the volume of a particular product that had

16 been ordered, and a perceived ..."

17 So that would be your perception, not anything they

18 said?

19 A. Correct.

20 Q. "... reluctance to place Umbro orders in the future.

21 These actions were not limited to replica kit ..."

22 Stopping there, I think your whole thesis is that

23 replica kit is a must have?

24 A. Yes.

25 Q. So it would not be in respect of replica kit, would it?

1 A. At times we had difficulty in getting product into
2 the warehouse of some of the organisations because of
3 the timing of various games, the Euro Championship being
4 an example.

5 Q. That has nothing to do with order cancellations or
6 a sudden reduction in the volume of a particular product
7 that had been ordered. We can exclude replica from all
8 that, can we not?

9 A. No, during the course of the 2000 and 2001 period we did
10 receive cancellations from some of the accounts on
11 replica.

12 Q. In respect of replica?

13 A. Some of them, yes.

14 Q. Not Allsports?

15 A. I cannot remember exactly if we received a cancellation
16 but at times with Allsports it was very difficult to get
17 the product delivered in full.

18 Q. There was a period in April when Allsports were not
19 booking in, I think is the expression, some England
20 shirts. Is that the occasion you have in mind?

21 A. I cannot remember April specifically, but I can remember
22 that there were times where it was difficult to get
23 product delivered.

24 Q. Do not let us do generalities, Mr Ronnie. I am
25 interested in 2000 as is the tribunal. There are only

1 two significant shirts in 2000 so far as this matter is
2 concerned, and the first of those two is the England
3 shirt. There was no difficulty in respect of Manchester
4 United, was there? You got the product out early, and
5 100 per cent, and it went to the customers on 28th June,
6 the key accounts?

7 A. Yes.

8 Q. So we are not talking about Manchester United?

9 A. I was not being specific. I was just making a comment.

10 Q. No, you were not being specific and that is why I am
11 asking you these questions. So this observation about
12 order cancellations or sudden reduction in volume has
13 nothing to do with the Manchester United shirt?

14 A. Not with the United jersey, no.

15 Q. Now let us do England. Allsports did not cancel any
16 order for England?

17 A. They did not cancel, but deliveries were running very
18 late on the England jersey. So --

19 Q. I am asking you a question --

20 THE PRESIDENT: Let him finish his sentence first and you
21 can have the next question.

22 A. I am just trying to be helpful and give you as much
23 background as I can.

24 THE PRESIDENT: You wanted to say something else, I thought.

25 A. I did. At the time, 2000, we had other clubs, Chelsea

1 and Celtic, and their deliveries would be affected.
2 Cancellations would come through on those two clubs.
3 THE PRESIDENT: What was the situation on deliveries to
4 Allsports?
5 A. Again I cannot be specific, but I know that we had
6 problems delivering orders in full to Allsports.
7 MR WEST-KNIGHTS: In respect of the England shirt in 2000?
8 A. No, I was talking about the other clubs. In England
9 there was just a delay on getting the product in and
10 there was a concern from Umbro's side they would not
11 actually take the full delivery.
12 THE PRESIDENT: You are speaking of Allsports.
13 A. I am.
14 THE PRESIDENT: Are you speaking of the England shirt?
15 A. Yes.
16 MR WEST-KNIGHTS: You are suggesting that Allsports
17 cancelled an order for Celtic or Chelsea -- forgive me,
18 I cannot remember which of the shirts came out in 2000.
19 A. Again, I cannot be specific, I apologise. But
20 I remember that there had been cases with Celtic and
21 Chelsea where it was difficult to get the product
22 delivered in full.
23 Q. Mr Ronnie, if you have finished that answer, I am going
24 to ask you the next question. Will you make an effort
25 to answer just my question. Here it is: can you give

1 any instance of Allsports cancelling any order for
2 replica kit in the year 2000?

3 A. No. I cannot be specific.

4 Q. Do you say it occurred?

5 A. I am sorry, I cannot recall that.

6 Q. You have said in this witness statement and on your
7 evidence on oath just now that it did occur in respect
8 of replica kit?

9 A. No, I said that with the other two clubs, Chelsea and
10 Celtic, through the year there may well have been
11 problems in them taking full delivery.

12 Q. No, I am going to try again, Mr Ronnie. The statement
13 says: perceived pressure came in the form of ...
14 Now, order cancellations. And you go on to say:
15 these actions were not limited to replica kit but
16 extended to apparel?

17 A. We --

18 Q. Was there any instance in 2000 of a cancellation of
19 an order by Allsports of replica kit?

20 A. I am sorry, I cannot be specific about that.

21 Q. I am not asking you to be specific. The answer is yes
22 or no.

23 A. No.

24 Q. It did not happen?

25 A. No, I cannot recall.

1 Q. You have said in this witness statement that it did
2 happen.

3 A. Then if I have said it in my statement, I stand by
4 the statement and the answer would be yes, to that
5 question.

6 Q. So you say that Allsports cancelled an order for replica
7 kit in 2000?

8 A. Yes.

9 Q. Was there a sudden reduction in the volume of
10 a particular product that had been ordered in respect of
11 replica kit and Allsports in the year 2000?

12 A. To the best of my knowledge, yes.

13 Q. And what was that?

14 A. It would have referred to Celtic and Chelsea.

15 Q. Oh, perceived reluctance -- this is a sudden reduction
16 of a volume of a particular product that had been
17 ordered. You say that occurred in respect of Celtic?

18 A. It would have happened through 2000, yes.

19 Q. Why?

20 A. Because at various times in the year replica kit can
21 show up depending on the team's performance. If that
22 were the case there would be cancellations.

23 Q. So that would be a sudden reduction, would it?

24 A. The quantities would be reduced.

25 Q. Why would you perceive that as pressure if the obvious

1 reason is that at the time nobody wanted a Celtic shirt?

2 A. No, maybe other people would have wanted a Celtic shirt.

3 But the pressure is then on the brand to have to go out

4 and sell the product that has been cancelled. Nine

5 times out of ten it would be for a reduced price --

6 Q. Mr Ronnie, this statement is supposedly giving examples

7 of pressure placed on Umbro that caused it to force

8 Sports Soccer not to discount. Now, how is it that

9 simply because Celtic becomes an unpopular shirt and

10 sensibly Allsports do not want as many of them that is

11 any form of pressure on Umbro?

12 A. So what would Umbro be expected to do with a number of

13 Celtic or Chelsea shirts if Allsports were contracted to

14 take the delivery and they did not? That to me is

15 pressure.

16 Q. Pressure to do what?

17 A. The pressure is on what we then do with the product. If

18 other retailers do not want it we would then go out to

19 market it at a discounted price to try and sell

20 the goods.

21 Q. How do you explain to the tribunal that there is any

22 connection between that answer and pressure being placed

23 on Umbro to force Sports Soccer to sell products at full

24 price?

25 A. Because of the fear of cancellations on product if

1 the price point was not 39.99.

2 Q. No, you have explained that the reason why Allsports
3 would have reduced its order for Celtic was because
4 nobody wanted to buy Celtic shirts?

5 A. I did not say nobody, I was being Allsports-specific
6 there.

7 Q. Allsports customers did not want to buy Celtic shirts
8 because it was not very popular at the time?

9 A. The pressure was still on the brand to sell the goods.

10 Q. Yes, it creates a problem with Umbro, but it has nothing
11 whatsoever to do with this matter?

12 A. I disagree.

13 Q. Your answer is noted. There was in fact I think in
14 April of 2000 -- Celtic did not do very well, and that
15 was why Allsports did not want so many or could not sell
16 so many. Would that be right?

17 A. I am sorry, I cannot remember.

18 Q. If that were the case, then a reduction in orders would
19 be simply common sense and part of ordinary everyday
20 business life.

21 A. I would not say it would be common sense if they are
22 contracted to take the goods.

23 Q. That is a matter between Allsports and Umbro?

24 A. But if they are contracted to take the goods and they do
25 not, the pressure then becomes -- it comes back to Umbro

1 to sell the goods, as I said earlier.

2 Q. Yes, that is the pressure, Umbro makes a commercial
3 decision that it has to get rid of the shirts some other
4 way; yes?

5 A. Yes.

6 Q. I will be taking you to the monthly management report
7 for April in due course, and I am only proposing to look
8 at three. For the tribunal's note, at E1, tab 24 is
9 the April monthly management report?

10 THE PRESIDENT: Do you want us to go there?

11 MR WEST-KNIGHTS: I was not proposing to, but I see that
12 the usher is already there. It is tab 24, page 188.

13 A. Excuse me, I am sorry, do you mean 176, page 176?

14 Q. No, I want you to go to page 188. You are quite right,
15 176 is the beginning, page 188 is relevant page.

16 This part of the report is the first page of
17 the monthly report by national area manager 2,
18 Mr Anthony May. You can see that from the previous
19 page, sir, 187.

20 Under section 2, general market overview:

21 "Performance through MUFC has been very good
22 throughout April as the club pushed for championship
23 Euro Champions League. Turnover well in excess of
24 budget for the last two home games. Certain amount per
25 game."

1 This is for MU, because this person is of course
2 a representative not merely for Allsports but also for
3 Man U and Celtic as retailers; yes?
4 A. Correct.
5 Q. "Celtic on the other hand have had a very poor April,
6 which has been mainly due to their poor performance on
7 the pitch. Core supporters are very disillusioned at
8 level of league position -- behind Rangers. New manager
9 and away kit launch awaited eagerly."
10 Can I ask you a side question here, as a matter of
11 interest do the MUFC retail outlets and the Celtic
12 outlets sell the England shirt? I think I would guess
13 the answer with Celtic.
14 A. You are right with Celtic.
15 Q. They do not?
16 A. No.
17 Q. Not in a thousand years?
18 A. It would not be a very good move for their windows.
19 Q. I dare say it would lead to a certain amount of
20 expression of disapprobation with bricks and so forth.
21 A. I would think you are absolutely right.
22 Q. Man U?
23 A. No.
24 Q. Man U do not either?
25 A. No.

1 Q. So in this little packet of information, if Mr May is
2 talking about the sales of England kit, he would
3 necessarily be talking about Allsports?
4 A. (Pause).
5 Q. There is no trick in the question, Mr Ronnie.
6 A. Yes, he would be referring to Allsports.
7 Q. It is the only one of his three accounts in his little
8 flock that do the England kit at all?
9 A. Correct.
10 Q. I suppose there is a good reason for that. If
11 Manchester United want somebody to buy a Beckham shirt
12 they do not want him to buy an England Beckham shirt,
13 they want him to buy a Man U Beckham shirt with
14 a number 7 on it?
15 A. You are absolutely right.
16 Q. Right:
17 "Allsports' performance in April running slightly
18 behind plan as bad weather affected Easter period, but
19 expected to be pulled back through May with licensed
20 England and kit launches to kick in."
21 Okay?
22 A. Yes.
23 Q. That is all I wanted to show you. So that does appear
24 to verify, as you said, that Allsports would have
25 a pretty good reason in circumstances like that to think

1 that whatever Celtic kit they have in their shops or
2 warehouses they are not getting rid of it fast enough?

3 A. The sell through is poor, you are right.

4 Q. Sell through, what does it mean, the rate of sale?

5 A. The rate of sale from retail to consumer.

6 Q. So the ideal sell through is presumably that the
7 delivery goes straight out and they are ready for
8 the next one?

9 A. Just to give you more background to sell through, some
10 key account-handlers and sales guys will refer to sell
11 through at times, sell through into account as well as
12 out of account. It is just a term that is used. But
13 predominantly it is sell through from retail to
14 consumer.

15 Q. Out of account?

16 A. Out of retail to the consumer.

17 Q. So good sell through is good shifting it through
18 the stores?

19 A. Nine times out of ten.

20 Q. Thank you very much.

21 It is right, is it not, that so far as
22 the contractual arrangements between Umbro and Allsports
23 were concerned, there was a capacity by contract because
24 they had to order so long in advance to reduce or
25 re-schedule deliveries? They are allowed to do that by

1 contract.

2 A. Not so much reduce, but reschedule, yes.

3 Q. Reduce and reschedule?

4 A. Reduce was not always taken that well.

5 Q. No, it was not taken that well, but it was their

6 contractual entitlement as a quid pro quo for having to

7 order so far in advance?

8 A. They could do but a lot of accounts would not reduce,

9 a lot of accounts stood by contract.

10 Q. I am suggesting to you that the contract permits

11 reduction in orders?

12 A. Yes.

13 Q. It does do that?

14 A. Yes.

15 Q. So it is not a breach of contract for a retailer to do

16 that?

17 A. No.

18 Q. So that gets rid of the last punishable item of pressure

19 that you were beginning to hint at, namely, you were

20 beginning to hint, I suggest, that Umbro would be

21 constrained in insisting on proper performance of

22 the contract with certain retailers, and the fact is

23 they are allowed to take less?

24 A. They may be allowed in the agreement but it would still

25 put the brand under pressure if they received

1 a reduction.

2 Q. Mr Ronnie, that translates into your saying that any

3 action taken by a retailer, for whatever legitimate

4 purpose and however lawful, is somehow pressure on

5 Umbro?

6 A. Yes.

7 Q. Thank you:

8 "These actions were not limited to replica kit but

9 extended to apparel, footwear and other sports goods."

10 Are you going to tell the tribunal that in the year

11 2000 Allsports cancelled orders which they were

12 contractually bound to take in respect of apparel,

13 footwear and other sports goods?

14 A. I cannot be specific, but through the year it would have

15 happened that there would have been a cancellation

16 across one of those product categories.

17 Q. For what reason?

18 A. Allsports simply deciding to cancel.

19 Q. Decided it was not a good bit of kit or something?

20 A. It could have been anything, it could have been their

21 current trading at the time, it could have ordered them

22 internally to reduce stock cover. It could have been

23 that they felt that there was frustration with Umbro,

24 they could cancel for that. It could have been a number

25 of reasons.

1 Q. There is no evidence whatever in any of the monthly
2 management reports that this occurred, is there?

3 A. It would never be in the monthly management reports. It
4 would very rarely be reported in a monthly management
5 report.

6 Q. Not even in the bit that is specific to Allsports:
7 Celtic and Man U written by national contract manager
8 for Mr May?

9 A. No, the only thing that would move would be invoiced
10 bookings and turnover.

11 Q. What, he would not report these so and so's have just
12 cancelled £50,000 worth of T-shirts?

13 A. Not in the monthly management, but he would to
14 Phil Fellone, his superior.

15 Q. What purpose do even these subsets of the monthly
16 management reports have?

17 A. To give a brief overview of the business as to where
18 the current trading is.

19 Q. Let us go on:
20 "Their timing would normally coincide with a recent
21 retail promotion by one of Allsports or JJB's
22 competitors."

23 A. Sorry, where are you now?

24 Q. I am still, I regret to tell you, in paragraph 9.

25 THE PRESIDENT: Last sentence of paragraph 9 of your fourth

1 witness statement on page 239.

2 A. I am sorry, what was the question?

3 MR WEST-KNIGHTS: What does that sentence mean is the first

4 question?

5 A. It means that if there had been a promotion on a product

6 of Umbro's that one of the accounts did not agree with,

7 there may be action in cancellation. For example, if

8 JJB or Sports Soccer discounted a branded apparel

9 product, a tracksuit pant or a T-shirt, and there was

10 a reaction from the other major retailers because

11 they had ordered the same product, that is where the

12 pressure would come --

13 Q. I am not asking you about pressure, I am asking you for

14 the timing. You say the timing of these various actions

15 would normally coincide with a recent retail promotion

16 by one of the competitors?

17 A. Timing would mean that it would be a cancellation coming

18 through.

19 Q. So if somebody decides to run a particular T-shirt at

20 a loss leader, say, and knock it out at a pound to get

21 people into their shops, one of the other retailers

22 might in that event cancel an order for the same

23 T-shirts because they did not want to pay that price?

24 A. It could relate to --

25 Q. No, answer that question, please. Is that a good

1 example?

2 A. Yes.

3 Q. Thank you. The only example that you have given us

4 which even comes close to anything to do with this case

5 is the possible rescheduling of a Celtic delivery, and

6 we have seen the reason for that, which is to do with

7 Celtic not being in front of Rangers?

8 A. But as this sentence says it also related to replica --

9 Q. Sorry, that is replica, is it not?

10 A. Sorry, if replica was being discounted by Sports Soccer

11 there would be times when cancellations were placed on

12 other product categories that were not as strong as

13 replica. For example it could be equipment, a bag order

14 or branded apparel.

15 Q. There is no evidence in any of the papers that that

16 occurred, is there, not a shred of it?

17 A. Maybe not in the papers, but it certainly occurred.

18 Q. Even you do not say that in paragraph 9. This is all

19 very general.

20 A. Yes.

21 Q. Shall we go to paragraph 10.

22 "I received complaints from Allsports directly from

23 David Hughes or Michael Guest, Allsports' buying

24 director who controlled their buying and merchandising

25 on a day-to-day basis. Although Allsports' buying power

1 was less than JJB's, they were still one of our top
2 three accounts and there was an underlying threat that
3 Allsports would reduce support across the range of Umbro
4 products."

5 You go on to say:

6 "Although their buying power was less than JJB's
7 they were still one of our top three accounts ..."

8 At paragraph 7 you have not exactly set out the true
9 relationship or the scale, have you?

10 A. I have set out the scale that they were important
11 accounts, three important accounts.

12 Q. There are two accounts which you have which are in
13 the premiership, and everybody else is in the second
14 division and below, in terms of turnover with Umbro:
15 Sports Soccer 60 million, JJB 30 million, Allsports less
16 than 6, and some other also at 3 or 4?

17 A. But the potential with Allsports was always there with
18 a view to us doing more turnover. So they were a very
19 important account to us.

20 Q. So it is back to they are damned if they do and they are
21 damned if they do not?

22 A. Yes.

23 Q. And this threat which you talk about is underlying, as
24 though they had never spoke?

25 A. Yes.

1 Q. I think it is right to say that at paragraph 11 you go
2 on to say:
3 "It is difficult now to recall particular examples
4 of pressure exerted by Allsports. These always hung
5 unspoken in the background."
6 And you say that Allsports were just as vocal as
7 JJB?
8 A. Yes.
9 Q. Now let us go on to paragraph 12, because of course now
10 we understand what it is you mean by statements or
11 actions by retailers that result in pressure on Umbro.
12 Paragraph 12:
13 "Specific examples of pressure from Allsports that
14 I do recall ..."
15 Now you say "include" here, but this was you doing
16 your best shot at a complete list.
17 A. I was giving specific examples. It was not the full
18 breakdown, it was not the full list. It was specific
19 examples that I could remember at the time doing
20 the statement.
21 Q. Presumably you sat down and thought about it before you
22 wrote the statement?
23 A. They are specific examples.
24 Q. No, you presumably sat down and thought about writing
25 this statement of all the specific instances you could

1 think of?

2 A. I gave a number of examples.

3 Q. So they are just examples, and you did not make any

4 effort to come up with a complete list?

5 A. I gave a number of examples as you can see --

6 Q. No, answer the question, please. You were saying you

7 made no effort to come up with a complete list.

8 A. This is not a complete list.

9 Q. Why not?

10 A. Because I gave specific examples at the time.

11 Q. Why? Why only examples?

12 A. Because I did not -- I did not write the full list of

13 examples of when it had happened.

14 Q. Mr Ronnie, let me be frank with you, that is an answer

15 which is utterly and completely dishonest, is it not?

16 A. No.

17 Q. Let us move to 12A, because these are specifics relied

18 upon.

19 12A is the introduction to what we call on this side

20 of the house the golf day of 25th May, because various

21 things happened. So this is a specific example of

22 pressure; okay? The criticisms made by David Hughes at

23 the Allsports golf day on 25th May in front of

24 Man United and Umbro's competitors regarding Umbro's

25 supposed lack of control over the retail situation of

1 the MU product. What do you mean by the MU product?

2 A. Replica jerseys, replica shorts, socks, goalkeepers

3 product bearing the Manchester United crest.

4 Q. You are telling the tribunal that Mr Hughes used all

5 those words, did he?

6 A. He used the words "Manchester United product".

7 Q. He used the word "shirt", if any?

8 A. To the best of my recollection of the event, he used

9 the word "product".

10 Q. What matters when you are selling a statement product

11 such as a licensed shirt? Is it the whole kit, is it

12 the socks, is it the shorts or is it the shirt?

13 A. When you are paying the level of money that Umbro were

14 paying to Manchester United, it is everything you can

15 possibly sell with the club crest on it.

16 Q. That is your perception of the importance of things.

17 But to the retailers what matters is the shirt, the home

18 shirt. True?

19 A. No.

20 Q. Not true?

21 A. No.

22 Q. You say this was at a sensitive time:

23 "... when David Hughes knew that Umbro were

24 negotiating the renewal of its sponsorship contract."

25 What was the mechanism whereby pressure was exerted?

1 A. Said in front of Umbro's competitors, to make such
2 a statement was very unusual. But it was clear that it
3 was an area of sensitivity with Mr Hughes.

4 Q. Try again if you will, Mr Ronnie. What is it about what
5 is in this paragraph that represents pressure on Umbro?

6 A. Comment that there was a lack of control over the real
7 situation of Man U product.

8 Q. Is there an embarrassment factor here? I think there
9 is.

10 A. Totally.

11 Q. The embarrassment factor being, what, that this was
12 said -- this, if you like, criticism of Umbro -- in
13 front of other brands?

14 A. Other brands and management of Manchester United, who
15 were at the table at the time.

16 Q. Let us just get this square. The statement made by
17 Hughes that you do not like is a specific blast about
18 Manchester United -- about your failure to get a grip of
19 the retail situation of Manchester United product; yes?

20 A. Yes.

21 Q. And the embarrassment factor, and hence the pressure,
22 was that he said it in front of the brands and in front
23 of Man U.

24 A. Yes.

25 Q. Could we go back to Ronnie 2, please? I am going to ask

1 you to look at paragraph 43, the page reference to which
2 I will give you in just a moment: page 98 in this same
3 bundle. Again, sir, for the tribunal's note, Ronnie 3
4 is materially identical.

5 The reason I highlight these paragraphs, if you
6 would like to note them, is that paragraphs 40-47
7 inclusive are specifically identified by the Office as
8 particulars of pressure to the same effect as their
9 presence in Ronnie 3. They are specifically mentioned.

10 This is Ronnie 2, which is the witness statement, do
11 you remember, Mr Ronnie, that you made after your first
12 draft in the hope of obtaining leniency for Umbro?

13 A. Yes.

14 Q. I am not sure how attractive it would be for me to read
15 all of this out loud, but would you read to yourself
16 paragraphs 40-47 and tell us when you have finished
17 doing it.

18 THE PRESIDENT: We are reading at the same time, Mr Ronnie,
19 so take your time.

20 A. Okay.

21 MR WEST-KNIGHTS: I am going to ask you to focus in
22 particular, please, on paragraph 43. There is some
23 dispute about what precisely Mr Hughes said, but I am
24 not dealing with that for the minute.

25 What you say happened is set out in the whole of

1 that paragraph -- let us forget sentence 1, I need to
2 put it to you that he did not say that. You are sure
3 that he said those words, are you: I bet you are
4 wondering why you are all at the same table?

5 A. To the best of my recollection, yes.

6 Q. Is that a yes?

7 THE PRESIDENT: That is a yes, I think.

8 MR WEST-KNIGHTS: He said he was worried about replica kits,
9 shorts and socks, et cetera, he wanted to know what
10 the brands were going to do about it. You cannot
11 remember the flow of the conversation but the general
12 gist was that the brands explained that there was
13 nothing they could do about it. Your impression was
14 that Hughes was concerned and frustrated at the ability
15 of the brands, Umbro, Nike and Adidas -- or I suppose
16 somebody who did not work for Umbro would say Nike,
17 Adidas and Umbro, in order of importance ...

18 A. Yes.

19 Q. That is a blast that you describe there at all of
20 the brands?

21 A. Yes.

22 Q. In the next paragraph, however, you say that
23 the conversation moved from a general comment to MU
24 product specifically. And you say that Mr Hughes said
25 that he had concerns about what was going to happen at

1 the launch. Yes?

2 A. Yes.

3 Q. And then at paragraph 45 you say:

4 "Mr Hughes stated that he had ordered ..."

5 I do not think this is still confidential:

6 "... 80,000 MU home shirts for the launch."

7 In fact, you see, he had only ordered 50:

8 "... and I was embarrassed that David Hughes

9 mentioned this in front of our competitors."

10 The embarrassment here is only Mr Hughes blurting

11 out how many shirts he said he had ordered from you,

12 because you go on to say:

13 "I did not want them to know how many shirts

14 Allsports had ordered."

15 That is right, is it not?

16 A. It is right that I did not want my competitors to know

17 what he had ordered, yes.

18 Q. This is your statement as to what happened. Firstly,

19 a general blast at all of the brands and secondly, your

20 specific statement of what it was about the dinner after

21 the golf day that embarrassed you. Yes?

22 A. Yes.

23 Q. Thank you. Moving on. You remember Mr Draper, he is

24 Manchester United, is he not?

25 A. He was the marketing director of Manchester United at

1 the time.

2 Q. So that is a yes?

3 A. Sorry, I am just trying to be helpful.

4 THE PRESIDENT: That is all right.

5 MR WEST-KNIGHTS: You recall Mr Draper saying that it will

6 bastardise the product if it is discounted at launch:

7 "I understood this to mean ..."

8 You knew jolly well what it meant. It was Umbro's

9 view, was it not?

10 A. It was obviously Mr Draper's as well.

11 Q. It was Umbro's view, was it not?

12 A. It was also --

13 Q. Just say yes, would you, Mr Ronnie?

14 A. Yes.

15 Q. You did not need to say "I understood this to mean". It

16 is a common expression used within the brands, is it

17 not, that if something they treasure as having added

18 perceived value is knocked out at a discount it

19 bastardises it. That is the expression, is it not?

20 A. It is also not helpful when a football club states that

21 to you.

22 Q. That was a statement made by Mr Draper?

23 A. Who we were in negotiations with at the time.

24 Q. Yes. Jolly good. At any rate, your embarrassment

25 caused by anything that Mr Hughes said was about

1 blurting out and -- doubly embarrassing -- wrongly
2 the number of shirts that he had ordered?

3 A. It has never happened before from a retailer to sit in
4 front of a group of brands and explain how many units
5 he has ordered of a product from another brand.

6 Q. At paragraph 47 -- was that true when you wrote it?

7 A. Yes.

8 Q. Can you explain why it is not in Ronnie 3?

9 A. No, but at the time of writing this it was the truth --

10 Q. Can you explain why?

11 A. No.

12 Q. Had you find out by then that it was Michael Guest who
13 had done the guest list and the table plan?

14 A. That would surprise me bearing in mind the reaction he
15 made to me on the evening of the dinner.

16 Q. I do not want to jump ahead on to another topic, but it
17 slips in here:

18 "After the dinner David Hughes mentioned to me he
19 wanted to meet with me to discuss a possible discount of
20 the MU home shirt."

21 This was at a quiet moment, just the two of you
22 alone?

23 A. I cannot remember who was there when he asked me, but he
24 asked me the evening of the dinner.

25 Q. After the dinner?

1 A. After we had finished eating.

2 Q. "He mentioned to me"?

3 A. Yes.

4 Q. This sounds, if I may say so, not a great public shout
5 across the table, but he is saying to you quietly: he
6 wanted to have a word with you about this and have
7 a meeting?

8 A. Yes.

9 Q. That would have been a great moment to tell him, would
10 it not, about the brilliant result that you had obtained
11 the day before at your meeting with Michael Ashley,
12 where he had given you a guarantee to put the England
13 shirt up to full price?

14 A. To the best of my recollection, I did not have that
15 conversation with Mr Hughes.

16 Q. No, you did not. Now let me ask the question again:
17 that would have been the perfect moment to have that
18 conversation, would it not?

19 A. Maybe it was wrong, but I did not have that
20 conversation.

21 Q. Why not?

22 A. I cannot remember, I am sorry. I cannot remember why,
23 but I did not.

24 Q. I just warn you, Mr Ronnie, just so you can think about
25 it ahead, I will be showing you your diary for this

1 period and what happened during this key week or two,
2 and I will be asking you that question again on a number
3 of occasions, why you did not tell Allsports during
4 the period. So you can think about that from now
5 onwards if you want to?

6 A. Okay.

7 Q. If this was such a result that you were really
8 cock-a-hoop about this, you finally nailed Ashley down;
9 good news, this was a result?

10 A. Yes.

11 Q. Of course, the nice thing about the England Agreement
12 with Ashley was that it made you confident that you
13 could get him to go square on Manchester United as well?

14 A. Yes.

15 Q. And there is Mr Hughes at this meeting, and then
16 Mr Draper is saying: it will bastardise the product if
17 it is discounted at launch. There is Mr Hughes wanting
18 to have a word with you about the MU shirt. A perfect
19 moment to tell them both that you had got the result?

20 A. I certainly would not have told Mr Draper about that.

21 Q. Why not?

22 A. Because it was nothing to do with him.

23 Q. Why not?

24 A. I did not want to get into price discussions with
25 Peter Draper.

1 Q. Why not?

2 A. Because he is the marketing director and it was not my
3 role within the business to speak to Peter Draper about
4 any business concerning that.

5 Q. Who at MU is concerned with the price of the MU shirt,
6 if not the marketing director?

7 A. The retail -- the merchandising managing director.

8 Q. Who is that?

9 A. Steve Richards.

10 Q. All right.

11 A. The chief executive.

12 Q. Again, you can think about this if you want to as we go
13 forward. I will be showing you that you did not tell
14 anybody at Manchester United about this supposed result
15 until 6th June.

16 Have one last go, Mr Ronnie. It would have been
17 a great moment to tell Mr Hughes, it would have taken
18 you four seconds: you can back off, Sports Soccer are
19 going up on England.

20 A. To the best of my recollection, I did not mention it to
21 David Hughes.

22 Q. Try to think and answer the question: it would have been
23 a perfect moment to do it, would it not?

24 A. No.

25 Q. Why not?

1 A. Because it was not a perfect moment at golf day to be
2 discussing those sort of issues when I had already had
3 a fairly awkward dinner with Mr Hughes and other brands
4 and Manchester United.

5 Q. This account is that Hughes is having a pop at all of
6 you, collectively?

7 A. That is how the conversation started very early on in
8 the dinner.

9 Q. And then he blurts out how many shirts he has bought
10 from you, and that is the embarrassment. Let us move
11 on.

12 I should say for your note, sir, that the next
13 passage, 50-55, is also relied upon, and I think we may
14 be coming to that shortly. That is all I want to ask
15 you about golf day, which was paragraph 12A of
16 the specific examples, as you call them, at page 240,
17 sir.

18 THE PRESIDENT: So we are back to 240?

19 MR WEST-KNIGHTS: Yes, please. I personally am going to
20 remove Ronnie 4 and clip it ... can we move to 12B,
21 Mr Ronnie. Do you see 12B? Can you read that to
22 yourself, and then I will ask you about it.

23 A. Yes.

24 Q. You refer there specifically to paragraph 45 of what you
25 call your OFT statement, and that means that we have to

1 go back to page 228 in the bundle, sirs, because what
2 you are doing is picking up here cross-references to
3 Ronnie 3, are you not?
4 A. Yes.
5 Q. You remember doing this exercise, do you, looking back
6 at this Ronnie 3 statement and summarising them in
7 Ronnie 4?
8 A. If I mentioned it there --
9 Q. Did you write this statement, Mr Ronnie, or did somebody
10 else draft it for you and put it in front of you?
11 A. It certainly was not drafted for me, no.
12 Q. So this is your work?
13 A. My work with somebody else. But what I have said here
14 in the statement is exactly what I said.
15 Q. You refer to paragraph 45 of Ronnie 3.
16 A. Yes.
17 Q. This is at a meeting between you and Mr Hughes on
18 2nd June:
19 "David Hughes asked me what Umbro were doing about
20 the issue of the England promotion being run by
21 JD Sports. He did not explicitly threaten that if I did
22 not try to stop the promotion Allsports would take
23 action."
24 So there was no threat uttered of any kind; is that
25 right?

1 A. There was a lot of frustration from Mr Hughes on the day
2 when we were discussing the promotion. As with any
3 account, when the individuals get that frustrated, there
4 would usually be a follow-on.

5 Q. You do not refer in this statement to Mr Hughes's
6 mien -- that is to say the way he presented himself?

7 A. No.

8 THE PRESIDENT: Just for my note, Mr Ronnie, when you say
9 there was a lot of frustration from Mr Hughes, can you
10 just explain in your own words what you meant by that?

11 A. He was concerned that we, as Umbro, had allowed
12 JD Sports to go with the hat promotion on the England
13 product. When I explained to him that we had not, we
14 knew nothing about it, it was beyond other control, JD
15 had taken that decision to go with the promotion.

16 THE PRESIDENT: I am sorry, Mr West-Knights.

17 MR WEST-KNIGHTS: I am grateful.

18 You go on to say:

19 "I did believe that if I did not do something then
20 it would present a problem regarding Umbro's
21 relationship with Allsports and potentially Manchester
22 United."

23 Is that right?

24 A. Yes.

25 Q. We are looking at Ronnie 3 here.

1 As far as you and Mr Hughes knew at this time, and
2 this was the discussion, this was JD Sports selling
3 Umbro shirts with a free Admiral cap?
4 A. Yes.
5 Q. You, Umbro, were seriously unhappy about that
6 yourselves?
7 A. Yes.
8 Q. You thought that some person who was contracted to you
9 to sell your licensed product had no business putting it
10 into a bundle with somebody else's product, and that
11 that was devaluing your brand?
12 A. It was more the promotion ... knowing about the cap
13 promotion.
14 Q. I beg your pardon, sorry? I did not hear that.
15 A. It was more regarding the promotion that JD Sports had
16 put on at the time; giving a free cap away valued at
17 9.99 that was the problem for us.
18 Q. The additional problem for you, Umbro, was that this was
19 not your cap; it was an Admiral cap, you thought?
20 A. Yes.
21 Q. Now why was it a problem for Umbro -- never mind about
22 the retailers, do not talk about the pressure -- why was
23 Umbro unhappy about the 9.99 cap being free?
24 A. Because it devalued the England shirt. We had never
25 discussed a give-away promotion with the England shirt.

1 Q. We will come to it in due course, but I think Manchester
2 United echo this in a letter which they wrote to Umbro
3 at about this time, being worried about whether their
4 shirt was going to be used in connection with some such
5 promotion; do you remember that?

6 A. Vaguely, yes.

7 Q. Okay. So Umbro, quite independently of its discussions
8 with anybody else, had two reasons for being really
9 seriously unhappy about this JD Sports thing. One, this
10 is a prime product; you do not mess about with your
11 give-aways?

12 A. Yes.

13 Q. And secondly, to make it worse, as far as you knew it
14 was somebody else's cap?

15 A. Yes.

16 Q. So it would not have come as a big surprise to you,
17 I dare say, if when this matter came up in conversation
18 this was a matter of interest to both of you. I dare
19 say that any retailer of any standing would have known
20 that Umbro would have been pretty hacked off about
21 conduct of JD Sports over this cap?

22 A. Yes.

23 Q. So it was part of a conversation saying: what are you
24 going to do about it? That is a pretty fair question,
25 to which you say: I wish I bloody knew, I cannot stop

1 them. Or: I am doing my damndest to stop them. That
2 is right, is it not?

3 A. Yes.

4 Q. That is not pressure from Mr Hughes; that is
5 a discussion about a problem that you have?

6 A. I took it at the time that it was pressure from
7 Mr Hughes because of his disappointment that JD Sports
8 were running that promotion.

9 Q. I put it to you that that is simply untrue, and
10 obviously so.

11 A. You --

12 Q. You did, in fact --

13 THE PRESIDENT: Just a minute, I think the witness wanted to
14 add something.

15 MR WEST-KNIGHTS: I was encouraging the witness to carry on.

16 A. Yes, I took it as pressure from David Hughes, clearly.

17 THE PRESIDENT: I see.

18 MR WEST-KNIGHTS: You took steps about it?

19 A. Yes.

20 Q. Culminating -- not culminating but including a meeting
21 between you and Phil Fellone at Umbro House, with
22 I think Barry Bown and Tim Gardener of JD, and you will
23 find that, sir, and gentlemen and Mr Ronnie, at 231,
24 paragraph 63. Do you have that?

25 A. Yes.

1 Q. What you say at 63:
2 "Barry Bown and Tim Gardener attended a meeting with
3 Phil Fellone and myself at Umbro House at 12th July.
4 I do not have a note of this meeting. We discussed both
5 the general issue of JD Sports failing to support
6 the brand and the specific promotion. We were concerned
7 about the promotion as it involved a competitor's
8 product being sold with ours, and it appeared as though
9 Umbro and Admiral were linked."
10 Yes?
11 A. Yes.
12 Q. "We were also concerned by the reaction that
13 the promotion was having with other retailers who were
14 contacting us about it."
15 A. Yes.
16 Q. That is what it says in Ronnie 3. Now, two questions.
17 If, first, I take it that there is in fact no link
18 between Umbro and Admiral except this cap promotion?
19 A. Correct.
20 Q. The last sentence of this paragraph:
21 "We were also concerned by the reaction that the
22 promotion was having with other retailers who were
23 contacting us about it."
24 So that sounds like a general allegation, as it
25 were, of pressure?

1 A. Yes.

2 Q. Can I ask you to go to Ronnie 2, paragraph 134, at
3 paragraph 116 of the same bundle. Just have a look at
4 paragraph 134, will you? (Pause)

5 A. Yes.

6 Q. Would you read from:

7 "We were concerned about the promotion ..."

8 Halfway through the paragraph:

9 "We were concerned about the promotion as it
10 involved a competitor's product being sold with ours and
11 it appeared as though Umbro and Admiral were linked.
12 We were also concerned by the reaction that the
13 promotion was having with other retailers who were
14 contacting us about it.

15 "However, we were concerned primarily with
16 the failure of JD Sports to support the Umbro brand."

17 Yes?

18 A. Yes.

19 Q. That was true?

20 A. Yes.

21 Q. Why in Ronnie 3 is the last sentence of that
22 paragraph excised, by which I mean removed, so as to
23 completely change the sense?

24 A. It was not removed deliberately, it just was not there
25 as I sat down to write witness statement 3.

1 Q. I do not understand that, but that is not material.
2 Could you explain that a little further, please?
3 A. I am sorry, I cannot remember why it was not there.
4 Q. With the exception of the reference in paragraph 134 to
5 the sentence, "Please refer to Exhibit CR4",
6 paragraph 134 and paragraph 63 are otherwise I think
7 identical. Except that capital P for promotion has
8 become a lower case P. So they are identical in terms
9 of words in all other respects?
10 A. Yes.
11 Q. You do accept, do you, that the statement in Ronnie 3
12 reads very differently from the one in Ronnie 2?
13 A. I would not say very differently. I would agree with
14 you that there is one line missing from it.
15 Q. The whole emphasis has changed, has it not, Mr Ronnie?
16 A. No, no.
17 Q. That is your final answer, is it?
18 A. Yes.
19 Q. Right, okay. Anyway, 134 is the one we should go with,
20 is it, in Ronnie 2, and not 63 in Ronnie 3? Yes?
21 A. Whichever you choose --
22 Q. No, you tell us which is the right one?
23 A. They are both right, it is just unfortunate that in
24 the next statement I have missed a line off.
25 Q. I suggest it was not unfortunate; that it was

1 a conscious choice to promote the pressure aspect and to
2 demote the true aspect?

3 A. No.

4 Q. Thank you.

5 Once again we need to go back to Ronnie 4, as
6 I think it is, and deal with 12C. Can you read that to
7 yourself, Mr Ronnie, and then we will go through it.
8 (Pause).

9 A. Yes.

10 Q. Again we are directed to paragraph 46 of what you call
11 your OFT statement, page 228 for everyone in the bundle.

12 You said in Ronnie 3, incidentally not relied upon
13 but obviously it is by incorporation in Ronnie 4 but not
14 identified as being relied upon:

15 "The discussion then moved on to Manchester United
16 Football Club. David Hughes said to me that if
17 Umbro cannot ensure that the product will not be
18 discounted, it will affect Umbro re-signing the Man U
19 deal. David did not think we would get the deal."

20 Is that two separate statements that he made?

21 A. No.

22 Q. So how does that translate into, "David did not think we
23 would get the deal"?

24 A. He continued on.

25 Q. I see, I asked you whether they were two separate

1 statements. What is the second thing he said, apart
2 from what is in quote marks here?

3 A. The second thing he said as a run-on is David did not
4 think we would get the deal.

5 Q. He would not have used those words. What were his
6 words?

7 A. He did not think we would get the deal.

8 Q. What were his words?

9 A. "I do not think you will get the deal." Meaning you
10 will not re-sign Manchester United.

11 Q. He was right about that, was he not?

12 A. He was.

13 Q. He was equally right that Manchester United, for exactly
14 the same reasons as Umbro and the same reasons we were
15 talking about ten minutes ago, do not want to see their
16 statement shirt bastardised?

17 A. Yes.

18 Q. So can you start, please, by explaining in 12C, back to
19 Ronnie 4, page 240, why that is an example of pressure
20 from Allsports?

21 A. Because he made it clear that Umbro would not be able to
22 re-sign Manchester United if we could not control
23 the retail price --

24 Q. What do you mean he made it clear? As if he had
25 authority to do something about it?

1 A. As if he had information.

2 Q. So what? This is just information.

3 A. Yes.

4 Q. I see, the suggestion is that he is passing on MU's

5 pressure to you?

6 A. He is passing on maybe information regarding

7 a conversation that he had had with Man U.

8 Q. What did you think would happen? Firstly this question:

9 Umbro were intensely keen that the MU shirt should not

10 be bastardised, Umbro were?

11 A. Yes.

12 Q. You had your own motive for that?

13 A. Yes.

14 Q. So where does the pressure come in?

15 A. From the retailers.

16 Q. But how does it affect you? That is something you

17 desperately want in any event.

18 A. Because, as I have mentioned, we had an effect -- could

19 have had an effect on our order book from the various

20 retailers.

21 Q. We are focusing on this example of pressure, which is

22 Mr Hughes's comment that if Umbro could not ensure that

23 the new MU shirt would not be discounted it would affect

24 the re-signing of the deal.

25 You knew that anyway, did you not, it would be

1 a disaster from Umbro's point of view and you knew that
2 Man U would regard it as a disaster from their point of
3 view?
4 A. Yes.
5 Q. Thank you. But it was not a threat in any way, was it,
6 on the part of Mr Hughes?
7 A. As I said, I took it as pressure.
8 Q. Now, please, listen to the question. It was not
9 a threat of any kind?
10 A. Not a threat, no.
11 Q. And you say that you reported it -- going back to Ronnie
12 3. It is not in Ronnie 3. You say:
13 "I called Peter and told him about the comment."
14 Okay?
15 A. Yes.
16 Q. Because you thought that maybe Mr Hughes had some inside
17 knowledge?
18 A. Yes.
19 Q. And that perhaps he was right?
20 A. Yes.
21 Q. What inside knowledge would that be?
22 A. Maybe a conversation --
23 Q. The bit about do you think you will get the deal, that
24 bit?
25 A. Yes.

1 Q. That was just giving Mr McGuigan a tip-off, Hughes has
2 said this: I do not know if he knows anything, but you
3 ought to know it?
4 A. Yes.
5 Q. And there was nothing in that conversation you had with
6 Mr McGuigan to suggest that that was in any way a threat
7 from Mr Hughes?
8 A. I took Mr McGuigan through the conversation that I had
9 had with Mr Hughes, and I said that we were being put
10 under pressure.
11 Q. By whom?
12 A. By Mr Hughes.
13 THE PRESIDENT: To do what, Mr Ronnie?
14 A. To keep ensuring that the retail price of the product
15 stayed at 39.99.
16 MR WEST-KNIGHTS: You did not need any encouragement from
17 anybody else?
18 Have you read Mr McGuigan's witness statements in
19 this matter?
20 A. Not for some time, no.
21 Q. But you had read them before?
22 A. I have some time ago, yes.
23 Q. I just ask you in the round why this happened, and you
24 may not be able to answer, the Office may be able to
25 help.

1 McGuigans 1 and 2 describe the conversation between
2 you about Mr Hughes's belief or whatever -- stated
3 belief, that he thought you might not get a renewal as
4 a comment. All right?

5 McGuigan 3 suddenly describes it as a threat. Do
6 you know why that is?

7 A. I am sorry, I do not.

8 Q. I am going to suggest that it was yet another example of
9 Umbro successively down the track trying harder and
10 harder to blame third parties untruthfully.

11 THE PRESIDENT: Do you want to comment on that suggestion,
12 Mr Ronnie?

13 A. Not really, no.

14 MR WEST-KNIGHTS: Sir, again I remind the tribunal for its
15 note that we covered that in the meeting of
16 26th February when we were there, that page describing
17 Mr Hughes's statement as a statement of fact, simply
18 that he thought it would not be renewed.

19 Let us move on to paragraph 13 of Ronnie 4.

20 "Allsports alleges at paragraph 6.5 of its notice of
21 appeal ..."

22 That is a very legalistic expression; is that the
23 kind of thing you usually write, Mr Ronnie, "alleges"?
24 Is that a word you had previously used before you wrote
25 this statement?

1 A. I am sure I have used the word in my life, yes.

2 Q. It sounds a bit lawyer-ish to me?

3 A. Not really.

4 Q. These are your words, are they? You wrote these words,

5 did you?

6 A. People use the word "allege" quite a lot in the English

7 language, do they not?

8 Q. You wrote these words, did you, Mr Ronnie?

9 A. Yes.

10 Q. "Allsports alleges at paragraph 6.5 of its Notice of

11 Appeal that there is no record of any pressure in

12 Umbro's internal documentation. I agree that there

13 would be little written record ..."

14 Again, there is no written record of any retailer

15 pressure, is there?

16 A. No.

17 Q. There is, however, a little bit of evidence of pressure

18 from MU, is there not?

19 A. Yes.

20 Q. And indeed somewhere tucked away you got a bit of heat

21 from Celtic at some stage about discounting north of

22 the border. You do not remember that?

23 A. I do not remember.

24 Q. Do not worry. High Street prices were at this stage

25 higher than in Scotland; do you remember that?

1 A. No, I do not.

2 Q. Sorry, let us not go there:

3 "I agree that there would be little written record

4 because Umbro ran its everyday business through

5 face-to-face communication and by phone rather than by

6 email and other correspondence."

7 Who are you talking about, internally as between

8 Umbro or as between Umbro and third parties?

9 A. Both.

10 Q. So to the respect that Umbro deals with people outside

11 of Umbro orally, which is what you are saying, you would

12 expect to see notes taken?

13 A. No.

14 Q. No?

15 A. No.

16 Q. You do take notes of meetings with people. At least

17 Lee Attfield does. I do not know if we have seen notes

18 between any other sales rep and any other retailer?

19 A. The key account managers will always take notes.

20 Q. So you are telling me that Mr May and Mr Bryant would

21 each have taken detailed notes or indeed notes of their

22 regular meetings with their accounts?

23 A. In most cases file notes would be taken.

24 Q. Now, Umbro were raided by the OFT in August 2001 and

25 have subsequently said on any number of occasions that

1 they provided the OFT with all of the information and
2 documents material to this case. So where are the file
3 notes?

4 A. I could not tell you.

5 MR WEST-KNIGHTS: Sir, I saw you looking at the clock, would
6 it suit you to rise a little early?

7 THE PRESIDENT: We have had a long morning.

8 MR WEST-KNIGHTS: I am not suggesting you should not, but if
9 sometimes counsel is reluctant "is that a convenient
10 moment?" it looks as if he is buying himself an extra
11 bit of lunchtime.

12 THE PRESIDENT: I was juggling the fact that we have had
13 a long morning, and Mr Ronnie has had a long morning,
14 with our imperative need to get on to the last two
15 witnesses today.

16 MR WEST-KNIGHTS: Come what may, Mr Ronnie needs to leave
17 that witness-box at 3 o'clock or thereabouts, subject to
18 a convenient moment. If the convenient moment is within
19 ten minutes of 3 o'clock I will stop there. I will not
20 have finished. We will then deal with the two witnesses
21 who have been promised to be here today.

22 THE PRESIDENT: Yes. So if we rise now ...

23 MR MORRIS: Sir, I am very grateful for the tribunal's
24 indication that Mr Prothero and Mr May need to be dealt
25 with this afternoon, there has been indication from both

1 of them that they are very concerned about that.

2 Can I say that whilst Mr West-Knights thinks and

3 hopes he will be finished by 3 o'clock --

4 MR WEST-KNIGHTS: I did not say that, I said I would not

5 have finished by 3 o'clock. That is now a certainty.

6 THE PRESIDENT: So we are going to interpose.

7 MR MORRIS: It was not a criticism, it was a suggestion of

8 interposing. We do not know how long we are going to be

9 in re-examination. There may be some questions in

10 re-examination, or there will be questions in

11 re-examination, and it seems to us on this side that

12 the best solution would be to interpose. That may be

13 something --

14 MR WEST-KNIGHTS: I am so sorry, everything I said had that

15 rolled up in it.

16 MR MORRIS: Maybe we can discuss over the adjournment

17 when --

18 MR WEST-KNIGHTS: My suggestion was that I go with Mr Ronnie

19 until 3 o'clock, stop there, and then interpose

20 the other two witnesses. If that is agreeable to

21 the tribunal.

22 THE PRESIDENT: I think so, I think Mr Ronnie has a point of

23 view.

24 It is taking a very long time, Mr Ronnie. Your

25 evidence is important to the tribunal and we are

1 listening very closely to what you are saying.

2 THE WITNESS: I have been here since Monday morning. I also

3 have work to do and this is getting ridiculous now on

4 the time. I am sorry, but I have work to do and it will

5 be very difficult for me to come back next week, if that

6 is what you are saying. I think it is only fair to me

7 that you do try to give me an idea of what is happening.

8 A week away is a very long time.

9 THE PRESIDENT: We do understand that. It is looking at

10 the moment as if we may need you on Monday.

11 THE WITNESS: I am sorry, I cannot be here on Monday, I have

12 people flying in from various parts of the world for

13 meetings. With the greatest respect, I think I have

14 been here a week and I am not prepared to break Monday.

15 THE PRESIDENT: If we do need you on Monday, we may have to

16 make orders and that sort of thing, Mr Ronnie. What

17 I suggest is that if over the lunchtime break we make

18 some more estimates of how much time is needed and see

19 if we can fit in the various competing demands on

20 everybody's time.

21 At the moment all we can do is rise until 2 o'clock,

22 and I would invite both the Office and Allsports in

23 particular to see if we can in some way square this

24 circle, which is becoming difficult.

25 MR WEST-KNIGHTS: I have seven pages of notes. I hoped to

1 do them at the rate of half an hour a page. Mr Ronnie
2 and I between us have been doing it at a rate of one
3 hour a page. I have four pages left.

4 THE PRESIDENT: What page are you on?

5 MR WEST-KNIGHTS: I have done three and I have four to go.

6 Each of them is simply picking up matters in Ronnie 4
7 and analysing the other information with the witness to
8 see if he will retract the statement made. It is as
9 simple as that.

10 MR COLGATE: Can I ask one question? If we are going to be
11 stopping around 3 o'clock, are we then going to leave
12 sufficient time to cover May and Prothero in
13 the remaining period of the afternoon?

14 MR WEST-KNIGHTS: I would put £8 on it, but then I only ever
15 put £8 on anything. I can see where you are coming
16 from. I would be astonished if I was wrong in my
17 estimate of Mr Prothero, because I have only five
18 questions to ask him. It is a very small topic,
19 the reliance placed by the Office on Mr Prothero's
20 statement is in relation to one paragraph, one event
21 only. However interesting or helpful it might be to
22 extract from Mr Prothero additional information, it is
23 not my intention to do so.

24 However, I should tell you that I cannot tell you
25 much about Mr May, he comes out of the blue. If what

1 you are suggesting is that it might be sensible since if
2 Mr Ronnie is only going to be here for another hour this
3 afternoon anyway, that we make sure that there are no
4 slips 'twixt cup and lip and release him until
5 Monday ...

6 THE PRESIDENT: What I would like you all to do it to try to
7 discuss this amongst yourselves over the adjournment to
8 see if a solution could be found. When I said that it
9 was imperative that we got on to May and Prothero this
10 afternoon, I am afraid that was on the assumption that
11 we would have finished Mr Ronnie today. Mr Ronnie now
12 points out that he is in difficulty next week. That may
13 re-open the question of whether we should go on with
14 Mr Ronnie this afternoon or hear the other two
15 witnesses, which is unfortunate because they have both
16 turned up now today.

17 MR WEST-KNIGHTS: It is not a problem, we will do with
18 the other witnesses --

19 THE PRESIDENT: The question is whether we should not deal
20 with the other witnesses today, put them over until
21 Monday in an effort to finish Mr Ronnie.

22 MR MORRIS: Sir, that cannot be done in respect of
23 Mr Prothero. He is going to Brazil. Mr May is starting
24 a new job on Monday. That has been the whole purpose of
25 this timetable for this week to get these two in today.

1 With the greatest of respect we had expected to manage
2 to do this and finish Mr Ronnie today. The prospect of
3 another four hours of Mr Ronnie seems to us to be
4 a little excessive. It is obviously a management issue.
5 I would like to be able agree this over the adjournment
6 with my learned friend. I suspect that the prospect of
7 the two of us over the lunchtime adjournment coming to
8 a solution which involves finishing Mr Ronnie and
9 Mr May and Mr Prothero today --

10 MR WEST-KNIGHTS: There is no chance.

11 THE PRESIDENT: Can you see how you get on, with a view to
12 being as helpful as possible to Mr Ronnie.

13 THE WITNESS: Sorry, I know I am not allowed to speak to
14 anyone over the lunch break.

15 THE PRESIDENT: There is no difficulty about your discussing
16 this problem with anybody else.

17 THE WITNESS: The initial timetable I was given was Monday
18 afternoon and Tuesday morning. I obviously thought
19 there would be an overrun into Tuesday. I am now at
20 Friday afternoon. I think personally, with the greatest
21 of respect, enough is enough.

22 THE PRESIDENT: We had the same timetable. We are in
23 the same difficulty as you are.

24 THE WITNESS: I have put everything from the back of this
25 week into next week. I have to travel in the same way

1 as Mr Prothero has to next week. I have to travel.

2 THE PRESIDENT: Let us take this up again at 2 o'clock and

3 see if there is a way out to can be found if you discuss

4 the over the lunch adjournment.

5 MR WEST-KNIGHTS: I trust the tribunal will understand that

6 all I have been doing is going through

7 the Allsports-specific matters in Ronnie 4 as rapidly as

8 the witness allows me.

9 THE PRESIDENT: It all takes time. Let us discuss

10 the matter when we come back at 2 o'clock.

11 (1.05 pm)

12 (The short adjournment)

13 (2.00 pm)

14 THE PRESIDENT: Yes.

15 MR WEST-KNIGHTS: I think Mr Morris was going to tell you

16 where we had reached, because I do not myself know.

17 (In the absence of the witness)

18 MR MORRIS: I was not going to deal with that. There is one

19 matter that Mr West-Knights wants to raise.

20 MR WEST-KNIGHTS: Channels had indicated that there was

21 a matter that I was going to raise, but it does not need

22 to be raised.

23 THE PRESIDENT: What is the situation regarding Mr Ronnie?

24 MR MORRIS: The situation regarding Mr Ronnie is that he is

25 extremely upset about not finishing today, and that

1 he has commitments next week which I will tell you
2 a little bit more about perhaps when he comes in.
3 Essentially he has commitments on Monday, Tuesday,
4 Wednesday and Thursday of next week.

5 However, it has been made plain to me by
6 Mr West-Knights that if we were to start Mr Ronnie now,
7 we would not finish him today. In those circumstances
8 we think it is best now to go first with Mr Prothero,
9 then with Mr May, then return to Mr Ronnie, perhaps get
10 as much done as we can this afternoon in the time that
11 you wish to sit for, then have to timetable him sometime
12 this week. That is the issue which I have not yet
13 reached a solution upon.

14 His commitments next week are that he has meetings
15 Monday, Tuesday, Wednesday in which people are flying
16 from all over the world for those meetings; from
17 Malaysia, from Canada, from a variety of places. He
18 also has a meeting in Paris on Thursday which has
19 already been put off twice this week.

20 At present, it appears that the only day that he has
21 indicated that he is available is next Friday. So that
22 is where we are with him at the moment. And that is as
23 far as I can take it.

24 I had that you might want him out for this
25 conversation, but that was only on the basis that

1 I thought we were discussing the other matter, which
2 we are not --

3 MR WEST-KNIGHTS: I have something to say in his absence.

4 MR MORRIS: That is as far as we have been able to get
5 during the adjournment.

6 MR WEST-KNIGHTS: Mr Morris accurately states the position.
7 I have told him that I am at his disposal if he wants to
8 call Mr Prothero or Mr May, or Mr Ronnie. We do not
9 mind. Whoever he wants to call now; I am ready to deal
10 with each of them.

11 I can say with some confidence, I hope, that
12 the tribunal is finding the exercise that I am going
13 through helpful and necessary. Mr Peretz and I sat down
14 last night until late in the evening completely
15 restructuring the cross-examination, so as to confine it
16 to those areas we regard as must-dos. That is that.
17 The short point is that if Mr Ronnie at any stage wants
18 to tell the tribunal that his evidence is of no value to
19 the tribunal, then that is the way he gets away early.
20 Because that is my purpose.

21 THE PRESIDENT: It is not an explanation I am likely to
22 extend to Mr Ronnie, Mr West-Knights.

23 MR WEST-KNIGHTS: I might.

24 THE PRESIDENT: I think the issue is --

25 MR WEST-KNIGHTS: Oh, sorry, there is one matter I have

1 failed to mention.

2 THE PRESIDENT: No, listen to what I have to say about

3 Mr Ronnie.

4 MR WEST-KNIGHTS: Mr Ronnie first, Mr Fellone second. I am

5 not at all happy to deal with Mr Fellone until I have

6 dealt with Mr Ronnie. It is plainly out of the question

7 to wait until Friday, absolutely out of the question.

8 THE PRESIDENT: If Mr Ronnie is a reluctant witness,

9 the only alternative would be to issue a summons for

10 Monday.

11 MR WEST-KNIGHTS: If I, as it were, sit there and rather

12 impolitely shrug, I have no sympathy for Mr Ronnie's

13 position whatsoever.

14 THE PRESIDENT: That is a matter for the tribunal at the end

15 of the day. If Mr Ronnie indicated that he was finding

16 it very difficult to be available before next Friday,

17 would you be inviting the tribunal to issue a witness

18 summons for Monday?

19 MR WEST-KNIGHTS: Yes.

20 THE PRESIDENT: And what would you say to that, Mr Morris?

21 MR MORRIS: Well, that is a matter for the tribunal, sir.

22 Can I suggest first of all that we hear from Mr Ronnie

23 as to what his position is.

24 Can I just put down one marker as well: I would

25 invite my learned friend not to make any suggestion to

1 Mr Ronnie about: you will get let out early if you --
2 MR WEST-KNIGHTS: Tell the truth now?
3 MR MORRIS: Really it is not an appropriate way of handling
4 the witness in these proceedings. Perhaps Mr Ronnie
5 could be asked --
6 THE PRESIDENT: Do we have any representatives of
7 Cameron McKenna in the room?
8 MR MORRIS: Yes.
9 THE PRESIDENT: Have you been assisting Mr Ronnie in this
10 matter as well as Sports Soccer, can you tell us?
11 MR MORRIS: No, he has not. Mr Ronnie has separate
12 assistance, and he has separate representation,
13 I believe, from somebody sitting at the back, from
14 Stephenson Harwood.
15 (In the presence of the witness)
16 THE PRESIDENT: Mr Ronnie, we need to talk over
17 the situation that has arisen.
18 As far as the tribunal is concerned, we are
19 extremely grateful and appreciative of the time that
20 you have spent giving us your story. We have taken
21 a very careful note of what you have said, and it is
22 not, if I may say so, a particularly agreeable or
23 pleasant experience for anyone to be giving evidence
24 from a witness-box in any court case, but this is
25 a court case, and unfortunately legal proceedings take

1 a lot of time and it is not always predictable how much
2 time they will take.

3 From our point of view, from the tribunal's point of
4 view, we are particularly anxious to hear the whole of
5 your evidence and not if we can possibly avoid it to
6 break it off into bits and pieces, because we are
7 following a flow of what you have been saying to us, and
8 if I may say so you have been ... how shall I put
9 it? ... bearing up in a way that we have found helpful.

10 The situation that we are actually in is that I do
11 not know whether -- in fact, I am pretty sure that
12 we are not actually going to be able to finish your
13 evidence today. I think that is just the situation
14 we are in. I regret that as much as everyone does,
15 the tribunal does, but that is the situation we are in.

16 So the practical problem is what we do about it.
17 Now, the optimal solution from our point of view -- not
18 necessarily from yours -- the optimal solution from our
19 point of view would be simply to go on with you on
20 Monday. That would be our best solution. It would also
21 be the best solution from the point of view of the case
22 because it is undesirable, as it were, to break up
23 evidence, hear other evidence before one lot of evidence
24 is finished, if you follow?

25 A. Yes.

1 THE PRESIDENT: I am extremely sorry about that. If worst
2 comes to worst, because we are a court we have various
3 backup powers, which I am very reluctant to use, but
4 we have backup powers to issue what lawyers call
5 summonses that have to be obeyed on pain of criminal
6 prosecution. I would not necessarily want to do that,
7 but it is my duty to make sure that these proceedings
8 are completed, as it is everybody else's duty to help as
9 far as we can.

10 At the moment we have very little alternative but to
11 ask you to come back on Monday, as far as I can see.

12 Now, I do not know if you have legal advisors who
13 are advising you as to your position and you would like
14 to consult them as to the situation. I appreciate that
15 it is extremely difficult for you, and possibly for
16 Sports Soccer for whom I think you are now working, that
17 this disruption of your business life, as it were, has
18 happened; we are very conscious of that and we regret
19 it, but it has happened and I have to run these
20 proceedings as best I can. That is the situation.

21 A. I fully understand that things overrun. But to overrun
22 by three days, I do not know, but it strikes me as
23 unusual.

24 THE PRESIDENT: Things have gone unusually this week.

25 A. With effectively actually standing up to the witness box

1 and giving evidence, Lord Grabiner covered his time as
2 he predicted to the minute.

3 It seems a forecast was given by Mr West-Knights,
4 and unfortunately he has not been able to keep to that.
5 As you will understand, as you rightly said, this has
6 taken up a whole week of my time. I have now tried to
7 re-schedule everything that I had for the end of this
8 week to the beginning of next, including overseas
9 travel, including people from overseas coming to travel
10 to see me. I do not know how, physically, I can stop
11 that now because we are too far down the line. As you
12 know, with international travel, people are now
13 travelling with a view to meeting on Monday.

14 My other concern is if I said yes to Monday, if
15 a prediction of four hours was given -- but who knows if
16 that prediction will be kept -- that is my concern.
17 Time-wise, it could run on through the whole of Monday,
18 which then gives me a huge problem.

19 THE PRESIDENT: I think we will have to do our very best.

20 I would have thought, Mr West-Knights -- you will know
21 better than me -- making an impressionistic assessment,
22 I would have thought we could have a very good shot at
23 being through by Monday lunchtime, would we not,
24 including re-examination? You cannot say anything about
25 re-examination, I know.

1 MR WEST-KNIGHTS: I said humouristically yesterday morning
2 that I have not been wrong yet. I plainly have been.
3 To the extent that I failed to judge in advance just how
4 slow this witness would be, I was to that extent wrong.
5 THE WITNESS: Sorry, can I make a comment?
6 THE PRESIDENT: In a moment, Mr Ronnie. Come back one at
7 a time.
8 MR WEST-KNIGHTS: I said only before lunch that Mr Peretz
9 and I had refined down to seven pages of notes
10 the cross-examination, and in fact it took
11 three-quarters of an hour just to do the first four
12 lines of page one. I am not capable of going faster
13 with this witness because of the necessity for him to
14 read the material that he plainly has not read for
15 months.
16 It would be unhelpful to you if we tried to gabble
17 it. I have not at any stage gone slowly. I am no
18 longer in a position to make any estimate on how long
19 Mr Ronnie is going to make this process last. But to
20 say that I would aim for Monday lunchtime would in my
21 view be unduly optimistic. If I am right -- that three
22 pages took three hours -- then four pages might take
23 four hours. Pages differ. It could take a day. It
24 could take a lot less time, but that would depend on
25 the answers.

1 I am not prepared to make any statement that I have
2 any confidence that Monday lunchtime would be the stop
3 point. I have conscientiously sought only to
4 cross-examine this witness on matters which are
5 relevant. I think it could fairly be said that thus far
6 I have not asked him a single question which has not
7 been relevant.

8 THE PRESIDENT: Right. Yes Mr Ronnie.

9 A. I find it incredible that Lord Grabiner can finish to
10 the actual minute of when he predicted he would finish.

11 THE PRESIDENT: As far as the tribunal is concerned, we have
12 no criticism of you in terms of how much time has been
13 taken. From counsels' point of view, unfortunately
14 there are a lot of documents to cover, we do have to go
15 to different files and remind ourselves where we are and
16 all the rest of it. So it does, I am afraid, take time
17 from our point of view. From Mr West-Knights's point of
18 view, he has more lengthy things to look at than had
19 counsel for JJB. Up to a point, that is water under
20 the bridge. We have to try to find a solution to
21 the problem that we have.

22 A. Sorry, how can I run my diary then?

23 THE PRESIDENT: It is very difficult, but sometimes things
24 have to give. I think at the moment we have very little
25 alternative but to go on to Monday, with as good a wind

1 as we can get.

2 MR MORRIS: As far as re-examination is concerned, I would
3 hope to be half an hour, so long as there is no
4 interruption. On a little interruption, perhaps
5 a little more, depending between now and then if other
6 matters rise. That is what I have at the moment.

7 A. Well, I think at the moment, Mr Ronnie, we are going to
8 have to ask you to come back on Monday. I am going to
9 do my best to make sure that you get away on Monday as
10 early as we possibly can, but we cannot at the moment
11 guarantee any particular time.

12 If, as I am sure you are, you are unhappy about
13 that, we may as a last resort have to issue an order, in
14 which case -- we can start early on Monday, if that
15 helps -- in which case you would have to take legal
16 advice as to the consequences of not coming on Monday.

17 I am very sorry indeed to put you in that position,
18 because I would much rather have a willing witness here
19 to help the tribunal than one who is seething inwardly
20 at what has happened. But I am afraid I do not have any
21 choice at the moment, except to ask you to be here on
22 Monday.

23 MR WEST-KNIGHTS: I can make an offer that may mitigate Mr
24 Ronnie's position, which is although we know it is
25 unhelpful to burn the candle at both ends, I am

1 certainly prepared to start burning the candle quite a
2 lot earlier on Monday than might otherwise have been the
3 case.

4 MR MORRIS: Sir, I do not know if you have made a decision;
5 it sounds as though you already have. But I would ask
6 you to reconsider the possibility of Friday and the real
7 need of Mr West-Knights to have Mr Fellone after
8 Mr Ronnie.

9 THE PRESIDENT: I think it is unsatisfactory to let this
10 important witness go over --

11 MR MORRIS: Very well, I just raise it.

12 THE PRESIDENT: -- for that length of time. Subject to
13 the convenience of people like the shorthand writers
14 we can start at 9.30 on Monday. And that should give us
15 as fair a wind as possible to get through it as best
16 we can, as early as we can on Monday.

17 A. Okay.

18 THE PRESIDENT: I am grateful to you for your cooperation,
19 Mr Ronnie. The tribunal appreciates it.

20 A. Okay, thank you.

21 MR MORRIS: Sir, can we just make clear, are we going to ask
22 Mr Ronnie to stay for the rest of the day to carry on
23 after the next two witnesses?

24 THE PRESIDENT: We are going to interpose two other
25 gentlemen shortly now. If you really want to rush back

1 to the office and do some work on Friday afternoon
2 before it is too late, I will not make you stay. If you
3 would like to stay -- you might be interested to stay
4 anyway -- we may be able, when we have finished with
5 these two witnesses, to make a little bit of progress
6 with you before the weekend. Can I leave that up to
7 you?

8 A. Yes, thank you.

9 THE PRESIDENT: Thank you very much.

10 MR WEST-KNIGHTS: Whilst there is a little bit of
11 shuffling --

12 THE PRESIDENT: Thank you very much, Mr Ronnie.

13 (The witness withdrew)

14 MR WEST-KNIGHTS: I had one tiny little nugget of answer to
15 give to Mr Colgate in respect of those accounts.
16 You were asking me, sir, about the 125 million and
17 whether it was somehow a chimera or required to be
18 adjusted.

19 I cannot assist you further with the relationship
20 between that figure and the one in the accounts. What I
21 can say is that the Allsports figure for turnover of
22 5.5 million that fits that 125 million is a real figure.
23 So far as we are concerned, that is what we paid to
24 Umbro during 2000 free of VAT. That is a real number.

25 If that is right, the 125 million looks like a real

1 number. Of course, the question remains is to what
2 extent different costs have been taken off of different
3 points, and it may be that a different way of doing the
4 same accounts would have been to start at 125 million
5 but it was more coming out underneath that line in a
6 different way. I simply do not know.

7 What we do know in addition is that at the moment
8 there is an unexplained item in the Umbro accounts of
9 £26 million of other income. As we have said in
10 the supplementary skeleton, we can only track £8 million
11 of foreign royalty income, which appears to be the way
12 they net off most of the overseas turnover.

13 MR COLGATE: Thank you.

14 THE PRESIDENT: Very well, yes.

15 MR MORRIS: I think the next witness is Martin Prothero.

16 THE PRESIDENT: Can you just direct us to the relevant
17 witness statement bundle?

18 MR MORRIS: It is in file 2, 333.

19 (2.20 pm)

20 MR MARTIN PROTHERO (sworn)

21 THE PRESIDENT: Thank you very much, Mr Prothero. Do take
22 a seat. Sorry to have keep you waiting.

23 THE WITNESS: Not a problem. Thank you.

24 Examination-in-chief by MR MORRIS

25 Q. Mr Prothero, your full name is Martin Christopher

1 Prothero?

2 A. It is.

3 Q. Can you tell us what your current position at Umbro is?

4 A. I am Senior Vice President of international and

5 marketing.

6 Q. In the course of the OFT's investigation you provided

7 a witness statement in July 2002. Could you go to

8 volume 2 of the pink bundle, I think the page is already

9 open. At page 333, can you confirm that that is

10 the witness statement that you provided in July 2002 for

11 the OFT proceedings?

12 A. Yes, it is.

13 Q. Can you go to page 339, and can you confirm that that is

14 your signature at the foot of the page?

15 A. Yes, it is.

16 Q. And can you confirm that the contents of that witness

17 statement are true to the best of your belief and it

18 constitutes your evidence before the tribunal?

19 A. Yes, it is.

20 Q. First of all, could you tell the tribunal something

21 about your background in the sports industry, where you

22 started and how you got to Umbro?

23 A. Yes, certainly. I am an industry veteran, as they call

24 it. I have been with Umbro now for in excess of

25 22 years. I started as a sales rep for Umbro in the

1 Yorkshire territory and moved through various sales
2 positions through to sales management, eventually moving
3 after about six years into what was classified then as
4 promotions, effectively the relationships and
5 the primary responsibilities for the liaison with our
6 professional football club contracts and latterly
7 personalities.

8 Thereafter, I broadened that role which was
9 initially promotions into marketing -- into sports
10 marketing initially -- and more recently into other
11 areas of marketing, what we classify as brand marketing
12 and issues such as PR and communications generally.

13 Relatively recently, in about the last two and
14 a half years now, the global role of marketing as it was
15 then was broadened as Mr Preston who you will have seen
16 noted in these documents. He left the company, and
17 I took on an additional responsibility which then
18 encapsulated the responsibility for all the businesses
19 of Umbro International outside the UK.

20 THE PRESIDENT: Thank you.

21 MR MORRIS: Just to pick up on that, can you tell
22 the tribunal what exactly you were doing between 1999
23 and, say, August 2001, in that description you have
24 given, your responsibilities over that period?

25 A. At that point I was head of marketing effectively, so at

1 that time I had not taken on the role of
2 the international obligation, if you like. It was
3 primarily marketing on a global basis, which, as I say,
4 encapsulated all areas of marketing. Obviously I had
5 come through, if you like, what we classify as sports
6 marketing, relationships with the clubs. That was, if
7 you like, the basis on which my marketing knowledge was
8 founded.

9 MR MORRIS: And you dealt particularly with the clubs. Of
10 those clubs, which particular clubs did you deal with?

11 A. I had responsibility for all clubs on a global basis and
12 indeed players, but obviously there were certain ones
13 that had such a significant importance to the overall
14 Umbro brand and indeed turnover, such as Manchester
15 United and England, that I obviously tried to apportion
16 my time accordingly.

17 THE PRESIDENT: Thank you.

18 MR MORRIS: Can you tell us about how you fitted into
19 the management structure at that time: in the structure,
20 who did you report to and who reported to you?

21 A. I would echo what Chris Ronnie said yesterday; Peter
22 McGuigan would see over the company. As you are aware,
23 I was there as one of the bad old guard, if you like,
24 when the new incumbents came to town in 1999. But I
25 managed to hold my position at that time.

1 I reported in to Peter McGuigan along with
2 Steve Preston, who was also one of my colleagues from
3 the previous regime. In addition to that, as was
4 illustrated, Mark Monaghan was the CFO and indeed
5 Chris Ronnie was COO with primary responsibility for
6 the UK P&L and global product development.

7 Q. At that time did you receive copies of the monthly
8 management reports?

9 A. Yes, sir.

10 Q. In general, although it was not your primary
11 responsibility, what awareness did you have of what was
12 going on effectively on the other side with the retail
13 customers?

14 A. I had a fairly significant awareness of it. Obviously
15 not in terms of the day-to-day specifics, if you like.
16 I think, as was accurately illustrated, there were
17 conversations that took place on a fairly regular basis
18 about, you know, the state of retail in the UK. After
19 all, the UK was and is still a very important part --

20 THE PRESIDENT: Regular conversations about the state of
21 play in the UK.

22 A. Yes.

23 MR MORRIS: Thank you very much, Mr Prothero. Those are all
24 the questions I have.

25 THE PRESIDENT: Thank you.

1 (2.25 pm)

2 Cross-examination by MR WEST-KNIGHTS

3 MR WEST-KNIGHTS: Sir, I am going to ask you a rather dull
4 question: have you read Martin Prothero's witness
5 statement? Because if you have I need not take him
6 through it; if you have not --

7 THE PRESIDENT: We have a general knowledge of his witness
8 statement, Mr West-Knights.

9 MR WEST-KNIGHTS: Perhaps I can summarise it page by page.
10 I am not going to try to do anything clever except to
11 move it along.

12 If you turn back to page 333, you are in the monthly
13 management reports we have seen having to write all that
14 stuff about global brand image and communications and
15 all that sort of market speak?

16 A. All that airy fairy market, all that, yes.

17 Q. Is that your natural metier? Is it something you quite
18 enjoy doing, or not?

19 A. Not always, sir.

20 Q. You do not look and sound like an airy fairy marketeer
21 to me.

22 A. I think I will take that as a compliment.

23 Q. It was intended as one. At any rate, I am not proposing
24 to show you any of that stuff, because we have now
25 learned quite a lot about Umbro's interest in its own

1 brand, and indeed MU's in particular.

2 So if you could help me summarise for the tribunal
3 where we get to. The only paragraph of this witness
4 statement relied upon by us is paragraph 18 -- oh,
5 sorry, I am now told there is another one.

6 Do not worry about that, Mr Prothero. You set out
7 at paragraph 1 that you are an Umbro old hand. You talk
8 in this witness statement, you say, about
9 the relationship with MU, the FA and -- I am not going
10 to ask you to look at that at all, that is nothing to do
11 with us -- and competition compliance training, which
12 again is nothing to do with Allsports.

13 You said you had seen the Rule 14 notice, and you
14 deal in the second page of your statement -- 334, you
15 describe the sponsorship contract for the supply of kit
16 to MUFC, and the fact that it had been going on since
17 1992?

18 A. Correct.

19 Q. Subject to renewal from re-negotiations from time to
20 time. In 1997 you set out that Mr Kenyon, who had
21 sorted all that out, left Umbro, but as we know he went
22 first to MU? And now he has gone to join the Russians
23 at Chelsea?

24 A. Correct.

25 Q. After he moved to MU, Umbro's relationship with the club

1 became more difficult because of course, Mr Kenyon had
2 the inside track on Umbro, had he not, and he was aware
3 of Umbro's weakness, as you very fairly say, in 1997
4 which no doubt in the long run led to the events of
5 1999; which is basically the re-capitalisation of Umbro?

6 A. That is totally accurate, yes.

7 Q. In paragraph 8 you set out the situation which in
8 principle MU were not allowed to go out and look for
9 a successor to you until August 2001 or at the same time
10 as they started negotiations with you?

11 A. Correct.

12 Q. What you say they did was did the dirty on you: they
13 started negotiations early with you which left it open
14 for them to talk to other people early; is that a fair
15 summary?

16 A. Correct. Yes.

17 Q. Okay. That negotiation went through in the summer of
18 2000. But I suppose it cannot have started off
19 properly, can it -- if you had worked out that they had,
20 as it were, opened the shop early with you with a view
21 to looking to other people. Did you always feel that
22 you were always slightly on the back foot?

23 A. I think as you indicated, 1998, I would say,
24 particularly financially, was a difficult period for
25 Umbro and obviously Peter Kenyon, having been involved

1 in the corporate board still manufacturing in the US,
2 who were the current owners, he did know everything
3 about the business.

4 Yes. To a degree, I suppose the problem was that he
5 did know a lot about Umbro's business. One of the clear
6 negatives for Umbro relative to the competition at that
7 stage was its capitalisation, as you quite rightly say.

8 Q. I suppose there was another one which is that if you
9 were up against something like Nike, the evidence so far
10 in this case is that Nike had a more significant
11 perceived value as a brand at that time than Umbro.
12 I am not asking you to say what you think the position
13 is now.

14 A. I think at that time -- I hear what you say -- but I
15 think Umbro had taken the position as a football
16 specialist, I think, on football matters and I think
17 going head to head with Nike on key football clubs at
18 that time. I do not think we felt threatened, I do not
19 think we felt -- that is not to suggest that we were not
20 worried about Nike, of course we were because of
21 the depth of their pockets. But I felt on our merits
22 we were very capable of competing on a level
23 playing-field with Nike, frankly.

24 THE PRESIDENT: So "niche" is not quite the right word, but
25 in the football world, Umbro was a pretty leading

1 player.

2 A. Correct. Absolutely.

3 MR WEST-KNIGHTS: You had succeeded in the endeavour to

4 establish Umbro as a brand associated with football.

5 A. Yes, sir.

6 Q. And you have done a good job on that.

7 A. Thank you.

8 Q. Now, you set out that the situation had an effect on

9 your relationship with Manchester United during 2000.

10 And you say that under the contract there were two types

11 of relationship, paragraph 11. Firstly they licensed

12 the trademark to you for the purposes of marking

13 the shirt, and all the other stuff that went with your

14 being the next sponsor down after Vodafone; and secondly

15 of course they sell their own stuff, including -- did

16 they sell any Umbro branded stuff?

17 A. No, purely the licensed --

18 Q. Just the MU kit that you made?

19 A. Yes, that is right.

20 Q. If you went into the Manchester United mega-store at

21 Old Trafford for example, that would be a typical

22 example, would it, of an MU retailing operation?

23 A. Yes, it would.

24 Q. All the stuff in there is MU MU MU and nothing else?

25 A. That is correct.

1 Q. You say at paragraph 11:
2 "They do not only sell through the MUFC shop at
3 Old Trafford ..."
4 Oh, that is the mega-store that you were talking
5 about?
6 A. It is.
7 Q. And the Open Television Network which is on Sky
8 television -- forgive me, I subscribe to Sky and I am
9 not conscious of the existence of any network called
10 Open; does it still exist?
11 A. To be honest, I am not really sure whether it does exist
12 anymore. I am equally not aware of it.
13 Q. I am occasionally conscious when I flick through looking
14 for something interesting to watch, one flitters through
15 horrible home shopping channels. Is it one of those?
16 A. That is the problem. Equally, QVC could no longer exist
17 as far as I am concerned, I do not know, that is equally
18 hideous, is it not?
19 THE PRESIDENT: Unless it really matters, Mr West-Knights,
20 we should press on.
21 MR WEST-KNIGHTS: It is because the allegation against us
22 specifically relates to the Open Shopping Channel, so it
23 does matter.
24 You say:
25 "MUFC have developed the merchandising side of their

1 business over the last decade and become increasingly
2 interested in the retail price of their products."

3 So they are not only interested in their products,
4 they are interested in the retail price, "in particular
5 the flagship product"?

6 A. Yes, sir.

7 Q. I dare say that marketing is in fact a significant part
8 of MU's business. When I say marketing, I am sorry,
9 I mean merchandising. Thomas the Tank Engine mugs as it
10 were.

11 A. Yes. It is interesting, if you look back at it, I have
12 omitted from that clause 11, a lot of the other
13 activities that Manchester United were involved in in
14 retail. They were actually at that stage embarking on
15 quite a significant increase in their merchandising
16 programme, so yes, it was important to them.

17 Q. I dare say they were moving into the internet and that
18 sort of thing?

19 A. And international as well.

20 Q. And through the supporters' networks, all that, they
21 have 140,000 members. That must be a great way to sell
22 things to people?

23 A. Correct.

24 Q. "MUFC always wanted to maximise the margin on the sale
25 of replica, it was essential to their income stream.

1 In 2000, the sales of the MUFC home jersey would have
2 made up approximately 40 to 50 per cent of their
3 merchandising sales (including internet) ..."

4 And so forth.

5 Oh, mail order of course they were up to, you say
6 there.

7 So they would pick up with Umbro the retail price,
8 and either with you or Simon Marsh?

9 A. Correct.

10 Q. Simon Marsh had more day-to-day contact with MU than you
11 at this time?

12 A. Yes, I think that would be a fair analysis. As
13 I vacated that head of sports marketing role, Simon then
14 took that position.

15 Q. "When there was discounting in the High Street
16 marketplace, MU would consistently complain and put
17 pressure on Umbro."

18 Now, what was the nature of that pressure?

19 A. Again, I think I have made reference to the fact that
20 there were, particularly at key peaks or launches and
21 the like, there would be conversations. The example
22 which I think is annexed to my particular witness
23 statement, Mr Draper's letter to Mr Marsh, is
24 a particular example of it. There were others, such as
25 communication between Steve Richards and Mr Marsh, where

1 they were very, very keen to optimise their margin. By
2 virtue of other retailers reducing the price, it was
3 doing potentially that.

4 THE PRESIDENT: Yes.

5 MR WEST-KNIGHTS: The letter you have mentioned we are going
6 to go to. You had appended it to your first witness
7 statement, thank you for reminding me, because it is
8 a quicker way to find it. In addition you got calls
9 from Mr Kenyon in his new hat?

10 A. Yes.

11 Q. And Steve Richards specifically trying to get you to do
12 something about Sports Soccer's discounting?

13 A. Correct.

14 Q. It was no messing about: you must stop Sports Soccer
15 discounting.

16 A. Yes.

17 Q. Straight up, no question about it?

18 A. Yes.

19 Q. "I cannot recollect the exact date of the calls as I did
20 not keep a file note. However, the general trend was
21 that we would receive a call at around the time
22 of launch or specifically when Sports Soccer discounted
23 the MUFC shirt. During 1999/2000 we were continually
24 aware that, if retailers discounted an MUFC shirt we
25 would get complaints within a day."

1 A. From MU?

2 Q. Yes, I apologise, sorry.

3 A. I have it, sorry.

4 Q. MU presumably during certainly the first part of

5 the season 1999/2000 they must have been feeling pretty

6 bullish. They had done the treble in 1999, they were

7 the biggest football club in the world?

8 A. Absolutely.

9 Q. And although they did not do quite as well in 2000,

10 they were still absolutely top dog?

11 A. Yes.

12 Q. And increasingly able to flex their muscles because by

13 then they were a massive multinational corporation

14 valued at something like £1 billion on the stock market?

15 A. Correct.

16 Q. You say in paragraph 17:

17 "MUFC used the renewal of the sponsorship contracts

18 as an implied threat: while not ever explicitly stated,

19 Umbro were clearly given to understand that if we did

20 not make an effort regarding the price of replica kit,

21 this would jeopardise the renewal of the sponsorship

22 contract."

23 How did you associate their statements about sorting

24 out Sports Soccer with renewal of the contract?

25 A. I do not -- I think when you are in a sensitive

1 situation like that where you are looking to renew
2 a contract you read into every single positive and
3 negative, do you not, and sometimes they become
4 magnified. I can think of several examples where, at
5 the time, we were in conversation with Manchester United
6 and we felt threatened and pressurised.

7 We were asked as an example -- and forgive me,
8 I have not seen it in my witness statement. It may be
9 in Mr Marsh's, or in a file note, I am sorry. We were
10 asked to contribute to the store fit, the retail fit-out
11 if you like of their new store at the time when it was
12 being built.

13 Q. This is the one at Old Trafford?

14 A. Correct. So there were examples like that where
15 you were in a bit of a catch-22, you did not have it
16 necessarily in your budget, but equally, with one eye
17 very firmly fixed on the future and that particular
18 renewal, you were inclined to find ways of trying to
19 help.

20 Q. In other words they might have made requests that might
21 have been regarded as a bit cheeky, but they made them
22 in a way that you knew and they knew that they expected
23 you to come through with it.

24 A. Correct. And I think that is a recurring theme through
25 this whole thing. There are a lot of implications -- or

1 insinuations I should say -- about what was said versus
2 what was meant.

3 Q. As you do, talking about Manchester United.

4 In addition, of course, if you were trying to negotiate
5 a contract with somebody, particularly perhaps if
6 the chief executive is a former employee of yours, it is
7 bound to seem like bad news if you are actually getting,
8 as it were, fizzy unpleasantness coming from them about
9 stuff that they wanted you to do. If they are cross
10 with you, it is not good news?

11 A. Correct.

12 Q. It is logical that if they are cross with you about
13 something, that you would link that with, "well, if they
14 are cross with us we may not get the deal with them."

15 Now go to paragraph 18, in detail if we could:

16 "On 13th July 2000, around the time of the launch of
17 the new MUFC ..."

18 I wonder, could I take it off the second witness
19 statement, because that is where you actually append
20 this document. When I say your second witness
21 statement, Mr Prothero, I am just going to remind you of
22 the circumstances in which you came to make it --

23 A. It was in February 2001, I think you will find.

24 THE PRESIDENT: Is it the one beginning at page 302? Yes,
25 it is. It is 322.

1 MR WEST-KNIGHTS: Yes, it is, I am grateful. Starting at
2 page 302.

3 MR MORRIS: It is page 320, sir.

4 MR WEST-KNIGHTS: Thank you, we have it now. I am asking
5 the witness to put a thumb in 320, which I have noted as
6 MCP4 and then we will go to Prothero 2.

7 Were you in court when I was asking Mr Ronnie about
8 the whole sequence of events, Mr Prothero, about
9 exchanges of letters between the Office of Fair Trading
10 and Umbro about leniency and all that?

11 A. Unfortunately, believe it or not, I missed that element
12 of the proceedings, I do apologise.

13 Q. Just to set the scene, as soon as you have caught up
14 with me say "stop". Umbro raided, August 2001?

15 A. Yes, August.

16 Q. A lot of you were away in Kuala Lumpur or somewhere
17 doing overseas --

18 A. At a conference.

19 Q. I expect it was a very important conference, just
20 unfortunately took you to the Far East.

21 A. Yes.

22 Q. You came back some time in the middle of September or
23 thereabouts. You were all back by then.

24 A. Correct.

25 Q. Shortly thereafter the Office whacked Umbro with

1 a section 26 notice demanding all sorts of information?

2 A. October, I think.

3 Q. I think you are right, actually. Quite so.

4 And the deadline for that was a month later, which

5 was 26 November.

6 During that period there was a great deal of work

7 done by Umbro's in-house counsel doing an audit,

8 everything at Umbro House in Cheadle; do you remember

9 that?

10 A. I do, and it was exacerbated and more complicated by

11 the fact that Miss Roseveare had only literally in

12 October just started.

13 Q. So she did not know anything unless she was told it?

14 A. Correct, absolutely.

15 Q. So everything she found out, as it were, came from the

16 investigation effectively.

17 A. That is correct.

18 Q. Eventually then Umbro decided to apply to the Office for

19 leniency; were you aware of that?

20 A. To be honest, I was not at the time. It was really

21 going on as a legal process in parallel.

22 Q. At any rate, so far as you were concerned you took part

23 in that investigation, or were you just a part of it?

24 A. I was asked to make a statement. But I cannot say

25 I contributed to the decision-making as to whether we

1 went to leniency or otherwise.

2 Q. I understand that. Anyway, you were asked to make

3 a statement setting out the best you could what you knew

4 about everything?

5 A. Correct.

6 Q. In particular you were asked to deal with the question

7 of whether you knew anything about other retailers'

8 involvement in all of this?

9 A. Yes.

10 Q. And in due course you made a statement which you were

11 not in the end asked to sign, do you remember that?

12 A. That was the January statement which was a draft, that

13 is correct.

14 Q. That was then sent off to the Office with a load of

15 others. Did you know that the Office had responded by

16 saying: not good enough, from their point of view?

17 A. To be honest, I do not exactly know what they said. All

18 I know is that between January and February I was asked

19 to do another one which gave more detail, I think.

20 Q. In truth, Mr Prothero, effectively you did not add much.

21 A. There were two additions I think from the January to

22 the February statement in actual fact.

23 Q. To do with your relationship with Manchester United?

24 A. It was Steve Richards oriented file notes that had come

25 to pass since January.

1 Q. So you added in a paragraph maybe about -- or just added
2 "and Steve Richards", or a quick paragraph about Steve
3 Richards.
4 A. Correct, that is right.
5 Q. So those were the only changes. You sat down did your
6 best on Prothero 1.
7 A. Correct.
8 Q. Catherine Roseveare came back to you and you did your
9 best, as it were, again?
10 A. February, correct.
11 Q. She was particularly interested in other retailers, but
12 that was not really your part of the ship, she told you
13 that.
14 A. I do not think there was any specific instruction as
15 such, in all honesty but it is a long time ago, I admit.
16 Q. At any rate she made it very clear to you that you
17 needed to say absolutely everything you knew.
18 A. That is right.
19 Q. Okay. And then there was a meeting you did not go to,
20 Chris Ronnie, Peter McGuigan and Simon Marsh, did you
21 know they all went off --
22 A. I knew they went, but I did not know any of the detail
23 of it.
24 Q. They went along and got grilled?
25 A. Right.

1 Q. Did you know that the Umbro leniency application had
2 been turned down?

3 A. I did, I have to be honest, yes, I did.

4 Q. That was a big disappointment, was it?

5 A. I think it is fair to say: of course it was. Because
6 we were very concerned about the potential fine that was
7 likely to be imposed at that point.

8 Q. It was still not cash rich?

9 A. No. But equally I would suggest that the business was
10 in a very, very different state. I think you referred
11 yesterday that Umbro was still in a financially perilous
12 state at the time. I would dispute that. As
13 a consequence of the Doughty Hanson acquisition
14 the business was in -- and I can only give you
15 a comparative relative to where it was on a daily
16 cashflow analysis basis of 1997/1998. It was chalk and
17 cheese. The business was in rude health relative to
18 that particular time.

19 Q. I understand that. My only point I think, I may have
20 overstated in which case I apologise but I was not put
21 right by that witness. There is a big difference
22 between 10 million and 5 million in terms of a fine?

23 A. Absolutely, sir.

24 Q. To anybody?

25 A. Absolutely.

1 Q. When I say "not cash rich" Umbro was still not the kind
2 of company in 2001 that could afford to lose the other
3 5 million?

4 A. Not at all.

5 Q. Have this in cash, now in my current account. Here is
6 a cheque?

7 A. That is true.

8 Q. Without further ado, let us go to the witness statement
9 which you produced in February with Miss Roseveare,
10 starting at page 302. I am not very interested in
11 the differences because you have explained them. We now
12 get to paragraph 18 of it, on page 305 --

13 A. The paragraph numbers have changed.

14 Q. Well done, Mr Prothero, thank you. Let us pick it up at
15 the top of page 305. Let us go back to the letter to
16 Manchester United dated 13th July. The bottom of
17 page 304, paragraph 13:

18 "Exhibit MCP4 is a letter that was sent by me to
19 MUFC on 13th July 2000."

20 Right.

21 "This was around the time of the launch of the new
22 MUFC home jersey."

23 It was coming up to it, it was going to go out on
24 1st August, so if they were going to be twitchy about
25 the price that would be the time of twitching?

1 A. Absolutely.

2 Q. "The letter refers to the product being sold on Open.

3 This is a Sky TV shopping channel which, as part of

4 MUFC's agreement with Sky, allows MUFC to sell as

5 the official MU retail outlet with a return of

6 20 per cent on all sales."

7 So Sky takes its cut and MU get the rest. So it is

8 a Sky channel, it is just they are allowed to sell

9 the stuff?

10 A. Yes.

11 Q. "We understood that MUFC was in essence selling the

12 jersey at a discount by selling the new home jersey

13 together with other products free of charge,

14 eg an autographed ball.

15 "MU has put Umbro under continual pressure to speak

16 to retailers to protect the price of MUFC's

17 replica kit ..."

18 That is to speak to retailers who discount?

19 A. Yes.

20 Q. "... by persuading and pressurising the retailers not to

21 sell below RRP (see exhibit MCP1). However, at the same

22 time MUFC were selling the same product at a discount

23 themselves through Open. It seemed to me that in such a

24 case, MUFC's discounting would act as a catalyst for

25 a "price war". All the retailers would have then

1 undercut each other in order to sell the product. The
2 end result would have been MUFC imposing some pressure
3 on us to control the retailers. All the while, Umbro
4 were concerned about the threat of non-renewal of
5 the MUFC sponsorship contract."

6 This is really awful, is it not? You have to do
7 something about it, this is MU doing exactly what it
8 does not want other people to do, and if it goes and
9 does it the other people will do what they do not want
10 them to do, which is discount?

11 A. Absolutely.

12 Q. "The second paragraph of the letter refers to the steps
13 Umbro have taken to meet MUFC demands.

14 "The references to the meeting between
15 Messrs Hughes, Ashley and Whelan was given on the basis
16 of facts as explained to me by Chris Ronnie. I had no
17 personal knowledge of those facts. I am not involved
18 with retailers on a day-to-day basis. I exaggerated the
19 sense of the paragraph slightly by saying 'we even
20 managed to get Messrs Hughes, Ashley and Whelan in
21 the same room to discuss this issue'. I did this in the
22 hope of persuading MUFC that Umbro was in fact taking
23 steps to respond to the pressure imposed on it by MUFC.
24 In fact, it had been explained to me that the retailers
25 had agreed amongst themselves on a retail price for

1 the MU shirt. I was not saying Umbro organised
2 the meeting of 8th June 2000 referred to in
3 Chris Ronnie's witness statement.

4 "I received a response to my letter to
5 Steve Richards from Helen Quinn on 13th July 2000.
6 Please refer to MCP5. She confirmed that 'MUFC is not
7 being sold at a discount but is purely to compensate
8 the customer for paying postage and packing.'
9 The football was replaced with a cheaper item."

10 And then you produce MCP4, which is at page 320 of
11 the bundle. And this is you to Mr Richards who had
12 worked for Allsports, had he not?

13 A. Yes, sir.

14 Q. Did you know anything about the relationship between him
15 and David Hughes one way or the other?

16 A. Not at all.

17 Q. "Dear Steve, forgive me for not having spoken to
18 you this week. Perhaps we can speak later in the day
19 (although I am in meetings this morning) but wished to
20 drop you a line to get your view on a specific issue."

21 So it is a very sensitive start. I want to know
22 what you say about this:

23 "As you know, Umbro worked very hard in agreeing a
24 consensus to the price of the new Manchester United
25 jersey. At one stage we even managed to get

1 Messrs Hughes, Ashley and Whelan in the same room to
2 agree this issue."

3 That is the exaggeration:

4 "It therefore causes me real concern that I am led
5 to believe that the Manchester United jersey is being
6 sold by the club via Open at effectively a discounted
7 price because of the inclusion of certain premium items
8 such as free autographed balls et cetera.

9 "I guarantee that if any of the aforementioned
10 gentlemen see this, which I am sure they will, we will
11 have the makings of a price war on our hands.

12 "I look forward to discussing with you later in the
13 day. Kind regards and yours sincerely, Martin."

14 Just dealing with the letter for the minute. What
15 you are saying to MU -- it is a nice way of putting it,
16 is it not? You are effectively saying that if Allsports
17 or Sports Soccer or JJB find out about this it will be
18 a problem?

19 A. Yes.

20 Q. Yes. Just for completeness and for the note, the reply
21 that you got back from Helen Quinn effectively explained
22 that they had done it to offset the postage and packing
23 element of buying, if anybody does, from the Sky
24 shopping channel, and she nonetheless agreed to withdraw
25 the football and give some smaller softener against

1 the postage and packing?

2 A. Yes.

3 Q. I suppose the point about that is it made your point

4 nicely.

5 A. Yes.

6 Q. She replied immediately. You must have heaved a huge

7 sigh of relief and thought: perhaps one could have gone

8 very nasty, but I done it!

9 A. Absolutely.

10 Q. You did, well done!

11 Now, the statement we have been looking at, which is

12 the second one which you made in time, but the first one

13 you signed is, apart from the references to

14 Steve Richards, the same as the first one?

15 A. Yes.

16 Q. It does not mention Allsports as being the source of

17 information about the ball on this channel.

18 A. That is correct.

19 Q. Can you remember who in fact alerted you -- or perhaps

20 you saw it or perhaps it was someone in the office.

21 Personally I do not know anybody who watches

22 the channel.

23 A. I certainly did not see it personally. In all honesty

24 I do not remember who it was that told me where

25 a complaint had come from, to be honest.

1 Q. I need to put this to you, because it is in your third
2 statement. You say: we were alerted to this, I believe,
3 by Allsports. Now, as I say, that was not in either of
4 your first two statements. It is at page 337, where
5 in addition to what you previously said -- this is at
6 the top of the page, paragraph 18:

7 "We understood that MUFC was in essence advertising
8 the jersey at a discount by offering it together with
9 other products free of charge eg an autographed ball.
10 We had received a complaint about this promotion which
11 I believe was made by Allsports."

12 You do not actually know who the complaint came
13 from; is that right?

14 A. I was pretty vague, sir, I have to be honest.

15 Q. I understand that. Here we are in a court of law on
16 oath -- in fact, it was just a guess?

17 A. I would not say it was a guess. At the time when
18 I wrote this, clearly what we had not addressed is why
19 the third witness statement is very different from
20 the second. I think by that time, as you quite rightly
21 pointed out, and forgive me if I have the terminology
22 wrong, we had received the Rule 14 notice by that stage
23 and thereafter I was asked to go into real detail, to
24 pad out the statement, to give it more reference points,
25 in actual fact.

1 That was done some 18 months after the actual event.
2 At the time it was written, it was my belief that
3 the issue had been raised by Allsports. To be perfectly
4 frank, I cannot hand on heart say that I know that to be
5 fact.

6 Q. Can you look back at the letter itself that you wrote to
7 Steve Richards. Page 320. The second full paragraph is
8 your exaggeration, which I understand entirely. You
9 refer for the first time to Hughes, Ashley and Whelan.
10 Then you say:
11 "It is causing me real concern that I am led to
12 believe that this is happening."

13 Presumably you would check it was happening? You
14 would feel a bit daft if someone had tipped you off and
15 it was just a bum steer. Presumably you had somebody
16 look at this channel to check?

17 A. Again, I do not honestly remember whether I did.

18 Q. We have agreed that what the last paragraph starting
19 "I guarantee..." meant was: I guarantee if any of JJB,
20 Sports Soccer or Allsports find out about this, which
21 I am sure they will, we will have a price war?

22 A. Correct.

23 Q. Does that help you with whether you knew, at this time,
24 that Allsports already knew?

25 A. No, it does not, no.

1 Q. One way or the other?

2 A. No.

3 Q. I was going to suggest that if you were saying: we do
4 not want Allsports finding out about this, then in
5 the back of your mind you thought Allsports did not know
6 when you wrote the letter?

7 A. I understand where you are going, but it does not
8 clarify it.

9 Q. It does not help. You cannot help with that?

10 A. No.

11 Q. So we are just left with you not honestly being able to
12 remember?

13 A. As I said, all I can tell you is to have written
14 the statement at the time that would have been my view,
15 but --

16 Q. Even as you said in the statement "I believe", so you
17 were not sure then?

18 A. No.

19 Q. I am very grateful to you, Mr Prothero. I need to put
20 it to you formerly that anybody at Allsports who
21 might -- actually we cannot tell. But the people at
22 Allsports who might have been speaking to you, that is
23 to say Michael Guest -- have you ever spoken to
24 Michael Guest?

25 A. To be honest, that conversation would not have taken

1 place between me and Allsports directly, anyway. It
2 would have been via a third party like Mr Ronnie or
3 Mr Fellone.

4 Q. I see. Right, so you are not even giving first-hand
5 evidence as to where this came from. It would have been
6 somebody inside Umbro saying: we have had a complaint
7 from --

8 A. Correct.

9 Q. And you cannot actually put hand on heart as to who they
10 said?

11 A. Correct.

12 Q. Right. So you personally did not receive any
13 information from outside Umbro about this?

14 A. No, no.

15 Q. Page 337, please, Mr Prothero, paragraph 20. This
16 statement was made in July 2002. You say in
17 paragraph 20 after the general stuff about the pressure
18 from MU:

19 "However, I was also anxious to reassure MU that
20 Umbro had responded to the club's demand on retail
21 pricing. I had recently been told by Ronnie of
22 the meeting that had taken place between Hughes, Ashley
23 and Whelan regarding the price of the new MUFC shirt to
24 be launched in August 2000."

25 Now, just trying to unpack the time elements of

1 this. When you say "I had recently been told" you mean
2 recently in reference to your letter of 13th July 2000?
3 A. I am not sure that the reference -- forgive me, I do not
4 quite understand the question.
5 Q. What I am trying to find out is when Ronnie told you
6 about the meeting with Ashley?
7 A. I do not honestly know.
8 Q. It says in paragraph 20:
9 "I had recently been told by Ronnie of
10 the meeting which had taken place..."
11 And you are talking about the circumstances of your
12 sending the letter of 13th July?
13 A. Yes.
14 Q. Can you give us any assistance now -- the meeting
15 between Ashley, Whelan and Hughes was 8th June, and
16 you are writing this letter on 13th July. Can you help
17 us with any recollection as to where between those two
18 dates it is likely, refreshing your memory from
19 paragraph 20, Mr Ronnie gave you the information that
20 that meeting had taken place?
21 A. I cannot honestly --
22 Q. I read it as being: shortly before writing the letter --
23 A. It could interpret that, certainly.
24 Q. That is a fair interpretation. You cannot do any better
25 than that?

1 A. No, I cannot do any better.

2 MR WEST-KNIGHTS: I have no further questions, Mr Prothero.

3 Thank you very much.

4 (3.00 pm)

5 Re-examination by MR MORRIS

6 Q. I have one question. You were asked about the making of
7 the statements you made for the leniency process. What
8 was the process by which those statements were prepared?
9 Can you describe who wrote it, who drafted it, who typed
10 it?

11 A. No, I cannot in all honesty. In terms of the typing,
12 I can remember that Miss Roseveare and I sat down in
13 a room quietly and created them if you like.

14 Q. Did they go back and come back to you -- you mentioned
15 the first, second and third statements?

16 A. I do not remember them coming back to me, if you like,
17 for editing once we had finished that process.
18 I remember the process change, if you like, in terms
19 of -- the initial statement was made in
20 January primarily because of the need to expedite
21 the process. We were really very anxious to get our
22 leniency application in early. As a consequence,
23 I think it is fair to say that everybody with hindsight
24 would have preferred those to have been more thorough.

25 The second one, as I say, we found certain pieces of

1 information even in that three or four-week period that
2 we subsequently added to the document and thereby
3 the additional information in my February statement.

4 The July statement was made, as I mentioned, as
5 a consequence of already then having received
6 the Rule 14 notice and the need to clearly defend our
7 position and be more substantive, if you like, in the
8 answers and to try and help the process in totality by
9 giving a far broader understanding to the reader, if you
10 like.

11 THE PRESIDENT: When you sat down with Miss Roseveare to get
12 the story, as it were, you sat together?

13 A. Yes.

14 THE PRESIDENT: Presumably she was keeping a note or
15 something of what you were saying?

16 A. Correct, that is right.

17 THE PRESIDENT: And presumably that was then typed up.

18 A. Yes.

19 THE PRESIDENT: At that stage, when you now have a typed-up
20 draft, did that then come back to you?

21 A. Absolutely, yes. Sorry, I thought there was a reference
22 to there being various changes and redraftings.

23 THE PRESIDENT: Would you then read it?

24 A. Absolutely.

25 THE PRESIDENT: And indicate whether or not it was

1 an accurate summary?

2 A. Yes. In all honesty, sir, I do not remember if there

3 were any further edits as a consequence of seeing that

4 the first time. I would be surprised if there were not,

5 to be honest.

6 MR MORRIS: I have no further questions. I do not know if

7 the tribunal has any further questions for Mr Prothero?

8 THE PRESIDENT: Can I release this witness?

9 MR MORRIS: Yes.

10 MR WEST-KNIGHTS: Yes, please.

11 THE PRESIDENT: Mr Prothero, you are released, thank you.

12 (3.05 pm)

13 (The witness withdrew)

14 MR WEST-KNIGHTS: It is not quite halfway through

15 the afternoon, but I wonder if that would be a natural

16 point to take a break.

17 THE PRESIDENT: Yes, let us take a shorter break than usual.

18 (3.05 pm)

19 (A short break)

20 (3.15 pm)

21 MR WEST-KNIGHTS: Before we start with Mr May, can I tell

22 you that, as it were, Elvis Presley has left

23 the building. Mr Ronnie has gone home. He shook me

24 warmly by the hand and said "Have a good weekend, I will

25 see you on Monday".

1 THE PRESIDENT: I said to him I was not going to compel him
2 to stay here.

3 MR WEST-KNIGHTS: Indeed not, but he had the opportunity to
4 give some further answers today. At any rate, as a
5 matter of information, when we have done Mr May there
6 will be no further witness business to be done today.

7 THE PRESIDENT: But he did say, "I will see you on Monday"?

8 MR WEST-KNIGHTS: He appeared to be fairly grunted, if I
9 can say that, in contrast to how he appeared previously.

10 MR MORRIS: The information is that he is coming on Monday.

11 MR WEST-KNIGHTS: There is no question of his not turning
12 up, I should think.

13 MR MORRIS: Sir, the next witness is Mr May.

14 (3.20 pm)

15 MR ANTHONY MAY (sworn)

16 THE PRESIDENT: Good afternoon, Mr May. Do take a seat.
17 I am sorry we have kept you waiting a little.

18 A. Not a problem.

19 Examination-in-chief by MR MORRIS

20 Q. Your full name is Anthony James May?

21 A. It is.

22 Q. You should have in front of you page 195, the start of
23 your witness statement?

24 A. It is.

25 Q. Would you go to page 199 of that bundle, and can you

1 confirm that that is your signature at the foot of
2 page 199?
3 A. It is.
4 Q. Will you also confirm that the contents of this witness
5 statement are true to the best of your belief and
6 constitute your evidence before this tribunal?
7 A. They do.
8 THE PRESIDENT: Thank you very much.
9 MR MORRIS: I would like to ask you one or two questions.
10 You were the retail account manager at Umbro from 1996
11 to February 2003.
12 A. Correct.
13 Q. From the period 1999 to August 2001 which accounts were
14 you responsible for?
15 A. I was responsible for Manchester United Football Club,
16 Celtic Football Club and Allsports, and from May 1999
17 also JD Sports.
18 THE PRESIDENT: Thank you.
19 MR MORRIS: Can you give a brief description of what your
20 job involved and who were your main contacts at those
21 retailers, those accounts?
22 A. My main responsibilities were the selling of all Umbro
23 products into those retailers, including replica kit.
24 My main contacts at each of the retailers: at Manchester
25 United was Nigel Hopwood and occasionally Helen Quinn.

1 At Celtic, Kevin Corley. At Allsports it was Michelle
2 Charnock, Russell Wilson and Michael Guest. At JD it
3 was Steve Makin, Nick Duffield and David Makin.

4 Q. And within Umbro who did you immediately to?

5 A. I reported to Phil Fellone.

6 Q. You left Umbro in February 2003, can you tell us what
7 you then did: where you worked and what you did?

8 A. I left Umbro in February 2003 due to relocating back
9 down to the south of the UK. I joined a company called
10 Hitech Sports who I worked with until the end of 2003,
11 and I begin a new job on Monday for a company called
12 Starcase UK Limited.

13 Q. Can you tell us a little bit about your new employer and
14 the job that they do --

15 A. I will be national sales manager for the health and
16 fitness division, which will involve me selling in and
17 marketing products into all areas of UK retail,
18 specifically also into sports retail: JJB, Allsports and
19 Sports World.

20 THE PRESIDENT: Yes.

21 MR MORRIS: Thank you, I do not think I have any further
22 questions although there will be some further questions
23 for you.

24 (3.23 pm)

25 Cross-examination by MR WEST-KNIGHTS

1 Q. Mr May, I shall be asking you questions on behalf of
2 Allsports.

3 So you were head-hunted to join FT International in
4 December 2003 but in fact it starts Monday.

5 A. Sorry, no, I was with FT for six weeks. I am not
6 keeping that job, I am now going to work for Starcase.
7 I have subsequently been employed by Starcase, which is
8 the job I have decided to take and begins on Monday of
9 next week.

10 Q. Forgive me, I hope it does not sound as if I am trying
11 to minimise anything, I personally have not heard of
12 Starcase --

13 A. No, they are a division of E&B Giftwear, who are a major
14 US giftware company, and Starcase is the UK division of
15 that business.

16 Q. Is Starcase a new venture --

17 A. It is relatively new in terms of the sports market but
18 it has been in the UK for about 20 years in the giftwear
19 market.

20 Q. And is this principally sportswear like FT I think was?

21 A. No, it is sports equipment, fitness equipment for home
22 use, and it will be distributed through UK retail
23 channels.

24 Q. Not the stuff that is forever on some of the channels
25 that one does see on Sky that do magical things to your

1 tummy?

2 A. Quite possibly, yes.

3 Q. Mr May, can I ask you to cast your mind back to

4 2001 first. Were you one of the Umbro employees who was

5 unlucky enough to have to go to the international

6 conference in the Far East in August/September 2001?

7 A. I was not, no.

8 Q. Did you then work out of Umbro House in Cheadle?

9 A. I did.

10 Q. Were you present when the OFT descended on Umbro on

11 29th August?

12 A. I was, yes.

13 Q. I think we have been told that quite a lot of the senior

14 managers were unfortunately required to be abroad at

15 that time?

16 A. Yes.

17 Q. Do you recall that during the course of September,

18 October, November, December 2001, and again in

19 January and February 2002, extensive inquiries were

20 being made inside Umbro because of (a) the raid and (b)

21 Umbro being otherwise in the OFT's sights?

22 A. I do.

23 Q. Were you conscious at that time that an official legal

24 notice had been served on Umbro making Umbro, as it

25 were, open its books and its heart to the OFT and give

1 them all the information that they could about
2 price-fixing?

3 A. Not specifically, but I knew obviously the investigation
4 was going on and the purpose of it. But I was not aware
5 of any explicit legal requirements or anything of that
6 nature.

7 Q. Can you tell us, were there times during that long
8 period where Umbro House was, if you like, turned upside
9 down or people were frequently being diverted from their
10 ordinary duties into dealing with the requirements to
11 defend Umbro's position?

12 A. At times, yes.

13 Q. Did anybody ever ask you any questions during the course
14 of that investigative process?

15 A. Not to my memory, no one outside of Umbro.

16 Q. What about within Umbro? Were you asked questions about
17 whether you knew anything about, as it were, retailer
18 pressure by Umbro's in-house counsel, Miss Roseveare?

19 A. No.

20 Q. By Mr Ronnie?

21 A. No.

22 Q. By Mr Fellone?

23 A. Yes.

24 Q. Right. What did you tell Mr Fellone?

25 A. I told him I did not know anything other than what

1 he was already aware of. I was asked to look through
2 some files and see what there was within those files
3 that might have pertained to anything to do with price,
4 which I did. I found nothing of note to hand over.

5 Q. Okay. When you say you went through some files, I can
6 guess one obvious set of files, but can you confirm to
7 us whether that is right? Did you go through your bits
8 in particular of the monthly management reports for
9 2000?

10 A. I did not actually have access to the Umbro monthly
11 management reports --

12 Q. When I say your bit?

13 A. -- my section. The national account manager's training
14 report. My NAM2.

15 Q. You had access to your own copies of your own NAM2
16 reports?

17 A. Yes.

18 Q. And you obviously went through those?

19 A. Yes.

20 Q. And what other files did you go through, can
21 you remember?

22 A. At that time I had responsibility for Manchester United,
23 Celtic, JD and Allsports, so I would look through each
24 of those files and through my email.

25 Q. You kept your own separate file, perhaps not

1 surprisingly, on each of these accounts?

2 A. Absolutely.

3 Q. And what sort of information would that file contain?

4 A. It contained from the start customer accounts, account

5 contacts, who I had contact with on a daily basis.

6 Business sales information. It would cover copy orders

7 and any correspondence relevant to that account,

8 including file notes or any correspondence that came in

9 from the account.

10 Q. All of which makes perfect sense?

11 A. Yes.

12 Q. When you were discussing matters with buyers at any of

13 your accounts did you keep notes of the conversations

14 that you had with them?

15 A. I did.

16 Q. And they went into your file?

17 A. Yes.

18 Q. What kind of thing would you record in those --

19 A. Anything that I felt was relevant --

20 Q. That needed action on your part?

21 A. Yes.

22 Q. Or for you to remember?

23 A. Yes.

24 Q. Flag up your mental diary if not your physical diary,

25 action points, things you needed to do, stuff you needed

1 to discuss with other people within Umbro maybe.

2 A. The notes were a prompt for me as much as anything else.

3 Q. Right, and you went through all of those notes during

4 this process and the upshot was that you came up with

5 nothing that was relevant to the inquiry?

6 A. Nothing that I felt was relevant, no.

7 Q. Okay. Can I ask you then where the information in this

8 statement comes from? Or does this fall into

9 the category as far as you are concerned of nothing

10 particularly relevant?

11 A. This statement comes from questions that I was asked

12 about statements that were put in front of me. I have

13 answered those truthfully, those specific questions.

14 Q. Fair enough. What statements were put in front of you?

15 A. I have read a number of witness statements.

16 Q. Can you remember whose witness statements you had

17 the chance to see?

18 A. Michelle Charnock, Martin Prothero, Phil Fellone, Martin

19 Guest and David Hughes.

20 Q. Is it the sense of your witness statement as you

21 understand it that it gives evidence of pressure being

22 put on Umbro to keep other retailers in line on

23 discounting?

24 A. My particular statement?

25 Q. Yes.

1 A. Conversations were had, but I do not believe that my
2 conversations with Michelle, which I think my statement
3 is specific about, had any bearing on pressure at all.
4 It was very conversational -- it was conversations
5 we had about what was going on in the marketplace, and
6 information would be fed back through as a result of
7 those conversations. However, I do not believe that
8 either myself or certainly Ms Charnock were involved in
9 applying pressure, because we did not have the seniority
10 or the position to do so.

11 Q. I was going to ask you about that: she was plainly
12 a very junior employee of Allsports?

13 A. Absolutely.

14 Q. In fact, I think that she is not the buyer, she is
15 a buyer, and she only deals with replica?

16 A. Correct.

17 Q. Are you familiar with the names of people at Allsports
18 who were buying branded from Umbro?

19 A. Yes.

20 Q. Can you remember their names?

21 A. Lisa Borman and Craig Hargrave were two other contacts
22 that I had. Branded apparel was Lisa Boreman, and also
23 Russell Wilson for a while, and Craig Hargrave was
24 the contact for footwear.

25 Q. This really was some conversations between a very junior

1 buying clerk?

2 A. Yes.

3 Q. She does not make decisions of any kind, she is

4 effectively a bookkeeper?

5 A. Michael Guest is the only person who made decisions of

6 any real note.

7 Q. So she is doing the mechanical bottom end of the buying

8 job?

9 A. Absolutely.

10 Q. Okay. When you say, "Previously Russell Wilson" -- can

11 we pick it up at paragraph 8 of your witness statement,

12 paragraph 197 of the bundle --

13 THE PRESIDENT: Just take a moment to re-read paragraph 8 if

14 you have that, Mr May. (Pause).

15 MR WEST-KNIGHTS: Can we just start with:

16 "Previously Russell Wilson ..."

17 The impression I got from reading your bits of

18 the monthly management reports, you will appreciate that

19 we have had the joy of reading them all, or at least

20 certainly a lot more than you did, was that there was

21 a period in February 2000 when there was a sort of

22 handover between Russell Wilson and Michelle Charnock

23 when she started to be the person you dealt with?

24 A. That is correct. There was still a crossover, Russell

25 still oversaw the category, even though Michelle was

1 given responsibility for it.

2 Q. She was, as it were, drafted in to take over what he had

3 been doing before, so he was just a tiny leg up from

4 where she was?

5 A. Yes.

6 Q. You say in paragraph 8 that in particular Michelle and

7 Russell would ring to complain to Umbro?

8 A. Yes.

9 Q. So they would be talking to you, would they?

10 A. Yes.

11 Q. Okay. But you did not feel in any way threatened by

12 that, or you did not feel that Umbro was being in any

13 way threatened by that?

14 A. It was very much the norm in my time as Umbro account

15 manager that at certain times of kit launches, post

16 the JD cap promotion during 2000, that people did ring

17 to complain on a regular basis and Allsports were

18 exactly the same as that.

19 Q. You said post the JD cap promotion?

20 A. Yes.

21 Q. This took place after the JD cap promotion?

22 A. Yes.

23 Q. A long time after?

24 A. As and when kits were launched. If someone broke

25 the embargo or if someone was discounting the price,

1 there would always be a phone call to enquire what was
2 happening, what was going on, and what action was to be
3 taken.

4 Q. Mr May, when you say "after the JD cap thing", are you
5 saying that these conversations took place whenever it
6 was after there had been some discussions about the JD
7 cap, is that a kind of marker in your mind of when it
8 started?

9 A. It is from when it really started. Prior to that it
10 would always be situations whereby retailers sold
11 the kit before the day of embargo. Prior to that we
12 would always have conversations about that situation,
13 from the JD cap promotion which I believe is 2000---

14 Q. It does not matter when it is, that is the marker in
15 your mind?

16 A. That is the marker in my mind. From that point onwards
17 that is when the kit started to be discounted on a
18 regular basis by Sports World, and it became prevalent
19 with each new kit, and the topic of conversation prior
20 to -- or certainly during the selling of that kit to
21 that particular retailer would always be one of
22 questioning what was going to happen: what do you think
23 Sports World are going to do with the price? Are they
24 going to maintain it at 40? Are they going to do a
25 promotion? That would be very much the type of

1 conversations that we would have when the product was
2 being sold in.

3 Q. Any conversation you had along those lines, you knew
4 presumably that Umbro itself kept a keen eye on
5 the activities of Sports Soccer?

6 A. Yes.

7 Q. Particularly in relation to its statement product?

8 A. Yes.

9 Q. Umbro did not want Sports Soccer knocking out England
10 shirts cheap or Manchester United shirts cheap?

11 A. Not really, because of the problems it created with
12 other areas of retail, however the fact that the price
13 of the product was going down latterly was deemed as
14 a positive in some respects because it meant that more
15 volume sales were achieved in the marketplace.

16 Q. Michelle says that she did speak to you a lot
17 particularly about retailers breaking the embargo, and
18 that did happen, because there was a very strict rule,
19 was there not, imposed by Umbro -- one can see why
20 commercially -- so there is a big splash on a certain
21 date and you do not want people jumping the gun because
22 it affects the publicity of the launch?

23 A. Yes.

24 Q. I understand all that. What she does not recall is
25 conversations with you that were not complaints about

1 simply discussions about the market?

2 A. I cannot speak for Michelle's recollection. Those

3 conversations took place. It was Michelle's job to be

4 aware of what was going on in the marketplace and to

5 protect her category, which was replica kit at that

6 time. It made sense, and we always talked about it when

7 we were selling in the number of shirts that were going

8 to be sold for the next kit launch, it was relevant in

9 terms of how many they thought they were going to sell

10 if we could give them any information as to what price

11 the product would be sold at or if we knew that there

12 would be any discounting in the marketplace. Those

13 questions would be raised and asked.

14 Q. Speaking commercially at least Allsports was within your

15 knowledge a non-discounter, certainly of replica?

16 A. Yes, it was.

17 Q. It would be interested from time to time in how many it

18 thinks it is going to sell of its units at what we have

19 come to call the full recommended retail price?

20 A. Yes.

21 Q. Is that the kind of information that Michelle would have

22 with you?

23 A. Yes, those conversations would be had.

24 Q. Indeed, one of the effects of an unexpected movement in

25 the market again quite genuinely would be on Allsports'

1 side that it might, as I think you say, leave them with
2 excess stock?

3 A. Correct.

4 Q. Because their sales might not be as high as they might
5 have been otherwise?

6 A. Correct.

7 Q. And that would be something that would be discussed with
8 you in context of next visit: I do not want of those
9 because we still have a load of these, we have not sold
10 as many as we thought we would, because we are at full
11 price and other people are discounting?

12 A. Correct.

13 Q. Is that the flavour?

14 A. That is the flavour.

15 Q. I just need to ask you about paragraph 9. In
16 the context of this case, when you first read it to us,
17 steeped in the evidence as it was understood before it
18 started at least, it is really quite threatening when
19 asked the question, what are you going to do about it,
20 as if with a big stick?

21 THE PRESIDENT: Just re-read paragraph 9. You had better
22 read paragraphs 10 and 11 as well.

23 A. Okay.

24 MR WEST-KNIGHTS: The whole gloss that you want to put as
25 I understand it on those paragraphs is: do not get too

1 excited about this, it was no big deal.

2 A. In terms of at my level, yes. On occasion there would
3 be a phone call and I would pass that through to
4 Phil Fellone, and then Phil would pick that up. At our
5 level it was very much a case of passing information to
6 make people aware that something was going on. I would
7 then pass it to Phil Fellone and he would take
8 the necessary action. Allsports would then converse
9 with Michael Guest.

10 Q. This kind of general chatter, do you say it was
11 completely endemic with absolutely everybody you dealt
12 with?

13 A. Absolutely, yes.

14 Q. Can I just pick it up, perhaps finally -- I am going to
15 ask you to glance at three bits of your monthly
16 management reports which may still be familiar to you,
17 Mr May.

18 A. Okay.

19 Q. The JD cap which you mentioned and which your statement
20 talks about?

21 A. Yes.

22 Q. If I have this right, I think your perception is that
23 this charter really started in earnest after the JD cap
24 event?

25 A. With regard to price discounting of replica kit, yes.

1 Q. Yes, thank you. Presumably --

2 A. It really did not to my memory and recollection exist

3 prior to that, that first --

4 Q. Thank you very much. The JD cap, can we just remind

5 ourselves, this is where, was it, JD were selling

6 the England shirt during Euro 2000 but giving away

7 a free cap?

8 A. Correct.

9 Q. Everybody in Umbro certainly thought it was not just

10 a free cap but an Admiral cap?

11 A. Yes.

12 Q. And Umbro, as we have been told already, were pretty

13 hacked off about that off their own bat, never mind

14 about anyone else?

15 A. Yes.

16 Q. So any chat about that would have been as it were equal

17 sided. "Have you heard about the JD cap?" "Yeah, my

18 bosses are furious about it." I am trying to be

19 an Umbro employee, I am not trying to ape you.

20 A. Yes.

21 Q. That is the kind of conversation you might have had.

22 You knew that Umbro were pretty hacked off about that

23 themselves?

24 A. In that particular instance Michelle phoned me

25 specifically about it to ask me about the situation.

1 So, yes, it was at our level conversational. I could
2 not act any more than Michelle could.

3 Q. No. What she says, and you can tell us whether you
4 agree with this or not, is that her first reaction when
5 she wanted to talk to you about this was that she did
6 not know that it was not an Umbro cap, and her first
7 reaction was: "We want one of these too. Why are JD
8 being singled out? "Does that ring any bells with you?

9 A. It does not, no. I recall it as a specific phone call
10 complaining about the promotion that they were doing and
11 why they did not know anything about it.

12 Q. And it would not have had a gnat's influence because it
13 was just her talking to, and secondly you would be able
14 to say: "Don't worry about it, my bosses are pretty
15 unhappy about it too. We're looking into it."

16 A. Absolutely I would say that we were aware of it, if we
17 were at that time and I am pretty sure that we were --

18 Q. And action was being taken anyway?

19 A. That action was being taken and we will let you know.

20 Q. Do you know what in fact the action was that Umbro took?

21 A. I cannot recall.

22 Q. We have evidence about that, that eventually they had
23 some long and rather hefty conversations with JD and
24 eventually cut their account off for a considerable
25 period.

1 A. Yes.

2 Q. Does that ring any bells?

3 A. It does now. It was a long time ago --

4 Q. Umbro really did take a big stick to JD about this in

5 the end?

6 A. Yes.

7 THE PRESIDENT: Were you the JD account manager at that

8 time?

9 A. I was just taking on the responsibility. It was

10 a handover process from a guy called Mark McDonnell.

11 I was just trying to recall the dates, because

12 I think the handover took place in 1999. I was

13 the account manager, yes.

14 MR WEST-KNIGHTS: At the time when the pressure was taking

15 place -- not the pressure, the chatter between you and

16 all these people, you think that would have been taking

17 place at a time when you were the account manager for

18 JJB?

19 A. Yes.

20 Q. We might be able to track that through from

21 the documents?

22 A. Yes.

23 Q. Do you have any recollection of Michelle asking you

24 about whose cap it was?

25 A. No, my recollection was that the inference was that it

1 was an Umbro cap.

2 Q. Right. And she did not say -- surely she would have

3 said --

4 A. It was just --

5 Q. -- "As far as I know JD are knocking out the England

6 Umbro Shirt."

7 A. It was just a free cap. And I think the inference was

8 that it was an Umbro cap. That was within the trade at

9 that moment in time. People were drawing the conclusion

10 that it was part of an Umbro promotion.

11 Q. So it seems logical that she might have said, "Why are

12 we not in on this?"

13 A. That was not my recollection. My recollection was --

14 Q. It is entirely possible, is it not?

15 A. Not to my recollection, no.

16 Q. Subject to this question of the JD account, I am going

17 to show you three of your little reports in the monthly

18 management reports, starting with the one in March which

19 would have been written some time in early April?

20 A. The first week of March.

21 Q. You are going to be given a bundle, blue, E1 tab 22 for

22 a start?

23 THE PRESIDENT: So that is in the first E1.

24 MR WEST-KNIGHTS: Could you tell me where yours breaks?

25 THE PRESIDENT: E1 goes to 21 and E2 starts at tab 22.

1 MR WEST-KNIGHTS: Mr May, do you have tab 22 open?

2 A. I have, yes.

3 Q. And the front sheet then is the whole of the monthly

4 management report, which I think much of which you say

5 you never saw?

6 A. Yes.

7 Q. Or at any rate you did not go through?

8 A. I did not even see them.

9 Q. Your bit starts at page 133.

10 A. Okay.

11 Q. It has a front sheet and on the first page on the inside

12 we see an accounts analysis.

13 A. Yes.

14 Q. Now although Charnock is replica only, you are both, you

15 dealt with branded as well?

16 A. I dealt with all categories within Allsports, branded

17 and ...

18 Q. So the first thing we can notice about this is

19 the accounts for which you were then responsible,

20 Allsports, MU and Celtic.

21 Within that framework Allsports would be the only

22 one of those three who would sell the England shirt; MU

23 did not and Celtic would not?

24 A. Yes, correct. It would not make very good business

25 sense, no.

1 Q. We have already had a graphic unbusiness sense that
2 might result if Celtic were to sell the England shirt.
3 Let us go through the general market overview:
4 "Interaction with buyers at Allsports Limited due to
5 handover."
6 So the majority of your feedback in respect to
7 general market conditions for this period comes from MU,
8 because you are Celtic, you are operating in Scotland?
9 A. Yes.
10 Q. Was that Russell Wilson to Ms Charnock?
11 A. I really cannot recall. It could have been I really
12 cannot recall.
13 Q. For what it is worth, it matches her recollection?
14 A. Right, it could well be.
15 Q. During early 2000 she was taking over from Russell
16 Wilson.
17 At any rate, your record of what occurred in
18 March here was that you had no material chat with
19 anybody at Allsports about anything much. Because there
20 was a change over-you just did not get much feedback?
21 A. That would be a very broad overview. This is a general
22 market overview, anything specific would be reported in
23 individual file notes.
24 Q. Club shop business has been good. That is obviously
25 a reference to Man U, the club shop business?

1 A. And Celtic.

2 Q. Oh, I see, each of them has their own shops.

3 A. Yes.

4 Q. You dealt with MU?

5 A. Yes.

6 Q. MU in its retailer hat, selling its gear in its shops?

7 A. I would be responsible for selling all the products that

8 Umbro created using the licence of Manchester United

9 back into the retail operation of Man United.

10 Q. If I had walked into the megastore in 2000, it has

11 posters, scarves, hats, mugs, all that, in those days

12 would that all have been Umbro stuff?

13 A. No, it would not have been. It would just be Umbro

14 products, and that generally meant training apparel,

15 general licensed apparel --

16 Q. Clothing?

17 A. Clothing.

18 Q. You did not do mugs and stickers?

19 A. No.

20 Q. Nike has done a different job since then?

21 A. Yes.

22 Q. "MU reported an increase in business verses 1999 over

23 the last two weeks despite no home game and are looking

24 forward to bumper April as performances continue to be

25 good. Megastore is in a temporary unit."

1 Oh, right, that was before the current big megastore
2 that they have --

3 A. That would be right.

4 Q. "The High street appears 'cleaner' at present than at
5 any time during 2000."

6 Was does that mean? Is that a reference to the fact
7 that most people's pricing is the same?

8 A. It would basically mean that on store visits people
9 would be retailing at full price rather than
10 predominantly at sale.

11 Q. And that was good news for Umbro?

12 A. It was good news generally for the sports retail trade.

13 Q. And that included Umbro?

14 A. Oh, sure, yes.

15 Q. In the end its job is to sell its stuff to retailers,
16 and in the end it wants demand for its product from
17 retailers?

18 A. Yes.

19 Q. And it wants its retailers to think that it is a product
20 that they are going to make a profit out of?

21 A. Yes.

22 Q. So it all feeds up the system?

23 A. Yes.

24 Q. Over the page, "category overview" -- this says
25 section 3, I am sorry, we do not have section 2 ... oh,

1 it is the bit on the previous page. Section 3 is:
2 "Category Overview (Including Current Sell In)
3 (Strengths and weaknesses) Branded".
4 And you do this category by category of Umbro
5 product?
6 A. Yes.
7 Q. "Branded: Allsports have seen Junior Q4 and infants
8 Ande ..."
9 Is that a kind of product?
10 A. No, that is my poor typing.
11 Q. I am sorry, I was not taking the mickey:
12 "Allsports have seen Junior Q4 and infants and felt
13 in terms of colour and styling range was good --
14 unfortunately in terms of their product profile they do
15 not view our brand as a player in this category outside
16 of Team shorts. Evident through Feb/early March that
17 they were taking quite a lot of markdown on both Pod and
18 Earth, wind & fire ..."
19 This is all other people's stuff?
20 A. Correct.
21 Q. So you are looking to see what is happening in
22 the retail trade generally?
23 A. Yes.
24 Q. "... looking to develop potentially some licensed smu's
25 from branded range and maybe MUFC also. NA2 running at

1 [blank] per cent of target and despite only representing
2 [blank] per cent of my target is the major area of
3 concern.

4 "Outlook very good. Allsports and Celtic tracking
5 well in excess of previous kit launch whilst MU are in
6 line and I would expect to get considerable daily
7 business from MU. Reaction to the kits [has] been
8 tremendous ..."

9 Of course, I think it was in March 2000 that
10 the trade had shown what the new MU kit was going to
11 look like, although it did not in fact go on to
12 the High Street until 1st August?

13 A. Yes.

14 Q. Because retailers have to like it and order it in bulk?

15 A. Yes.

16 Q. So the reaction had been good, indeed tremendous:

17 "Current sell through is clouded at present with
18 Allsports/MU needing to clear through all Sharp
19 product."

20 That is the old sponsor's shirt?

21 A. Yes.

22 Q. So that was all going a bit stickily?

23 A. Yes.

24 Q. "NA2 running at [blank] per cent of overall target for
25 2000 [blank] and this will be achieved utilising daily

1 business and Q4 licensed still to come.

2 "Footwear. Allsports sales figures on our product

3 limited to three styles and with the exception of ...

4 [are] performing well. Meeting Craig Hartgrove."

5 He is one of the two for branded footwear?

6 A. Yes.

7 Q. "... on 4th March and ..."

8 Do you mean 4th March? This is the report for

9 March. Perhaps you meant April, it does not matter.

10 A. I might have done.

11 Q. "... and will present Q4 branded footwear. Footwear

12 orders for 2000 funning at [blank] per cent of target

13 [blank] and [blank] per cent of 1999.

14 "Equipment within Allsports, ie bags/guards, Very

15 slow on Umbro product instore. Looking to improve as

16 Easter approaches. Having spoken to Joe ..."

17 Who is Joe?

18 A. One of the merchandisers who would monitor sales figures

19 for the buyers.

20 Q. You see, that is another thing that Michelle says

21 quietly as far as asking you about retail pricing.

22 Allsports had its own people whose job it was to enquire

23 about the market conditions?

24 A. That would not have been Joe. Russell or Michelle would

25 generally have gone out and had a look at

1 the High Street. They had one day per week where
2 Michael Guest insisted that they went out and did
3 retail --

4 Q. If you are in Manchester you walk into the High Street
5 and go into the next one, JJB, JD Sports, have a sniff
6 around and see what the competition is up to?

7 A. Yes.

8 Q. Supermarkets do the same thing:

9 "Having spoken to Jo/Michelle the category across
10 all brands has slowed considerably over past month
11 Licensed equipment across club shops is continuing to
12 sell through reasonably considering time of year.
13 Manchester United clearing most product through at
14 reduced cost to accommodate move to new megastore."

15 Obviously there is nothing in there that is adverse
16 and if there had been you would have written it down, if
17 you had been given an earful by somebody who would have
18 reported it, a complaint from a retailer about anything?

19 A. Generally if it was going on at that particular time,
20 yes, I would have done.

21 Q. Thank you very much. "Account Activity/Marketing
22 Activity". You note that they are relaunching the
23 internet site; that there will be 25 Manchester United
24 concessions to be in place by end of April. In fact
25 that went rather more slowly than was anticipated.

1 A. Yes.

2 Q. "Store fittings to be reduced down to 3 bag high --

3 makes all product more accessible/visible".

4 "Competitor Activity", this competitors to Umbro.

5 You talk about Nike:

6 "Looking to increase business with Sports Soccer by

7 30 per cent in 2000/2001.

8 "Overall competitor activity information not

9 available due to handovers and minimal time spent with

10 buyers.

11 "Objectives/Any Other Business" .

12 That is it. And that is the end of your report for

13 that month?

14 A. Yes.

15 Q. Perhaps I could take you to two more months and then

16 I think I will be done. The next is the April report,

17 at E1, part 1, tab 24, page 188.

18 Exactly the same shape. Still Allsports, Man U and

19 Celtic the only accounts, so JD must have come in later

20 than this?

21 A. Yes.

22 Q. Section 2:

23 "Performance through MUFC has been very good

24 throughout April."

25 And the next line is presumably referring to MU's

1 turnover:

2 "This has been helped by a huge sale in megastore"?

3 A. Yes.

4 Q. Because they had just opened the new megastore, I think?

5 A. Yes.

6 Q. "Celtic on the other hand have had a very poor April
7 which has been mainly due to their poor performance on
8 the pitch. Core supporters very disillusioned at
9 the level of league position -- behind Rangers. New
10 manager and away kit launch eagerly awaited.

11 "Allsports performance in April running slightly
12 behind plan as bad weather affected Easter period but
13 expected to be pulled back through May with licensed
14 England and kit launches to kick in."

15 I think it was a general feature, you may remember
16 from this that April was not a good time of that year
17 generally in the sports retail trade?

18 A. Yes.

19 Q. And that is the kind of thing that might have an effect
20 on when deliveries would be called off to booked into
21 the warehouse if you have a slower month than you expect
22 you do not need to call off as much gear as you thought
23 until perhaps later on?

24 A. Absolutely.

25 Q. Thank you very much. As indeed would be anybody hoping

1 to sell hundreds of thousands of Celtic shirts; yes?

2 A. Correct.

3 Q. Allsports presumably sold the Celtic shirt?

4 A. It did.

5 Q. But not in huge numbers during this period because the

6 Celtic fans were pretty unhappy?

7 A. Not at that particular moment, but they did very well on

8 the Celtic kit generally.

9 Q. Thank you. "Branded":

10 "Good meeting with R Wilson over Q4. The range was

11 well received in terms of style, colour and price. The

12 issue with the account is very much branding within this

13 category.

14 Russell Wilson states we are miles down the list of

15 brands he 'needs' to stock and thus a strategy is

16 required to 'create the need'."

17 That was a perfectly genuine conversation between

18 you and Russell.

19 A. Yes.

20 Q. In a sense he felt that Umbro did not quite have that

21 little bit of extra edge?

22 A. Absolutely.

23 Q. Compared with Nike, Adidas, whoever?

24 A. That is correct.

25 Q. And you, Umbro, needed to do something about that?

1 A. Correct.

2 Q. And Umbro was focusing very much on that, trying to turn
3 itself more into a brand?

4 A. Yes.

5 Q. To be associated more with that extra little bit of
6 sexiness?

7 A. Premier product and -- yes, building the brand.

8 Q. Aspirational or additional perceived value?

9 A. Yes.

10 Q. People are prepared to pay more for it even if it is not
11 any better because they think it is sexy because it has
12 Umbro on it. That is the idea?

13 A. It did not work, but that is the idea.

14 Q. But it worked for Nike at that time and I hope it is
15 working for Umbro now?

16 A. Yes.

17 Q. "This needs to be a corporate marketing strategy as he
18 like the products but will not buy."

19 That is actually the rub, is it not? Somebody like
20 Nike can actually get away with selling something that
21 is actually very ordinary at a premium price because it
22 has Nike on it, and somebody like you can have a jolly
23 good product but you cannot shift it because it just is
24 not sexy, even though it is very good?

25 A. It just does not have the right brand on it.

1 Q. Licensed:
2 "MUFC products selling through well in the club shop
3 and Allsports MU concessions stores ..."
4 Oh, that was a good turn-around in a sense:
5 "England sales in Allsports not yet kicked in.
6 Awaiting 'build up' of tournament.
7 "Overall performance of category as reported last at
8 [a pretty high percentage of that] target."
9 And "Footwear". I do not think I need to trouble
10 you with that.
11 "Having lost the shower shoe in 2000, Hartgrove
12 stated an opportunity for 2001 at £7.99 as they are
13 running Nike and Adidas at £9.99."
14 This is another thing you and Umbro have their eyes
15 on: what will the retail market take? This information
16 is: if they are doing Nike and Adidas at 9.99 you may
17 be -- if you could do a decent shoe at 7.99 they would
18 take it, the difference between the two being
19 regrettably the slight under-sexiness of Umbro at the
20 time?
21 A. Yes. They did not take it at 7.99, but they may have
22 done.
23 Q. That is another factor, Umbro has to spend all of its
24 time looking at actual retail prices, to see at what
25 prices their competitors' products are in fact selling?

1 A. Yes.

2 Q. And hopefully you can go in at the same price as them,
3 but here realistically you are discussing in this
4 particular instance to go in under those two because of
5 that extra lack of brand, sadly?

6 A. Yes.

7 Q. Allsports you note here, in spite of the fact that
8 the plan in March had been that they were going to have
9 25 by April -- I asked you and here it is confirmed --
10 had rolled out 15 of the planned 25 stores, that is, as
11 it were, store within a store?

12 A. Yes.

13 Q. Thank you. Actually, the megastore is not open, it is
14 still in its temporary location. Good heavens, they are
15 opening a store in Dubai.

16 Go back to page 189, I do apologise, the second
17 line of information:

18 "England sales of Allsports not yet kicked in.
19 Awaiting 'build-up' of tournament."

20 Did you discuss with Michelle -- perhaps she would
21 not know the strategy of Allsports in respect of that.
22 Nothing much they could do. Just sit tight and hope for
23 it to pick up.

24 A. Yes, they would have had a plan and a sales forecast
25 running up to the tournament. If it was falling behind

1 at that point, there would be very little they could do,
2 they would have to hope that the tournament could make
3 up the shortfall that will have --

4 Q. Anyway, we are still only talking about April here?

5 A. Yes.

6 Q. And the tournament does not start until 10th June?

7 A. Yes.

8 Q. It is still really spring rather than summer?

9 A. It is still early, yes.

10 Q. Did I say March? At any rate April. Still
11 psychologically a long way away. E1, part 1, tab 25,
12 page 227 it where it starts. Your bit is at 240.

13 Before we get there, perhaps you have never seen
14 this before, page 230, the monthly report. If you have
15 not seen this before, you tell me and I will not ask you
16 about it.

17 A. I have not, no.

18 Q. Let us go to the bit you do know about, then. Again
19 you have four accounts now but I think the third one, it
20 is the new one, is Manchester United, Man U
21 International?

22 A. That is correct, international sales. I was not
23 actually responsible for that in terms of the daily
24 contact, but it came under my figure set. On
25 the previous report it stated that David --

1 Q. I remember that. Was he based out there?

2 A. No, he was based in Manchester, but it came under the

3 international function rather than the UK function.

4 Q. Got it.

5 "Club shop business in general terms is flat as

6 domestic season ends. Celtic, however, have had

7 pro rata the best launch they have had, with the new

8 away jersey selling 10,000 units in two weeks versus

9 the same quantity in the whole year on the last launch.

10 "In retail terms England is the main talking point

11 with prices now being maintained across nationals.

12 Sales of licensed have been vital to Allsports over

13 the past month with England, Celtic, Liverpool and Leeds

14 bringing turnover not being generated by branded

15 category.

16 "Allsports allegedly losing considerable turnover

17 versus 1999 as the new concept is not generating

18 the volume sales expected by main High Street

19 competition."

20 So during main 2000 Allsports is doing well on

21 selling licensed including England?

22 A. Yes.

23 Q. And then over the page, this may be the last page we

24 look at, last-but-one:

25 "Licensed. Superb Celtic away launch considering

1 relatively poor season."

2 That is relatively poor in terms of Celtic coming

3 second in the Scottish Premier Division.

4 A. Yes.

5 Q. "Style, fabric and the overall look of garment are the

6 main reasons."

7 Oh, I see, so it is a cracking good product.

8 A. Yes.

9 Q. "Allsports also had good initial sales on Chelsea away.

10 "England is currently the main focus as the

11 tournament approaches and sales have been good."

12 Presumably all of the sales you will have been

13 reporting in respect of England will be Allsports, all

14 of them, because MU, MUI, Celtic do not sell it?

15 A. Yes.

16 Q. "Footwear. Sales mainly classic running. Nike.

17 "Adidas footwear sales in Allsports performing well

18 below expectation ..."

19 I suppose that might have been good news to you as

20 a possible way in for your footwear?

21 A. Yes.

22 Q. Equipment, the sales are flat:

23 "Allsports. All windows now all England ..."

24 Over the page:

25 "Nike launched the new Leeds jersey at 39.99."

1 In what sense, just explain, does Nike launch
2 a shirt at 39.99?

3 A. I would just be meaning the retail price point,
4 the price ticket that was on the shirts in
5 the marketplace.

6 Q. So good news for Nike for whatever reason: everybody is
7 selling the Leeds shirt at a price which gives everybody
8 hope that the market is working to everyone's advantage?

9 A. I recall there was some talk about Nike increasing
10 the retail price point on kit, which would be the reason
11 for being specific about it being at 39.99.

12 Q. But sales were slow because the real interest was in
13 England?

14 A. Absolutely.

15 Q. And again I doubt that Celtic or Manchester United were
16 selling the Leeds shirt?

17 A. No.

18 Q. This will be Allsports only as well?

19 A. Absolutely.

20 Q. "Quarter 1 branded selling: achieve distribution."
21 These are your objectives, they are all looking
22 forward to the future?

23 I think that is the end of the period in which I am
24 particularly interested, that is to say the run-up to
25 June during which time the England shirt was -- during

1 the tournament. Then of course when England were
2 knocked out of the tournament, that knocked the bottom
3 out of the market for the shirt?

4 A. Yes.

5 Q. Because the craze and the interest in football suddenly
6 finished?

7 A. Yes, it shows.

8 Q. So we have not yet found you taking over the JD account.
9 For what it is worth in the report for June, E1,
10 part 2 -- I do not know if you need to take it up --
11 you can take it from me that we still have got you only
12 with Allsports, Man U, Celtic and MUI?

13 A. It was around that time, May --

14 Q. The trouble is we do not have another detailed
15 management report until November 2002, by which time
16 you are shown as having the JD account under your wing?

17 A. Mark McDonnell was made redundant -- and apologies for
18 the confusion of 1999 and 2000 earlier -- I think in
19 May 2000, and I was immediately given the account. So
20 it was around this period.

21 Q. Not immediately. As I say, your report written in
22 July for June still has you not having JD?

23 A. If the figures are not in here, I do not know, I have
24 not seen that report. I took it over as soon as Mark
25 left.

1 Q. Let me see if I can find JD in here before I sit down.
2 A. My recollection is that it was around May time.
3 Q. Okay. As far as we can tell it does not look as if it
4 was until after June, but there is not a difference
5 between May and June?
6 A. Well --
7 Q. Your June report does not mention JD at all, so it
8 sounds as if it should have been about then?
9 A. Yes.
10 MR WEST-KNIGHTS: Mr May, thank you very much.
11 MR COLGATE: Could I just clarify a couple of points at this
12 moment, if I may.
13 Mr May, in relation to your dealings with Allsports
14 and particularly Ms Charnock, she was a buyer, was she
15 not?
16 A. She was, yes.
17 MR COLGATE: So she would place orders with you?
18 A. Yes.
19 MR COLGATE: In relation to placing those orders, would you
20 ever discuss the price which they are being placed at?
21 A. We would have --
22 MR COLGATE: I just find it absolutely odd that a buyer does
23 not discuss prices.
24 A. Yes, we would have a general conversation. In truth
25 Michelle had no power or no control over what price

1 the product was going to be set at. It is fair to say
2 that in all my time dealing with Allsports it was always
3 set at the same price when the orders came through.

4 MR COLGATE: But when she gave you an order would it be on
5 an assumption that it would be sold to Allsports at
6 a price, and would you know what that price was?

7 A. Yes.

8 MR COLGATE: Would she know what that price was?

9 A. Yes.

10 MR COLGATE: And would you agree that: I am selling and
11 you are buying so many shirts at a price?

12 A. Yes, we would. There would be a natural assumption that
13 it would be 21.30 less X per cent, so Michelle and I
14 would work on the basis that it would be the WSP of
15 21.30 less X per cent, and there would be a price list.
16 It was not uncommon for subsequent conversations to take
17 place after the orders were placed on volumes or
18 whatever that would be revisited. But that would not be
19 between Michelle and I; that would generally be myself,
20 Phil Fellone and Michael Guest, and the decisions would
21 be taken by Phil and Michael.

22 MR COLGATE: So would she place orders conditionally upon
23 a price discussion taking place elsewhere?

24 A. Not generally. It really was not like that. There is
25 your quantity, that is the assumption that the price is

1 X. If there was anything to happen after that, it
2 generally happened between Phil Fellone and
3 Michael Guest. Generally it was an assumption that the
4 WSP less your terms -- anything that happened over and
5 above that generally happened between Phil and Michael.
6 It could have happened prior the order being placed but
7 it was not uncommon in some instances that a deal has
8 been struck post placement of order, and quantities
9 would be increased potentially so you get further orders
10 and you would have to address them -- redo the pricing
11 on the initial orders.

12 MR COLGATE: I find it slightly, from my own experience
13 anyway, strange that you would place an order without
14 actually knowing the price at which you were going to
15 buy it.

16 A. She would always -- as I said, there was an assumption
17 that she is placing X at X price, which would be the WSP
18 less the discount. It happened on occasions, both
19 latterly during the time of my looking after JJB and my
20 time with Allsports that if something happened
21 subsequently, ie that information came to light that
22 possibly somebody was going to do something on the kit,
23 like doing more volume on that particular kit then
24 the price would change. But as far as my dealings with
25 Michelle were concerned, they were based on WSP less

1 the particular discount.

2 THE PRESIDENT: As I understood it, that had already been

3 negotiated at a higher level.

4 A. Yes. The point I was trying make was that it was not

5 uncommon on occasion that subsequently---

6 THE PRESIDENT: And you would renegotiate it.

7 A. Yes, you would re-negotiate it.

8 THE PRESIDENT: But again at that higher level.

9 A. Absolutely, yes.

10 MR WEST-KNIGHTS: So there is a framework agreement between

11 Allsports and Umbro at a higher level as to approximate

12 volumes and price?

13 A. Yes.

14 Q. And you two were at that time engaged in really the

15 mechanics and the timing of particular quantities at

16 particular times.

17 A. Yes, I would always be involved in the actual mechanics

18 of deciding and looking at what the margin details were

19 in terms of that particular deal. But it would always

20 be Phil Fellone's decision, it was not my decision.

21 Q. From Umbro's point of view, if you could persuade

22 the buyer -- I say the buyer, let us call her the

23 clerk -- that she can take in 40,000 of X that month

24 that is good news for Umbro because it is booked in for

25 that month, it is invoiceable for that month, and it is

1 your target for that month?

2 A. Yes.

3 Q. If on the other hand the clerk is saying, "Sales are

4 going a bit slowly, we are a bit topped up on stock

5 already I can only take 10 thousand this month", that is

6 the kind of discussion you would be having?

7 A. Yes.

8 MR COLGATE: Just one last question if I may. You do not

9 need to go to it, but in your March 2000 report under MU

10 you state -- it is page 136, section 4. You were

11 reporting under MU:

12 "Currently selling majority of apparel lines at

13 reduced pricing."

14 A. Yes.

15 MR COLGATE: Are you saying that that arrangement, that

16 pricing, is something to which you were not party?

17 A. Yes. Which they were well within their rights to do and

18 it is a common business practice. In the case of MU at

19 the time --

20 MR WEST-KNIGHTS: Getting rid of the Sharp stuff.

21 A. The old megastore into the new megastore, the Sharp

22 situation, they were trying to clear the decks and get

23 rid of as much -- they would have been quite happy at

24 that point not to have to move a single piece of stock

25 from one place to another. That was principally

1 the reason that they were reducing.

2 MR COLGATE: Thank you very much.

3 MR WEST-KNIGHTS: Although you are not involved in

4 Manchester United's determination of its pricing or

5 anybody else's at this level. You on behalf of Umbro

6 always took a very keen interest in the situation on

7 the ground as to the prices that people were prepared to

8 pay for the stuff so you could measure the health of the

9 market and make a pre-estimate of the prices at which

10 Umbro could try and get its product out.

11 A. Correct.

12 MR WEST-KNIGHTS: Thank you very much. I have no more

13 questions of Mr May.

14 THE PRESIDENT: Thank you.

15 (4.20 pm)

16 Re-examination by MR MORRIS

17 Q. Mr May, early on in your evidence -- 151, line 1 of

18 the transcript for the reference -- you were referring

19 to your conversations with Ms Charnock, and you said

20 the information would be fed through as a result of

21 those conversations.

22 A. Yes.

23 Q. Can you first of all say to whom the information was fed

24 through?

25 A. Generally Michelle's stock answer would be, "I will talk

1 to Michael, I will speak to Michael and let him know".
2 That was generally who it went through. On occasions
3 she would also say, "I will speak to Russell", but
4 generally Michael made the majority of decisions in the
5 buying team.

6 Q. Was the information fed through the other way by you?
7 A. Sorry?

8 Q. Was the information in the conversations fed through by
9 you to somebody?
10 A. Yes.

11 Q. And to whom was that information forwarded?
12 A. That would be to Phil Fellone.

13 Q. Thank you. Can you recall how often the information was
14 fed through, how regularly?
15 A. I think in my statement it says "often", and it really
16 was not that often. It would be around the time of kit
17 launches in particular that those types of things would
18 happen, those sorts of conversations. They would be
19 very general day-to-day conversations. If there was
20 anything relevant I would nip into Phil's office and
21 tell him but I could not be specific on anything.

22 Q. Why were you feeding the information through?
23 A. Because I felt it relevant at the time to Umbro's
24 business.

25 Q. Thank you. You were then referred to the activities of

1 Sports Soccer. We are now looking at page 154 of
2 the transcript at line 18 or so, and you say that Umbro
3 did not want Sports Soccer -- the question was:
4 "Umbro did not want Sports Soccer knocking out
5 England shirts cheap or Manchester United shirts cheap?"
6 And you said:
7 "Not really because of the other problems it created
8 with retail."
9 Can I ask you first, when as far as you were aware
10 did Sports Soccer discounting become an issue?
11 A. Around 2000. The JD cap promotion. It was around that
12 time, 1999/2000, that they started to retail at £32.
13 Q. Secondly, you then said because of the problems it
14 created with retail. What were those problems?
15 A. Basically if anyone got wind of what Sports Soccer were
16 doing, principally Sports Soccer because they were
17 the main people who started to discount in
18 the marketplace, there would be a stream of phone calls
19 to all the account managers, we would all be feeding
20 the same information back into Phil Fellone who would
21 have to start making phone calls to various people in
22 terms of being seen to be trying to get hold of
23 the situation and take some action.
24 Q. In the same answer you said: because the price of
25 the product was going down latterly it was deemed

1 a positive aspect because it meant that more volume
2 sales were achieved in the marketplace.

3 What did you mean by positive aspect?

4 A. Basically if the price at retail was lower then it
5 brought more consumers and affordability became the
6 question for a lot of people. They were more people who
7 could afford the product; rather than buying one for
8 the family, they would buy two or three, all the kids
9 would get one, and the volume of sales went up
10 significantly, so latterly it became a positive for
11 Umbro and that was the way I was told to consider it.

12 Q. When you say latterly, can you put a timeframe on
13 the word "latterly"?

14 A. I would say principally for the very latest England kit
15 launch, which was 2003, the current England home kit
16 that was launched last year and runs through this
17 up-coming tournament. That was very much the viewpoint
18 that was taken: they will retail at what they want to
19 retail, we take it as a positive because of our figures
20 and numbers, and that can be traced and seen and it will
21 go through the roof. That is principally what has
22 happened.

23 Q. You were shown some extracts from the monthly management
24 reports and I would like to take you to two of the
25 reports you were referred to: the first is

1 the March 2000 report, which is in the E1 file at
2 tab 22, page 124.

3 THE PRESIDENT: This is the one he said he had not seen.

4 MR WEST-KNIGHTS: Yes, I did not put it to him because of
5 that. And it would be quite inappropriate for my
6 learned friend --

7 THE PRESIDENT: Yes, all right, Mr West-Knights. Do not
8 worry.

9 Mr Morris, this was put to the witness and he said
10 he had never seen it before.

11 MR WEST-KNIGHTS: And consequently I did not ask him any
12 questions about it. And you cannot feed this to the
13 witness.

14 MR MORRIS: I would suggest that if the witness were to be
15 allowed to read two paragraphs and ask him if he has any
16 comment. If he has no knowledge or has no comment he
17 can decline to answer.

18 THE PRESIDENT: He has not seen it before so we cannot go
19 into it.

20 MR WEST-KNIGHTS: That is wonderful, because what my learned
21 friend is suggesting is he is going to put a proposition
22 to the witness and ask if he agrees with it. That is a
23 leading questions.

24 MR MORRIS: I was not going to put a proposition.

25 MR WEST-KNIGHTS: Yes, you were. You were going to invite

1 him to read two propositions in this document -- please,
2 Mr Morris.

3 THE PRESIDENT: The document is in front of the tribunal,
4 we can read it.

5 MR MORRIS: That is fine, sir, I am very happy for that to
6 be the case. But I do not want it to be said later that
7 if I seek to refer to that document in submission the
8 matter was not put to the witness. That is the reason I
9 raise it in this way.

10 THE PRESIDENT: Was it in relation to --

11 MR WEST-KNIGHTS: No, no. Under no circumstances can he put
12 this page to this witness. I will be asking Mr Ronnie
13 about it if it makes my learned friend feel better.

14 THE PRESIDENT: Was it in relation to the March or
15 the April report that the question was put?

16 MR MORRIS: March and April. Oh, the question about what
17 he had seen, I do not remember.

18 MR WEST-KNIGHTS: He has told us that he has not seen any of
19 these documents apart from his own bits, and I tested
20 that with one particular page and felt it was
21 inappropriate to put to him material he had not seen.

22 THE PRESIDENT: Mr May, the tribunal's understanding is that
23 Umbro has all of these management reports.

24 A. Correct.

25 THE PRESIDENT: As I understand it, you contribute your

1 report --

2 A. Absolutely, but I do not see the finished article.

3 THE PRESIDENT: That is the end of the matter.

4 MR MORRIS: Very well, sir, I will in due course make

5 submissions. The material is there. It would in our

6 submission be helpful to have him comment on it. But

7 I have your decision on the matter and I will leave it

8 there.

9 MR WEST-KNIGHTS: But if Mr Ronnie does not speak to it at

10 some stage we will say that it has less evidential value

11 than otherwise, but there it is. He will be speaking to

12 it.

13 THE PRESIDENT: Let us deal with the witness first.

14 Anything else, Mr Morris?

15 MR MORRIS: I do not think I have any further questions,

16 thank you very much. I do not know if the tribunal has

17 any further questions?

18 THE PRESIDENT: No.

19 Mr May, we are very grateful to you for having come

20 along. It has been very helpful.

21 MR WEST-KNIGHTS: Thank you very much, Mr May. Safe journey

22 home.

23 THE PRESIDENT: Thank you.

24 (4.30 pm)

25 (The witness withdrew)

1 MR WEST-KNIGHTS: Sir, I hesitate --

2 THE PRESIDENT: We need to have a short discussion about

3 the plan for next week in terms of timing of witnesses

4 and so forth.

5 MR MORRIS: Sir, I had already anticipated that. I had

6 suggested to Mr Hoskins that perhaps -- we can debate it

7 openly now about who is going to fit in where but

8 I wondered if it was more fruitful to do it ourselves

9 and come back to you in terms of who is available when.

10 MR WEST-KNIGHTS: We can have a quiet chat at some stage

11 over the weekend -- I dare say that all of us will be in

12 chambers on Saturday or Sunday. It is not that

13 complicated because Mr Ronnie is Monday.

14 THE PRESIDENT: Let me tell you, so that I can say it

15 without necessarily expecting a reaction, what I think

16 is where we are.

17 We have Mr Ronnie on Monday. We might or might not

18 get to Mr Fellone on Monday but I very much hope

19 we will. We then I think simply resume the previous

20 plan, and proceed through Mr Whelan, Mr Preston,

21 Mr Hughes and so forth. I am hoping, I think still, to

22 do our best to get through at least the witnesses next

23 week.

24 The matter which I think the tribunal left hanging

25 a bit in the air but just to round this one off was

1 the question of the Umbro penalty appeal. And we have
2 certainly come to the conclusion that that will have to
3 go over to the other penalty appeals.

4 MR MORRIS: Can I give you some information on that.

5 Although I see no one from Umbro here, I had heard from
6 Miss Roseveare yesterday, and this is obviously on my
7 best information, she will have to confirm it, but
8 they are happy for that to happen. That is my latest
9 information.

10 THE PRESIDENT: I am very glad to hear that, because
11 a number of the things that have arisen today about what
12 was or was not said by Umbro during the course of its
13 dealings with the OFT could even be relevant to their
14 penalty appeals. So they must be dealt with together at
15 the same time as the other penalty appeals, if we ever
16 get as far as penalty appeals of course.

17 MR WEST-KNIGHTS: It was partly for that reason, sir, that
18 I flagged up the interrelationship between Christiane
19 Kent's statement and the 26th February note.

20 THE PRESIDENT: Absolutely. That may in fact be as far as
21 we can take it for the moment, unless anybody has any
22 questions. That leaves perhaps slightly open
23 the question of whether Mr Whelan will be needed for
24 Monday. But I leave it to you to sort that out behind
25 the scenes, and it does not require any action on our

1 part unless somebody asks us to do something.

2 MR MORRIS: That is fine. The only thing is that at

3 the moment I am not quite sure about who can do which

4 days but we will work it out.

5 Does the tribunal have any views, looking forward

6 after that -- the following Monday is the other matter

7 which the tribunal wishes to -- the memorial service.

8 THE PRESIDENT: From the tribunal's point of view, if we had

9 a blank day on Monday 22nd March that would be

10 convenient for us.

11 MR WEST-KNIGHTS: Can I say that from the parties' point of

12 view that would suit perfectly as well. There may be a

13 risk of us eating into Friday, but even if not, the more

14 time we have for the preparation of our submissions,

15 the more cogently you will be addressed.

16 THE PRESIDENT: We are very conscious of the pressure that

17 everybody is under here.

18 MR WEST-KNIGHTS: I hesitate to bring up a sour note: could

19 we please have an update on the Umbro note. I did say

20 very firmly this morning that it would be in the best

21 possible interests of everybody if we had that

22 information for the weekend.

23 THE PRESIDENT: Can you help us on that, Mr Morris?

24 MR MORRIS: No, I cannot.

25 MR WEST-KNIGHTS: Where is Umbro?

1 A. Umbro has not been here for a while.

2 MR MORRIS: Miss Roseveare did give her best indication. We
3 will call her and find out.

4 THE PRESIDENT: If something were to be provided, if only in
5 draft on a without-prejudice basis so that it could be
6 looked over the weekend, obviously that would be very
7 helpful.

8 MR MORRIS: I will see what we can do, sir.

9 MR WEST-KNIGHTS: I do not want to be a goody two shoes but
10 I know I speak for all three of us. It has been a hard
11 week and the plan has gone completely awry and thank you
12 very much for your patience.

13 THE PRESIDENT: Well, thank you all for your help.

14 MR PERETZ: We have a problem with Ms Charnock. I just wish
15 to flag it up. We got a message through the usual
16 channels, if I put it that way, that the tribunal
17 perhaps did not want to have to deal with it today and
18 might prefer to put it off to Monday. The only point
19 I would make is that it may obviously take time for
20 the substitution to the service to happen, and time is
21 needed to be allowed for.

22 THE PRESIDENT: Two comments. First of all not specific to
23 Ms Charnock but generally in relation to witness
24 statements, if anybody wishes us to issue a witness
25 statement we do need notice because there are minimum

1 times you need to allow under the rules.

2 Secondly, specifically in relation to Ms Charnock,
3 our registrar has now identified her address and her
4 mobile telephone number, indeed her home telephone
5 number, and is asking himself whether we can serve her
6 by text message to her mobile phone. That may be a
7 somewhat novel form of substituted service but I cannot
8 see why we should not if it reaches her.

9 MR WEST-KNIGHTS: Under the former rules of the Supreme
10 Court, because I have not done it under the CPR, I have
11 certainly sought and had and not had challenged leave to
12 serve notice, indeed leave to serve an order, a Mareva
13 injunction, over a mobile telephone to somebody on a
14 golf course. So I should have thought a text message
15 was way within the parameters.

16 The experience so far is that she appears to be at
17 home and not very interested in hearing what is coming
18 through the letter box, regrettably.

19 She is a young and junior person.

20 THE PRESIDENT: I would have thought a substituted service
21 by text message to her mobile phone is proper service.

22 MR WEST-KNIGHTS: Well, it will bring it to her attention.

23 THE PRESIDENT: Yes, the only thing is that if we are going
24 to serve Ms Charnock we need to give her a pretty firm
25 date to be here, and I do not have that in my head.

1 I think it can probably be ... I do not know that we can
2 usefully pursue it now, it is late in the evening, 4.40.
3 MR MORRIS: Would there be any benefit in us talking about
4 it now for five minutes and passing a message back
5 through to the registry.
6 MR WEST-KNIGHTS: My own view is Thursday. We hope that is
7 the last day for evidence, it may not be. If she has to
8 sit around all day frankly my current view is that that
9 is not our fault.
10 THE PRESIDENT: See if you can agree between yourselves and
11 send a message to our registry.
12 MR MORRIS: I have no problem with Thursday.
13 THE PRESIDENT: Right, Thursday.
14 9.30 on Monday, then.
15 (4.40 pm)
16 (The hearing adjourned until 9.30 am
17 on Monday, 15th March 2004)
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