



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1424/5/7/21

BETWEEN:

**(1) KELKOO.COM (UK) LIMITED**

**(2) KELKOO SAS**

**(3) JAMPLANT LIMITED**

**(4) KELKOO INTERNET S.L.**

**(5) KELKOO AS**

**(6) KELKOO SRL**

**(7) KELKOO NETHERLANDS BV**

**(8) KELKOO AB**

**(9) KELKOO DEUTSCHLAND GmbH**

**(10) KELKOO DANMARK A/S**

**(11) JOLT LIMITED**

**(together “Kelkoo”)**

Claimants

- v -

**(1) GOOGLE UK LIMITED**

**(2) GOOGLE IRELAND LIMITED**

**(3) GOOGLE LLC**

Defendants

AND BETWEEN:

**WHITEWATER CAPITAL LIMITED**  
**(“Ciao”)**

Claimant

- v -

**(1) GOOGLE LLC**  
**(2) ALPHABET INC**

Defendants

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**ORDER (DISCLOSURE)**

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**UPON** the confidentiality order dated 15 May 2024 (the “**Confidentiality Order**”) providing, inter alia, for confidential information to be designated as Confidential Information or Legal Eyes Only Confidential Information (as those terms are defined in the Confidentiality Order)

**AND UPON** the letter from Linklaters LLP to Herbert Smith Freehills LLP dated 15 October 2024 requesting that the Defendants provide the Claimants with certain information in respect of Penalty Server Data (“**Linklaters’ 15 October Letter**”)

**AND UPON** the Fifth Witness Statement of James Alexander Henna filed on 24 October 2023 in support of Kelkoo’s application for disclosure and information in *Kelkoo.com (UK) Limited & Ors. v. Google LLC & Ors.* (the “**Kelkoo Proceedings**”), which is supported by the Claimants in the *Whitewater Capital Limited v. Google LLC & Anor.* (the “**Ciao Proceedings**”) (“**Kelkoo’s Disclosure Application**”)

**AND UPON** the Sixth Witness Statement of Mr. Stephen Wisking filed on 7 November 2024

**AND UPON** hearing Counsel for the Kelkoo and Ciao Claimants and Counsel for the Defendants at the case management conference on 18 and 19 November 2024 (the “**November CMC**”)

**IT IS ORDERED THAT:**

1. By 4pm on 20 December 2024, the Defendants shall:
  - (a) provide the Claimants with the information requested in Annex A (in the form of responses to the questions listed therein) and Annex B of

Linklaters' 15 October Letter (in the form of an explanation of how to interpret each of the examples set out in Annex B); and

- (b) produce a statement of what traffic data it holds by reference to the categories set out in Part B of the Confidential Schedule to this Order, and for what time periods.
2. The Defendants shall disclose and give inspection to the Claimants of the documents responsive to the categories set out in Part A of the Confidential Schedule to this Order on a rolling basis with disclosure to be complete by 4pm on 21 March 2025.
  3. For Requests S1 and S2 at Part A of the Confidential Schedule to this Order, the search terms and custodians shall include the following:
    - (a) the keywords “aggregator” OR “comparison shopping” OR "CSS" OR “product site” OR “shopping site” OR (“verticals” AND “shopping”) AND (“market share” OR “threat” OR “strategy”);
    - (b) the members of Google’s Executive Management Group (and/or its successors including the Operating Committee), two appropriate individuals from the team in charge of Google’s CSS, and Professor Hal Varian.
  4. By 4pm on 14 February 2025, the Defendants shall disclose and give inspection to the Claimants of internal documents created or held by the “Core Remedy Team”, referred to in paragraph 13(1) of the first witness statement of Samuel Braendle dated 17 August 2023, for the period from 1 June 2017 to 30 September 2017, showing the strategy behind and reasons for the selection and design of the Compliance Mechanism and for not selecting possible alternatives, including, in particular, documents showing what Google considered would be the best way of resolving the issue which the Commission was identifying as being prohibited.

5. Simultaneously with giving the disclosure ordered at paragraphs 4 and 6 above, the Defendants shall provide a disclosure statement in respect of that disclosure by the same date.
6. Documents and/or data containing Confidential Information or Legal Eyes Only Confidential Information which are disclosed by the Defendants shall be disclosed pursuant to the terms of the Confidentiality Order.
7. In giving disclosure and inspection, the Defendants shall be entitled to withhold from disclosure and inspection any documents (or parts of documents) over which they are entitled to assert privilege.

General Matters

8. Costs in the cases.
9. The parties have liberty to apply.

**The Honourable Mr Justice Roth**  
Acting President of the Competition Appeal Tribunal

Made: 20 December 2024  
Drawn: 20 December 2024