



**IN THE COMPETITION
APPEAL TRIBUNAL**

Case No: 1248/5/7/16

PEUGEOT S.A. AND OTHERS

Claimants

-v-

(1) NSK LTD.
(2) NSK EUROPE LTD.
(3) NTN CORPORATION
~~(4) JTEKT CORPORATION~~
(5) AB SKF
~~(6) INA HOLDING SCHAEFFLER GMBH & CO. KG~~
~~(7) SCHAEFFLER HOLDING GMBH & CO. KG~~
~~(8) SCHAEFFLER AG~~

Defendants

ORDER

UPON the Claimants' Application dated 2 February 2018

AND UPON reading the papers filed with the Tribunal

AND UPON hearing counsel for the Claimants and for the Third Defendant on 2 March 2018

AND UPON the Claimants and the Third Defendant having agreed to the terms of paragraph 6 below

IT IS ORDERED THAT:

1. By 9 March 2018 the Third Defendant is to disclose and provide inspection of:
 - (a) All licences or cross-licences for patents or design rights relating to the use of ASB technology (compendiously, "**ASB Licences**") granted or amended during the period 8th April 2004 to 25th July 2011 (the "**Cartel Period**") which were or would have been applicable to the Claimants or any of their projects.

- (b) All ASB Licences granted or amended before the Cartel Period which were or would have been applicable to the Claimants or any of their projects during the Cartel Period.
 - (c) the following documents referred to in an email chain between their employees in November and December 2004
 - i. the letter of 14 May 2004;
 - ii. the letter of 8 November 2004;
 - iii. the “Agreement” said to have been provided to NSK in 2004, and related documents;
 - iv. the “updated draft” of the agreement; and
 - v. The “European Agreement”.
 - (d) the three documents relating to patent or design right licences which it has disclosed but withheld from inspection.
2. By 23 March 2018, the Third Defendant is to carry out reasonable and proportionate searches, the scope of which shall be agreed with the Claimants, for:
- (a) All documents (other than those covered by paragraph 1 of this Order) prepared and/or communicated during the Cartel Period and concerning ASB Licences, including inter alia amendments to such licences and the grant or refusal of such licences, which were or would have been applicable to the Claimants or any of their projects.
 - (b) All documents (other than those covered by paragraph 1 of this Order) prepared and/or communicated before the Cartel Period and concerning ASB Licences, including inter alia amendments to such licences and the grant or refusal of such licences, which were or would have been applicable to the Claimants or any of their projects during the Cartel Period.
- and is to provide disclosure and inspection of such documents (on a rolling basis).
3. If so advised, by 29 March 2018 the Third Defendant is to file and serve any supplemental factual or expert witness evidence which it wishes to adduce at trial relating to the materials disclosed pursuant to this Order.
4. If so advised, by 6 April 2018 the Claimants are to file and serve a short supplemental report of their expert witness (of no more than five pages in substance) explaining his view of the relevance (if any) of the materials disclosed pursuant to this Order.

5. By 6 April 2018 the Claimants are to file a schedule identifying which of the materials disclosed pursuant to this Order they intend to rely on at trial and the relevance or inferences from each and every said document.
6. The Third Defendant shall write to the other parties and the Tribunal identifying the parts of Dr Mazzarotto's report of 7 February 2018 on which it intends to rely at trial and giving its reasons for such reliance by 4pm on 9 March 2018.
7. The Third Defendant to pay the Claimants' costs of the Application, save for those solely attributable to the First, Second and/or Fifth Defendants, to be assessed if not agreed.

The Honourable Mr Justice Green
Chairman of the Competition Appeal Tribunal

Made: 2 March 2018
Drawn: 7 March 2018