



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1637/5/7/24

BETWEEN:

SPORTSDIRECT.COM RETAIL LIMITED

Claimant

- v -

(1) NEWCASTLE UNITED FOOTBALL COMPANY LIMITED
(2) NEWCASTLE UNITED LIMITED
(3) JD SPORTS FASHION PLC
(4) ADIDAS (U.K.) LIMITED

Defendants

AMENDED ORDER (CONFIDENTIALITY RING)

UPON the order of the President dated 27 March 2024 establishing a confidentiality ring in the Proceedings (the “**Confidentiality Ring Order**”)

AND UPON the order of the President dated 1 May 2024 giving the First and Second Defendants permission to add the Third Defendant to the Proceedings

AND UPON the order of the Chair dated 23 October 2024 giving the Claimant permission to add the Fourth Defendant to the Proceedings

AND UPON the agreement of the Claimant and the Defendants (each a “**Party**” and together the “**Parties**”) on this matter

BY CONSENT IT IS ORDERED THAT:

- 1A. This Order replaces the Confidentiality Ring Order.
 - 1B. Each of the persons named in Schedule A to this Order on behalf of the Claimant and the First and Second Defendants who have given a written undertaking pursuant to the terms of the Confidentiality Ring Order and in respect of whom a Party complied with paragraph 15 of the Confidentiality Ring Order shall be designated as a Permitted Person under this Order upon the provision of a copy of their written undertaking to the Third Defendant and the Fourth Defendant. Such undertakings shall continue to apply in respect of: (i) all Confidential Documents and Confidential Information already provided pursuant to the terms of the Confidentiality Ring Order; and (ii) this Order.
1. For the purposes of this Order:
 - (a) “**Application**” means the application for (a) interim relief in the form of a mandatory injunction; and (b) an order expediting these Proceedings (as defined below) and for a split trial filed in the Competition Appeal Tribunal on 14 March 2024 by the Claimant against the First and Second Defendants.
 - (b) “**Confidential Documents**” are documents containing or referring to Confidential Information (whether in whole or in part). For the avoidance of doubt, any notes, copies, reports, submissions or other documents containing, reproducing or reflecting the content of Confidential Documents are themselves Confidential Documents unless all Confidential Information contained in them has been redacted. Documents that use Confidential Information in Confidential Documents (for example, to provide an aggregation of Confidential Information) but which do not reveal the content of Confidential Information shall not be Confidential Documents.
 - (c) “**Confidential Information**” means (i) information the disclosure of which would be contrary to the public interest; (ii) commercially sensitive information,

the disclosure of which would or might significantly harm the legitimate business interests of the undertaking(s) to which it relates (which, for the avoidance of doubt, may include undertaking(s) other than the Designating Party); and/or (iii) information relating to the private affairs of an individual, the disclosure of which would or might significantly harm that individual's interests. Confidential Information shall exclude information which is, at the time of disclosure, already published or generally available to the public or, after the time of disclosure, is published or becomes generally available to the public, other than through the act or omission of a receiving Party or a Permitted Person (as defined below).

- (d) **“Designating Party”** shall mean, in relation to any document, the Party that disclosed or filed that document.
- (e) **“Party”** shall mean any of the Claimant or Defendants in these proceedings.
- (f) **“Permitted Persons”**:
 - (i) **“Permitted Persons”** shall mean those persons designated as such by paragraph 1B and:
 - (aa) those persons listed in Schedule A (as amended from time to time pursuant to the terms of this Order and/or by the Tribunal) that have provided signed undertakings in the form set out in Schedule B to all Parties, where the Party has complied with paragraph 15;
 - (bb) necessary secretary, business services or other support personnel, including for the avoidance of doubt internal providers of eDisclosure or litigation support services (not including trainee solicitors or paralegals), IT, reprographics staff and clerks, acting under the supervision and/or instructions of the persons identified at paragraph 1(f)(i)(aa) above for the purpose of the Proceedings, provided that such personnel have

been informed of the confidential nature of the Confidential Documents and the terms of Schedule B to this Order; and

(cc) any external eDisclosure, litigation support provider, translations service provider or reprographics service provider engaged by any Party for the purpose of the Proceedings to provide eDisclosure, translations, reprographics or similar services in support of those persons identified at paragraph 1(f)(i)(aa) above, who may have access to the Confidential Documents as a necessary consequence of the provision of their services, provided that such providers have been informed of the confidential nature of the Confidential Documents and the terms of Schedule B to this Order.

(g) **"Proceedings"** means the claim filed in the Competition Appeal Tribunal on 14 March 2024 by the Claimant against the First and Second Defendants under Claim Number 1637/5/7/24, in respect of which permission was given to join the Third Defendant by order of the President dated 1 May 2024, and permission was given to join the Fourth Defendant by order of the Chair dated 23 October 2024.

(h) **"Tribunal"** shall mean the Competition Appeal Tribunal.

2. This Order shall apply to all documents disclosed or filed with the Tribunal in the Proceedings.
3. Confidential Documents and Confidential Information shall be provided by one Party to the other Parties only in accordance with this Order.

Designation of Confidential Documents

4. Any Confidential Document shall be designated as such by the Party that discloses or files it in the Proceedings.

5. If a Party designates a document it is disclosing or filing in the Proceedings as a Confidential Document, it must do so (i) in writing to the Parties receiving the document; (ii) at the time that the document in question is disclosed or filed; and (iii) it must provide a written explanation indicating which information in the document it considers to be Confidential Information, providing in each case specific reasons.

6. Each Party shall be responsible, in respect of any document containing Confidential Information belonging to them which is disclosed or filed with the Tribunal, for labelling and highlighting any Confidential Documents and Confidential Information in the following ways:
 - (a) Each Confidential Document shall be marked as “Confidential” on each page of the document and will identify the Party or Parties to which Confidential Information in that Confidential Document relates.
 - (b) Any text and/or extract which contains Confidential Information will be highlighted in yellow or some other prominent colour (that does not obscure the information underneath it), and square brackets must be inserted around the Confidential Information.
 - (c) To the extent that any Confidential Document is included in a hearing bundle, the bundle index shall state which documents are Confidential Documents and shall identify the Party or Parties to which the Confidential Information in those Confidential Documents relates.

7. Where a Party discloses or files a Confidential Document in the Proceedings, it shall, at the same time as disclosing or filing that document and designating it as such, disclose or file a non-confidential version of that document, redacting the Confidential Information contained therein.

Challenge to Confidential Documents

8. The designation of a Confidential Document by a Party may be challenged in accordance with the terms below.

- (a) If a Party wishes to challenge the designation of a Confidential Document, that Party shall do so by providing written notice to the Designating Party, including a written explanation as to why it is reasonable and necessary for the designation of the Confidential Information to be amended. The Parties shall make reasonable endeavours to ensure that any such challenges are brought, insofar as possible, in manageable batches and with reasonable expedition.
- (b) In the event that a challenge is made pursuant to paragraph 8(a), the Designating Party may respond in writing to the challenge, providing a further written explanation addressing the concerns outlined by the challenge to the designation and setting out the reasons for designating the document as a Confidential Document, or confirming that the designation will be modified. Such response shall be given as soon as reasonably possible but in any event within seven (7) days of receipt of the notice.
- (c) Absent a response in accordance with paragraph 8(b), each document in question shall be deemed not to be a Confidential Document after the expiry of the seven (7) day period, or any extension to the seven (7) day time limit that has been agreed in accordance with paragraph 8(f).
- (d) If the Party challenging confidentiality wishes to maintain its challenge following receipt of the Designating Party's response pursuant to paragraph 8(b), it shall provide written notice to the Designating Party setting out its reasons for doing so within seven (7) days of receipt of the Designating Party's response. The Party challenging the designation of a Confidential Document may apply to the Tribunal for determination of whether or not the document qualifies as a Confidential Document. Any such application must be made as soon as reasonably possible but in any event within fourteen (14) days following receipt of the Designating Party's response pursuant to paragraph 8(b). For the avoidance of doubt, a document in respect of which an application is made shall continue to be designated a Confidential Document until such time as the challenge is upheld by the Tribunal.

- (e) For the period up to and including the hearing of the Application, the time periods set out in paragraphs 8(b), 8(c) and 8(d) above shall each be amended to one (1) working day.
- (f) The deadlines in this paragraph 8 may be extended by agreement between the challenging Party and Designating Party. Consent to a request for an extension shall not be unreasonably withheld.
- (g) For the avoidance of doubt, to the extent that the Tribunal asks for submissions as to why a document qualifies as a Confidential Document, it will be a matter for the Designating Party to address this.

Disclosure and inspection of Confidential Documents

- 9. Subject to this Order, the Parties receiving Confidential Documents shall permit those documents to be inspected only by the Permitted Persons in respect of that document and only on the basis that:
 - (a) the recipient Permitted Person has provided to the Designating Party a signed copy of the undertaking at Schedule B;
 - (b) the Confidential Documents will be treated by each such Permitted Person as confidential and will be used by each such person solely for the purpose of the proper conduct of the Proceedings; and
 - (c) no such Permitted Person will, save as expressly provided for below at paragraph 10, discuss, disclose, copy, reproduce or distribute any Confidential Document or any Confidential Information contained therein.
- 10. Provided it is for the purpose of the proper conduct of the Proceedings, nothing in this Order shall prohibit any such Permitted Person from:
 - (a) making notes or copies of, or preparing reports, submissions or other documents concerning, containing or reflecting any Confidential Document or its content (which notes, copies, reports, submissions or other documents would themselves be Confidential Documents); and/or,

- (b) disclosing or discussing any Confidential Document to any other person who is a Permitted Person in respect of that document, or any Confidential Information to any other person who is a Permitted Person in respect of a document containing such information, provided that no Confidential Information shall be otherwise directly or indirectly disclosed in the conduct of the Proceedings beyond the relevant Permitted Persons.
11. During any hearing in respect of the Proceedings, each Party wishing to refer to a Confidential Document shall be responsible for indicating to the Tribunal that the document contains Confidential Information and asking the Tribunal to put in place arrangements for the maintenance of any such Confidential Information.
 12. Nothing in this Order shall prevent or prohibit a receiving Party from taking any action (including in particular disclosing Confidential Information and/or Confidential Documents to a person who is not a Permitted Person and/or referring to such documents or information in open court) which has been authorised in writing by the Designating Party.
 13. If at any time any Confidential Information is made the subject of a court disclosure or discovery order (or similar) anywhere in the world, the person upon whom the order is served shall immediately give written notice to the legal representatives of the Party or Parties which produced the Confidential Information. If the Party which provided the Confidential Information in these Proceedings does not take steps to prevent the further disclosure of such Confidential Information within ten (10) days of the date on which such written notice was given, the Party against whom the order was made may produce such Confidential Information but shall take all reasonable measures to have the Confidential Information treated in accordance with the terms of this Order. For the avoidance of doubt, this paragraph only applies to a Party who is the recipient of Confidential Information provided in these Proceedings and does not apply to the Party which provides the Confidential Information in these Proceedings.
 14. In the event of any disclosure of Confidential Information and/or Confidential Documents other than in a manner authorised by this Order, including any unintentional or inadvertent disclosure, solicitors for the improperly disclosing Party shall

immediately notify the improper recipient(s) and the solicitors for the Party which provided the Confidential Documents in the Proceedings, and the improperly disclosing Party shall use all reasonable endeavours to prevent further unauthorised disclosure including (to the extent possible) seeking to retrieve all copies of the Confidential Information and/or Confidential Documents from the improper recipient(s) thereof and seeking to secure the agreement of such recipient(s) not to further disseminate the Confidential Information and/or Confidential Documents in any form.

Addition or removal of Permitted Persons

15. A Party seeking to designate an additional person as a Permitted Person by adding that additional person to Schedule A must:
 - (a) request permission from the other Parties in writing for the additional person to be designated as a Permitted Person and added to Schedule A, and when requesting such written consent specify the name and role of the proposed additional person and provide an explanation of why the addition is reasonable and necessary; and
 - (b) upon the other Parties' agreement to the designation of the additional Permitted Person, provide the Tribunal and all Parties with a copy of the Schedule B Undertaking signed by the proposed Permitted Person and an up-to-date list of the Permitted Persons in Schedule A.
16. Each Party, other than the Party requesting that the additional person shall be designated as a Permitted Person, shall confirm within two (2) working days of the request pursuant to paragraph 15 whether they consent to the additional person being designated as a Permitted Person. Such consent shall not be unreasonably withheld.
17. If a Party refuses consent to the additional person being designated a Permitted Person in accordance with paragraph 16, then that Party must provide written reasons (copying in all Parties) for why consent is refused at the same time as providing its refusal.

18. If a Party neither confirms nor refuses consent in accordance with paragraph 16 and 17 above, then following the expiry of three (3) working days, the additional person shall be designated as a Permitted Person.
19. If there are any disputes which cannot be resolved by the Parties, the Party seeking to include the additional person as a Permitted Person may apply to the Tribunal to have the issue determined, provided written notice of such application is given to the other Party. The additional person will become a Permitted Person if the Tribunal so orders.
20. If a Party wishes a Permitted Person to be removed from the Confidentiality Ring, they shall inform the Tribunal in writing (copying the representatives of the Parties) and provide the Tribunal and other Parties with an up-to-date list of the Permitted Persons in Schedule A. For the avoidance of doubt, a Party may only remove a Permitted Person from their own Party.
21. For the avoidance of doubt, there shall be no requirement to amend this Order upon the addition or removal of Permitted Persons.

Copies of Confidential Documents

22. The production of further copies of the Confidential Documents shall be limited to those required by the Permitted Persons to whom they are disclosed.
23. At the conclusion of these proceedings or when an individual ceases to be involved in these proceedings, copies of Confidential Documents provided pursuant to this Order (in both hard and soft copy) shall continue to be treated in accordance with this Order unless a Party confirms in writing to other Parties that the relevant copies of the Confidential Documents have been destroyed or made inaccessible. For the avoidance of doubt, any Party that has not confirmed the destruction or inaccessibility of all or any copies of Confidential Documents shall continue to treat such copies of Confidential Documents in accordance with the terms of this Order.

Notices

24. Any notice, consent or objection to be given under or in connection with this Order (each a “**Notice**” for the purpose of this paragraph) shall be in writing.

25. Service of a Notice must be effected by email.

26. Notices shall be addressed as follows:

- (a) Notices for the Claimant shall be marked for the attention of Travers Smith LLP, and sent to:

Barney Stannard (barney.stannard@traverssmith.com), Stephen Whitfield
(stephen.whitfield@traverssmith.com) and
projectsummerdr@traverssmith.com

Reference: S07111.0001

- (b) Notices for the First and Second Defendants shall be marked for the attention of Northridge Law LLP and sent to:

James Eighteen (james.eighteen@northridgelaw.com) and Hannah Brunskill
(hannah.brunskill@northridgelaw.com)

Reference: 300976.16

- (c) Notices for the Third Defendant shall be marked for the attention of Addleshaw Goddard LLP and sent to:

Paul Chaplin (paul.chaplin@addleshawgoddard.com), Jake Minards-Tonge
(jake.minards-tonge@addleshawgoddard.com), and
(JDsportsAGTeam@addleshawgoddard.com).

Reference: 324792-225

- (d) Notices for the Fourth Defendant shall be marked for the attention of Baker & McKenzie LLP, and sent to:

Ed Poulton (ed.poulton@bakermckenzie.com) and Gareth Roberts (Gareth.roberts@bakermckenzie.com).

Reference: 51255861

General provisions

27. The confidentiality terms in this Order are intended to apply unless or until superseded by a subsequent order of the Tribunal.
28. In the event of any anticipated or actual breach of this Order, any Party may seek to enforce this Order.
29. The Parties may agree and/or any Party may apply to the Tribunal to terminate the operation of this Order, vary the terms of this Order, remove any document from the category of Confidential Documents, or vary the lists of Permitted Persons in Schedule A following an application by a Party made under paragraph 19 of this Order.
30. Nothing in this Order or the terms of the Schedule B undertaking shall prevent or prohibit any Permitted Persons (as may be extended from time to time) from acting in other fee related matters arising under the Proceedings.
31. The costs of compliance with and of drafting this Order shall be costs in the case.
32. There shall be liberty to apply.

Bridget Lucas KC
Chair of the Competition Appeal Tribunal

Made: 23 October 2024
Drawn: 23 October 2024

SCHEDULE A: PERMITTED PERSONS

Proposed Permitted Persons

Permitted Persons
On behalf of the Claimant:
<i>Solicitors and legal advisors</i>
Barney Stannard
Stephen Whitfield
Philippe Lopeman
Caroline Edwards
Chloe Budd
Eleanor McCann
Frithjof Schütte (removed on 17 September 2024)
Richard Brown
Niall Fitzpatrick (removed on 17 September 2024)
Michaella Demetriou (removed on 17 September 2024)
Emily Wilcock
Isabella Giles (removed on 17 September 2024)
James Hulmes
Emma Gittings
Baladesh Singh (removed on 17 September 2024)
Rebecca Fiedler
Wilf Brunt (removed on 17 September 2024)
Thomas Davies

Jamie Hall
Zoe Yerolemou
<i>Counsel</i>
Tony Singla KC
Stefan Kuppen
David Bailey
Conall Patton KC
Daisy Mackersie
<i>Economists</i>
Simon Chisholm
Wasim Islam
Dominik Fischer
Charlie Whitehead
Uğur Akgün
On behalf of the First and Second Defendants:
<i>Solicitors and legal advisors</i>
James Eighteen
Hannah Brunskill
Oliver Harland
James Norrey
Matthew Hearn
Lara Curtis
Ruaridh Brown
<i>Counsel</i>

Thomas de la Mare KC
Alison Berridge
<i>Economists</i>
Richard Murgatroyd
George Tucker
Willy Goelz
On behalf of the Third Defendant:
<i>Solicitors and legal advisors</i>
Paul Chaplin
Mark Molyneux
Jake Minards-Tonge
Becky Green
Frances Smith
Liam Murray
Rona Bar-Isaac
Thomas Withers
Janki Amin
<i>Counsel</i>
Tristan Jones KC
Gerard Rothschild
<i>Economists</i>
David Parker
Konstantin Ebinger
Martina Mussett

Mario Denni
Lottie Livesey
On behalf of the Fourth Defendant:
<i>Solicitors and legal advisors</i>
Ed Poulton
Francesca Richmond
Kurt Haegeman
Gareth Roberts
Robert Eriksson
Kirsty McCarron
Tom Smith
<i>Counsel</i>
Kieron Beal KC
Naina Patel
<i>Economists</i>
Iona McCall
Derek Holt
Siemon Gerhard Dijkstra
Federica Grilli
Francesco Bilotta
Tej Patel
Akwasi Owusu-Brempong
Sameer Somani
Justine Dri

SCHEDULE B: CONFIDENTIALITY UNDERTAKING

The terms used but not defined in this document shall have the meaning given in the Order for the proceedings attached to, or accompanying, this document.

I, [NAME], of [ORGANISATION], being a Permitted Person [and regulated so far as my professional conduct is concerned by [insert regulatory body]], undertake to the Parties and to the Tribunal that:

1. I have read a copy of the Order and understand the implications of the Order and the giving of this undertaking;
2. I will treat all Confidential Documents and/or any information contained in such Confidential Documents made available to me for the purpose of the proceedings as confidential and will use any such Confidential Documents and/or information only for the purpose of the proper conduct of the proceedings;
3. Except as expressly contemplated by the Order, I will not use, disclose, discuss, copy, reproduce or distribute any such Confidential Documents and/or their content or authorise, enable or assist any person to do so;
4. The Confidential Documents containing the Confidential Information will remain in my custody or the custody of another Permitted Person at all times and be held in a manner appropriate to the circumstances so as to prevent unauthorised access or disclosure.
5. I will take all such steps as may be necessary or expedient on my part to comply with any request made under or pursuant to the terms of the Order; and
6. I will otherwise comply with the terms of the Order and/or, as the case may be, take all reasonable steps to ensure that the terms of the Order are complied with.
7. The present proceedings for these purposes shall include any further appeal from the Tribunal to a higher court, save in so far as that higher court orders otherwise.

8. Save that none of the requirements listed above shall prevent Permitted Persons from disclosing Confidential Information to persons who have already legitimately seen it.

PROVIDED ALWAYS that nothing in this document shall prevent or prohibit me from taking any action which has been authorised in writing by the Designating Party or which I am required to take by applicable law or by a court of competent jurisdiction.

Signed: _____

Dated: _____