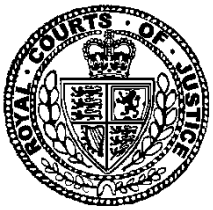

Neutral Citation Number: [2025] EWHC 1934 (Ch)

Claim No: IL-2025-000064

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
INTELLECTUAL PROPERTY LIST (ChD)

Rolls Building
7 Rolls Building,
Fetter Lane
London EC4A 1NL

Thursday, 24 July 2025

Before

HIS HONOUR JUDGE HODGE KC
Sitting as a Judge of the High Court

BETWEEN:

A & Anor

Claimants

-v-

B

Defendant

Mr DAVID CRAIG KC, **Mr CHARLES CIUMEI KC**, and **Mr CHRISTIAN DAVIES** (instructed by **Allen Overy Shearman Sterling LLP**) appeared on behalf of the **Claimants**

Mr ARNOLD AYOO and **Mr BENN SHERIDAN** (instructed by **Rakasons Limited**) appeared on behalf of the **Defendant**

APPROVED JUDGMENT

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***EMPLOYMENT** – Confidential information – Without notice imaging order and interim injunction – Relisted return date - Claimants' application for expedited trial*

***PRACTICE** – Skeleton argument exceeding permitting length – Need for list of contents to enable the court to follow how the skeleton argument progresses, and to be able readily to move to parts of the skeleton relevant to the matters under present consideration*

The follow authorities are referred to in this extemporary judgment:

CPC Group Ltd v Qatari Diar Real Estate Investment Company [2009] EWHC 3204 (Ch)
Verition Advisors (UK Partners) LLP v Jump Trading International Ltd [2023] EWCA Civ 701, [2023] IRLR 787
WL Gore & Associates GmbH v Geox SpA [2008] EWCA Civ 622

JUDGE HODGE KC:

1. This is my extemporary judgment on applications in claim number IL-2025-000064. I will not refer to the parties by name since there is an outstanding application for anonymity in relation to the name of the defendant (and respondent).

2. The defendant is a current employee who is on garden leave until 24 March 2026 (which is the first anniversary of his resignation from the first claimant limited liability partnership).

3. The first claimant is a business entity operating within a group which claims to be a world leader in the field of research and development of quantitative trading strategies. The intellectual property in those strategies is said to have been assigned to, and is owned by, the second claimant.

4. The claim form in this matter was issued on 26 March 2025. On the following day, the claimants obtained, on a without notice application, imaging and injunctive orders from His Honour Judge Hacon, sitting as a judge of the Chancery Division. There was a return date before Mr Justice Richards on 3 April 2025, when an inspection order was made by consent.

5. The claim form has been amended since the date of issue. As originally formulated, the claim was for misuse of confidential information in breach of contractual and equitable duties of confidence, infringement of copyright, infringement of database rights, and breaches of contract. Since its issue, the claim form has been amended to include also claims for breaches of the Trade Secrets Regulations and of fiduciary duty, and for unjust enrichment. The claim form originally sought an imaging order, an order for delivery up and deletion, a passport order, and an interim injunction. In light of further information which is said to have come to light since the issue of the claim, including as a result of previous orders of the court, the claimants now seek final injunctive relief, declaratory relief, damages and/or equitable compensation, repayment of the defendant's research allowance and bonus, further or other relief, interest and costs.

6. The particulars of claim were served at about 8 o'clock on the evening of 3 July 2025. They have been settled by no less than two leading, and two junior, counsel. The particulars themselves effectively run to some 25 pages. There are a further 20-odd pages comprising four schedules. There is also some confidential material to be added to that.

7. Paragraph 73 of the particulars of claim includes an assertion that there is a serious risk that the defendant intends, and will continue, to misuse the confidential information of the claimant and/or to infringe its copyright, either for his own benefit and/or for the benefit of his employment, or prospective employment, with a competitor of the claimants, and/or their group, and/or totake advantage of his own wrongdoing.

8. Accordingly, the injunctions sought by the claimants include an injunction restraining the defendant from working for any competitor, or potential competitor, of the claimants, and also the defendant's prospective employer, for a period of three years from the date of his resignation on 24 March 2025, or for such additional, or lesser, time as the court thinks appropriate. The period of injunctive relief would therefore potentially run until 24 March 2028, or even longer.

9. It is against that background that the claimants seek, by an application notice dated 30 May 2025, an expedited trial of this claim. They have been informed by the Chancery Listing Office that a trial window for an estimated trial, lasting eight to ten days, can be made available starting on 16 February 2026. It is important to bear in mind that the defendant's period of garden leave - for which he is, I understand, presently being remunerated - will expire on 24 March 2026. He is, at present, contractually obliged to take up employment with his new employer on 6 April 2026.

10. I have been taken to a recent email to the respondent, dated 22 July 2025, which makes it clear to him that his starting date of 6 April 2026 forms a material term of his employment contract. It is a condition of his employment agreement that he must be available, and able, to commence work on that date. Should he be unable to do so for any reason, including, but not limited to, personal, legal or logistical impediments, that would place him in breach of contract. It is said that that would result in the offer of employment being rescinded, with the inevitable consequence that the defendant would

lose the position and any associated entitlements, including his guaranteed compensation and relocation benefits. In light of that stark warning, it is perhaps surprising that the defendant opposes the expedition application.

11. There is a vast amount of documentary material before the court. There is one affirmation, and no less than five witness statements, from Mr Robert Sinclair, who is a solicitor and partner in the claimants' solicitors' practice, Allen Overy Shearman Sterling LLP. These range in date from 25 March to 17 July 2025. There are no less than three affirmations, and four witness statements, from the defendant, ranging in date from 1 April to 4 July 2025.

12. The claimants are represented by Mr David Craig KC, who is leading Mr Charles Ciumei KC and Mr Christian Davies o(f counsel). The defendant is represented by Mr Arnold Ayoo, leading Mr Benn Sheridan (both of counsel). Both sets of counsel have produced lengthy written skeleton written arguments. In a letter to the court, the claimants' counsel explained why they had felt it necessary to produce a skeleton argument of as long as 35 pages; Mr Ayoo's is almost as long, at 32 pages.

13. I personally have no profound objection to a skeleton that exceeds the permitted limit; but I would make it clear that it is extremely helpful to the court that any skeleton, and particularly one that exceeds the permitted limits, should contain an index, or list of contents, so as to enable the court to follow how the skeleton argument progresses, and to be able readily to move to parts of the skeleton relevant to the matters under present consideration.

14. In addition to the claimants' application to expedite the trial, there is also an application by the claimants to continue, and extend, the existing interim injunctive relief. As to part of that, there is a measure of agreement.

15. On the original return date, one of the many orders made by Mr Justice Richards, at paragraph 4 of his order, was an injunction restraining the defendant from disclosing, disseminating, reproducing or otherwise using the information contained in the *'Listed Items'* (as defined) until the relisted return date. For the defendant, Mr Ayoo is content for that injunction to continue until trial. It is part of his submission that that gives the

claimants sufficient protection until trial and, in consequence, there is no need for an expedited trial of the substantive issues on this claim.

16. There are, in addition, applications by the defendant to discharge or vary the imaging injunction and inspection orders on the grounds that they were secured by material non-disclosures and misrepresentations. Mr Ayoo also has applications for an anonymity order in relation to the defendant, and for an extension of time for service of the defence. The need for that extension is one, but only one, of the reasons why the defendant says that an expedited trial is inappropriate.

17. It is common ground between the parties that there should be an order of the court preventing persons, without the court's permission, from obtaining from the court records of confidential documents, and requiring the parties to use their best endeavours not to make public the contents of those materials through these proceedings.

18. Subject to a minor proviso suggested by the court to make it clear that the prohibition does not extend to the open parts of the redacted documents, the court considers it necessary, in the interests of justice, to make that order, which merely continues existing protections that were incorporated in the order made by Mr Justice Richards on the return date.

19. It is now clear to me, given the length of the submissions thus far, that not all of the matters included within the applications before the court are going to be capable of being determined within the extended, one-and-a-half-day hearing period provided for these applications. The priority must be to address the application for an expedited trial, and the extension of time for service of the defence. The next most important matters to resolve are directions going forward, the application for anonymity in relation to the name of the defendant, and what, if any, further interim injunctive relief is appropriate until the trial of the action, whether on an expedited basis or taking its course in the list in the usual way.

20. This extemporary judgment is directed principally to the question of an expedited trial. I have already indicated, without too much opposition from either side, that, so far as the extension application is concerned, I would extend the time for service of the defence,

not to 28 August, which is, I think, the date that Mr Ayoo had in mind, but to 15 August. My reasons for that, briefly, are as follows.

21. The claim form was originally issued on 26 March 2025. It has taken two leading, and two junior, counsel from then until late on 3 July to produce the particulars of claim and their accompanying schedules in their present form. It is, therefore, appropriate that the defendant, who is represented by solicitors with rather less resources available to them than the claimants' solicitors, and by junior counsel only, should have longer than the usual period to prepare and serve a defence. The date I have chosen of 15 August allows a total of six weeks from the date the particulars of claim were served, and a little over three weeks from today. I bear in mind that, during that initial three-week period, the focus of the defendant's attention, and that of his legal representatives, has been on this forthcoming hearing, rather than the drafting of any defence. In other words, as against the 14 weeks from the claim form that the claimants and their team have had to produce the claimants' statement of case, the defendant will have a total of six weeks, three of which have already elapsed, but with work being undertaken on other pressing matters during that period.

22. I am satisfied that an extension to 15 August is consistent with the overriding objective of dealing with the case justly and at proportionate cost, including its constituent elements of seeking to deal with the matter fairly, cost-effectively, and in a proportionate manner; but bearing in mind also the need to try to achieve an equality of arms between the parties, insofar as this is possible, given the difference in the legal and financial resources available to them.

23. So it is against the background that the defence will be due to be served on 15 August that I must approach the expedition application. I make it clear that I do so bearing in mind the overriding objective to which I have just made reference.

24. I have been taken by both counsel to the applicable legal principles. The starting point is the judgment of Lord Neuberger, sitting in the Court of Appeal with Lord Justice Rix, in the case of *WL Gore & Associates GmbH v Geox SpA* [2008] EWCA Civ 622.

25. At paragraph 25, Lord Neuberger, who delivered the leading judgment, said that when considering an application for an expedited trial, there are four factors to take into account: the first is whether the applicants have shown good reason for expedition; the second is whether expedition would interfere with the good administration of justice; the third is whether expedition would cause prejudice to the other party; and the fourth is whether there are any other special factors.

26. My attention has also been drawn to paragraph 91, and certain other paragraphs, of the judgment of Mr Justice Warren in the case of *CPC Group Ltd v Qatari Diar Real Estate Investment Company* [2009] EWHC 3204 (Ch). The judge there emphasised that an order for expedition may be justified even though there is no need for the case to be heard in the immediate future. He recognised that a case may be urgent, in the sense that an answer is needed to a question before a date some weeks, or even months, away, but at a time before the hearing date would, in the ordinary course of proceedings, arrive. That sort of urgency is enough to justify expedition, although the actual timetable - the extent of that expedition - can reflect the need for a decision only by that date. It is not necessary to impose a timetable of the most stringent sort. The court should resolve timetabling in a way that is the least unjust to all the interests concerned.

27. Mr Craig submitted that the present case lies at what he described as the *"relaxed end"* of the expedition spectrum. The proposed trial date, if expedition is ordered, will be some six months after the date I propose for service of the defence. Mr Craig submits that there are good, and immediately apparent, reasons for expedition. Unless restrained by the court, the defendant intends to join a competitor once his period of garden leave with the claimants ends on 24 March 2026. It is the claimants' case that he then intends to, or at least there is a very serious risk that he will, misuse the claimants' confidential information. The claimants therefore seek to ensure that their claim for final injunctive relief to prevent him from doing so comes on in good time before that event takes place.

28. Mr Craig submits that there is a real, objectively justified urgency, albeit that the timetable leading to the expedited trial will not be of the most stringent sort. Mr Craig draws an analogy with the urgency recognised in cases involving post-termination restraints. There the issue is whether an individual employee should be precluded by injunction from joining a competitor.

29. I have been taken to the judgment of the Court of Appeal, delivered by Lady Justice Simler, in the case of *Verition Advisors (UK Partners) LLP v Jump Trading International Ltd* [2023] EWCA Civ 701, reported at [2023] IRLR 787. In particular, I have been taken to Lady Justice Simler's observations at paragraph 35, to the following effect:

> *Restraint of trade litigation in the employment context frequently gives rise to real urgency, where enforcement of the restrictive covenant is necessary to avoid uncompensatable damage being suffered. Such cases are common examples of cases in which orders for expedition are made because in almost all such cases, the period of restriction will have expired or substantially expired before trial unless an order for expedition is made. Accordingly, regardless of whether interim injunctive relief has been ordered, there is almost always real urgency in such cases justifying an order for a speedy trial …*

30. I was also taken to passages in Lady Justice Simler's judgment at paragraphs 38 and 39. In the former paragraph, Lady Justice Simler observed that:

> *... any interference with the administration of justice is more limited where the listing office is able to confirm that a speedy trial can be accommodated ...*

That is the case here. In such a case, there is no basis for thinking that ordering expedition will displace a case already listed. Thus the order does not involve an element of *'queue jumping'*.

31. At paragraph 39, Lady Justice Simler observed, in the context of prejudice, that a speedy trial may cause prejudice due to increased costs, difficulties caused by a condensed timetable, and a reduced opportunity to discuss settlement. However, she recognised that the costs of an expedited trial are likely to be no greater than those of a trial without expedition, particularly if certain stages of trial preparation, such as costs budgeting, are dispensed with, or their rigour reduced, and the opportunity for protracted disclosure

disputes may well be reduced. She also recognised that the difficulties caused by a condensed timetable may prove to be limited.

32. I attach little weight to Mr Craig's reliance upon suggestions that an expedited trial might earlier have proved acceptable to the defendant. I accept that any indications to that effect may well have preceded a proper, and informed, consideration by the defendant's legal representatives of the issues. I therefore attach little weight to what is said to have been the defendant's failure to engage on the request for expedition.

33. I accept, in the light of the indications from the listing office, that an order for expedition is unlikely to have any appreciable impact on other court users. Directions going forward can be the subject of discussion between the parties, if expedition is ordered.

34. For the defendant, Mr Ayoo submits that orders for expedited trials in employee competition cases are frequently made in the context of a dispute as to the enforceability of any contractual restraint on the basis that the early determination of the enforceability of the restraint needs urgent determination by the court. The longer the former employee has to wait until trial, the further into the period of the post-termination restraint he will be. To that extent, the greater will be also the extent of unfairness and disruption he will face by being kept out of the market in the meanwhile, if the covenants are ultimately held to have been unenforceable.

35. Mr Ayoo contends that the present case is different because the claimants have no contractual entitlement to prevent the defendant from working for a competitor once his garden leave has expired. He also submits that any urgency is not driven by the need to protect an existing contractual right enjoyed by the claimant, such as an existing covenant, but rather to protect a remedy, such as a *'non-compete'* injunction or other *'springboard'* relief which the claimants may obtain at trial, and this is entirely speculative.

36. I do not accept those submissions. In my judgment, the situation here is indeed analogous to that in the restraint of trade clauses where expedition has been ordered. The claimants are seeking to assert a proprietary right in their confidential information. They are saying that its use by the defendant is such an appreciable, and imminent threat, once

he starts employment with a competitor, that he should be restrained from entering into such employment at all.

37. In my judgment, it is imperative, in the interests not only of the claimants, but also the defendant himself, that certainty should be achieved before he is due to embark upon his employment with what the claimants say is one of their competitors before the presently scheduled commencement date of 6 April 2026. Each side needs to know where they are.

38. I also reject Mr Ayoo's submission that the existing and continuing restraint, exemplified by paragraph 4 of the return date order, is, or will be, adequate to protect the claimants' interests. Whilst such a case is vehemently denied by the defendant, it is the claimants' case that there is an appreciable risk that, once he enters into employment with a competitor, the defendant will make illegitimate use of the claimants' confidential information, and that that risk is so great that he should be restrained from entering into such employment. That is a matter that needs to be resolved, in the interests of both parties, at an early date.

39. So I am satisfied that the first element in the four-stage test is satisfied.

40. In the present case, the claimants have shown good reason for expedition. Given that there is no relevant impact upon other court users, the second and third stages of the test shade into each other. Whether expedition would interfere with the good administration of justice really amounts to the same thing as whether expedition would cause prejudice to the defendant.

41. The claimants' case is short and simple on that point. Six months from the service of the defence is ample time to enable this case to be brought forward to a fair trial.

42. Mr Ayoo submits that there is insufficient time during that six-month period to formulate proper issues for disclosure, or address the need for, and the content of, any expert evidence; nor would there be adequate time to address the issue of costs budgeting. That, says Mr Ayoo, is an important factor in the present case, given the level of costs being run up by the claimants, particularly given the hourly rates that the solicitors are

charging, which are considerably in excess of the guideline hourly rates, and the extent of the resources being thrown at this case by the claimants' solicitors.

43. Mr Ayoo contrasts this with the limited resources available to the defendant, with effectively a two-solicitor practice, and junior counsel (one of whom has only recently ceased to be a pupil). Mr Ayoo says that, given the disparity of resources, there would not be equality of arms, and the defendant would simply struggle to cope with an expedited trial. A very truncated timetable to an expedited trial would require heavy resources. That is a factor of limited significance to large, well-resourced bodies, like the claimants and their solicitors, but the same is not true of an individual being sued by such a litigant or litigants.

44. I am not persuaded by those arguments. If anything, expedition may operate to reduce the volume of work that falls to be undertaken before trial by the claimants' solicitors. Six months should be enough, given the history of this litigation so far, which has already involved (effectively) extensive digital disclosure by the defendant, to enable the case to come forward to a fair trial in February 2026.

45. The defendant will be in a position to consider disclosure issues in advance of service of his defence because he will know what issues he will be raising in his statement of case whereas the claimants will not. Conversely, the defendant does know what issues are being raised by the claimants.

46. The parties can also give consideration to whether any expert evidence is likely to be necessary, particularly given the forensic expertise that has already been thrown at this case, and which is manifest from the reports that are already in evidence, in some cases on a confidential basis, before the court.

47. I am satisfied that expedition will neither interfere with the good administration of justice, nor cause any material prejudice to the defendant, beyond the inevitable prejudice that any defendant of modest means suffers as a result of being sued by a far better resourced adversary. Mr Ayoo accepts that there are no special factors in addition to those I have already identified on which the defendant would wish to rely.

48. So, for those reasons, I am satisfied that the claimants have demonstrated a good case for an order for an expedited trial.

49. That concludes this extemporary judgment.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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