



**IN THE COURT OF APPEAL, CIVIL DIVISION**

REF: CA-2025-003023



(1) Apple Inc.

-v-

(1) Rachel Kent

(2) Apple Distribution International  
Ltd.

CA-2025-003023

**ORDER made by the Rt. Hon. Lord Justice Green**

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal a judgment of the Competition Appeal Tribunal dated 23 October 2025.

**Decision:** The application for permission to appeal is to be adjourned to a rolled-up hearing to determine both permission and if granted the substantive appeal

**Reasons**

1. The application for permission to appeal is to be adjourned to a rolled-up hearing to determine whether permission to appeal is granted and, if permission is granted, the merits of each ground of appeal.
2. At the hearing the parties are to make submissions on the substantive merits of each proposed ground leaving the issue of permission to appeal to be determined alongside any determination on the merits within the judgment.
3. The hearing is to be listed to be heard between November 2026 and the end of Hilary Term 2027. The parties are to contact the CoA Office to agree a date.
4. The present view of the Court is that the hearing be set down for 3-5 days with a final decision on duration to be made by the Court following the completion of the steps set out below. For present purposes the parties should discuss with listing a 5 day hearing which should contemplate the possibility that the hearing will need to be spread over a two week period (i.e. it might not be possible to allocate five consecutive days to the appeal).
5. The Court will allocate five days pre-hearing preparation time to the members of the bench.
6. The provisional view of the Court is that a number of the Applicants' grounds of appeal raise questions of fact over which this court does not possess jurisdiction.
7. In order to enable the Court to better understand the scope of the application the Applicant is to produce a schedule of no longer than 10 pages which:
  - (i) Identifies each paragraph in the CAT's judgment which it is said contains an error of law which is material to the CAT's judgment.

- (ii) Provides a concise explanation why the challenged finding falls within the jurisdiction of this Court (i.e. why it is said to be a question of law over which this Court has jurisdiction as opposed to a dispute over facts or evidence over which the Court has no jurisdiction)).
- (iii) Identifies, concisely, how the error is said to be material to the CAT's judgment.

8. In addition, the Supreme Court has recently set out rules for the admissibility of decisions by other decision-makers in *Evans v Barclays Bank & Ors* [2025] UKSC 48 ("*Evans*"). The Applicant is to produce a second schedule of no longer than 6 pages which identifies the following:

- (i) Each paragraph in the CAT's judgment in which it is said that an impermissible finding was made by the CAT.
- (ii) A concise explanation as to why the relevant finding is outwith the rules laid down by the Supreme court in *Evans* especially at paragraph [159].
- (iii) A concise explanation as to whether and why it is argued that the finding is material to the judgment reached by the CAT.

9. The Applicant shall file a copy of the above schedules with the Respondent and with the Court no later than close of business Friday 1<sup>st</sup> May 2026.

10. Upon receipt of the above schedules, and by close of business 12<sup>th</sup> June 2026, the Respondent is, using and by reference to the same schedules, to set out its response to each of the points made by the Applicant.

11. Upon receipt of the documents requested above, the Court will consider whether any further directions are required.

12. Once a date is fixed for the hearing the parties are to liaise with a view to producing agreed directions and documents including an agreed Core bundle of key documents for use at the hearing. The bundles are to be confined to only those documents that are strictly needed for the purposes of the appeal.

**13.** All bundles are to be served upon the Court no later than 4 weeks before the date set for the start of the hearing.

Signed: BY THE COURT  
Date: 23 March 2026

#### Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
  - a) the Court considers that the appeal would have a real prospect of success; or
  - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).