Case No: CL-2014-000916
Neutral Citation Number: [2024] EWHC 449 (Comm)

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT (KBD)

The Rolls Building
7 Rolls Buildings
Fetter Lane
London EC4A 1NL

Wednesday, 7 February 2024

BEFORE:

HIS HONOUR JUDGE MARK PELLING KC
(Sitting as a Judge of the High Court)

BETWEEN:

MICHAEL WILSON & PARTNERS LIMITED

Claimant

- and -

JOHN FORSTER EMMOTT & OTHERS

Defendants

MR M WILSON appeared on behalf of the Claimant

MR J EMMOTT appeared in person

JUDGMENT
(Approved)

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(Official Shorthand Writers to the Court)

JUDGE PELLING:

1. This is the hearing of two applications issued by the claimant, MWP, being: (a) an application dated 11 September 2023 to strike out an application by the defendant, Mr Emmott, by which he sought a declaration that he was entitled to set off any order for costs made against him against the judgment debt that many years ago became due to Mr Emmott from MWP as a result of an arbitral award made in Mr Emmott's favour; and (b) an application by MWP dated 19 June 2023 for an order debarring Mr Emmott from further participating in any of the various claims or applications in this court until after Mr Emmott had paid some costs sums due.

Strike-out Application

2. I do not intend in this judgment to set out again the general history surrounding this apparently never-ending dispute. It is set out in many of the more than 30 reported earlier judgments I have given in these proceedings. In summary, following an order permitting Mr Emmott to enforce the arbitral award in his favour against Michael Wilson & Partners Limited ("MWP") as if it was a judgment and order of the High Court, he obtained a worldwide freezing order against MWP. There followed what can only be described as an avalanche of litigation between MWP and Mr Emmott in England and Wales but also in numerous overseas jurisdictions, including Australia, New Zealand and the BVI. It has engaged in England courts at all levels up to and including the Supreme Court; in Australia, courts at first instance and appellate level in at least the state of New South Wales; and the High Court of Australia as well; first instance and appellate courts in the BVI and first instance courts in New Zeeland.

3. Despite attempts by all judges in all jurisdictions to limit this litigation, this has largely proved ineffective. In this jurisdiction currently there is extensive ongoing litigation in the Commercial Court where I am the assigned judge, and in the Chancery Division, where judges of the Insolvency and Companies Court have numerous applications pending by Mr Emmott to set aside statutory demands served on behalf of MWP in respect of numerous costs orders made over the years against Mr Emmott, with various appeals therefrom that are assigned to Meade J. There is, in addition, a major action currently pending before the state courts of New South Wales. Numerous orders have

been made in this jurisdiction certifying claims and applications by MWP to be totally without merit up to and including Court of Appeal level, and two ECROs have been made against MWP in relation to discrete elements of the litigation between these parties or in related claims. This litigation has been described collectively by the Court of Appeal, now some years ago, as pathological litigation.

4. The background relevant to the present applications starts with an application notice issued by Mr Emmott by which he seeks for a declaration that he is entitled to set off against a costs order made against him against the judgment debt said to be due to him from MWP. That application was issued on 22 July 2022 and is supported by his 32nd witness statement. In that statement he refers to the order made as long ago as 26 June 2015, by which he was given permission to enforce the arbitral award as if it was a judgment of the High Court. The amount of the awards at that time was, (a) £3,209,213-odd, and (b) $841,213-odd. At paragraph 8 of his 32nd witness statement he describes that various interlocutory costs orders have been made against him and in favour of MWP. At paragraph 9 of his witness statement Mr Emmott then states:

> "On each occasion that such orders have been made, I have given notice to MWP that I am exercising a right to set off the amount of such costs orders against the judgment debt."

5. The particular costs order giving rise to the set-off application arises out of the assessment of costs by Master Rowley sitting as a Costs Judge ("Judge Rowley") in the Senior Courts Costs Office ("SCCO") of some costs I ordered Mr Emmott to pay MWP. In summary, Judge Rowley ordered Mr Emmott to pay MWP £54,439.47 net of a payment on account that had previously been ordered and 50 per cent of the costs of the assessment. Judge Rowley directed at paragraph 6 of his order that:

> "Enforcement … will be stayed pending any further order or direction of the High Court upon an application for set-off being issued by the defendant to HHJ Pelling QC by 4.00 pm on 22 July 2022."

In his reasons for making that order, Judge Rowley stated:

> "It is clear from the parties' submissions that, save for repeated applications to vary the freezing order, there have been no judicial decisions at High Court judge level or above, regarding the appropriateness of setting off orders for costs such as the one that underpins these proceedings or other extant orders between the parties."

6. Thus, as is apparent from this short history, the set-off application is formally concerned with enforceability of one costs order. In fact, there are numerous other costs orders where the same issue arises. Many, if not all, of them (I think I was told in the course of the hearing that there were 14 in all so far) have been the subject of statutory demands in respect of which Mr Emmott has issued applications to set aside. In each of those cases the issue is the same, the extent to which, if at all, Mr Emmott is entitled to rely on set-off as a defence to the claimant of payment. Again I was told that a number of these applications have been listed to be heard together in late May 2024.

7. If there is a legal answer to the claim to set-off then it is highly likely to be resolved on the set-off application in this court rather than on applications to set aside statutory demands since the test for setting aside a statutory demand will generally not either entitle or require the ICC judge to come to a definitive answer on the issue.

8. MWP filed evidence in answer to Mr Emmott's 22 June set-off application in the form of his 49th witness statement. Aside from some procedural points that I need not take up time describing, Mr Wilson's points were that once various other claims and orders were taken into account, MWP was owed money by Mr Emmott, not the other way round – see paragraphs 17 to 24 and following of his statement. I would only add that, although Mr Wilson says I rescinded the worldwide freezing order, by which he means I decided it should be discharged with retrospective effect, I did no such thing. I discharged the worldwide freezing order for reasons I gave at the time, that order was the subject of an appeal to the Court of Appeal and Popplewell LJ refused permission to appeal that order. That said, Mr Wilson maintains at paragraph 29 and following of his statement that the discharge of the worldwide freezing order is relevant to the set-aside application.

9. More relevant, perhaps, for present purposes is paragraph 41 and following of Mr Wilson's statement, where he states that the effect of various instruments entered into by Mr Emmott is that Mr Emmott does not have any subsisting entitlement to the judgment debt or any part of it that he relies upon in his set-off application.

10. It is necessary at this point that I descend a little more deeply into the history of this dispute. At an early stage in the history of this litigation, Mr Emmott sought litigation funding from a wealthy individual called Mr Sinclair, who provided litigation funding to Mr Emmott to assist him to fund initially the litigation commenced by him in order to enforce payment of the judgment sum resulting from the arbitral awards. This resulted in a loan agreement to which there were two addenda, each of which is in writing and signed by Mr Emmott. Mr Wilson maintains that the effect of the second of these two addenda (known in these proceedings as the "second addendum"), either of itself or when taken together with various other instruments, to which I refer below, made all sums recoverable by Mr Emmott from MWP payable to Mr Sinclair. Mr Sinclair was subsequently declared bankrupt on a petition presented by MWP, and MWP then purchased from Mr Sinclair's trustee in bankruptcy an assignment of Mr Emmott's alleged liabilities to Mr Sinclair. In consequence, MWP maintains that, since the alleged effect of the second addendum was and is to require all sums recoverable from MWP to be paid to Mr Sinclair, the result of the trustee's assignment of Mr Sinclair's rights to MWP is that MWP is entitled to those sums and in the result Mr Emmott is not now and never has benefitted or been entitled to set off sums due from him to MWP against the judgment sums.

11. Returning to Mr Wilson's 49th witness statement, the final point he makes is that despite Mr Emmott's assertion that he has given notice to MWP exercising a claimed right of set-off, that is incorrect.

12. It is necessary to clear away from this application various issues that cannot be resolved either on the strike-out application or, for that matter, probably in the set-off application either. There are numerous disputes of fact between MWP and Mr Emmott as to what sums were owed to Mr Sinclair by Mr Emmott and whether, and if so when and to what extent those sums have been repaid. That is the subject of a separate Part 7 claim issued by MWP with the claim number CL-2021-000728, which is itself in

some disarray as the result of an attempt by Mr Wilson to amend the particulars of claim in those proceedings without applying for permission to amend. I say no more about that beyond saying that the issues of fact that arise can only be resolved in the context of a trial of that claim, not in the context of either the set-off or the strike-out applications. Similar considerations apply to the factually disputed debts said to be owed to MWP by Mr Emmott. There is also a significant legal issue between the parties as to whether MWP is entitled to rely on sums said to be due to Mr Sinclair from Mr Emmott that had become due to MWP only by reason of the assignment by Mr Sinclair's trustee in bankruptcy to MWP of the supposed right to receive those sums. I return to that issue later in this judgment.

13. I now return to the procedural history to the extent it matters. As a result of Mr Wilson's many criticisms of the way in which Mr Emmott approached the set-off application, by an order made by me dated 26 May 2023, I gave various directions intended to lead to a hearing of the set-off application on its merits in reasonably short order. I gave permission to Mr Emmott to file additional evidence in support of his application if he chose to do so, to meet Mr Wilson's criticisms, but directed that any such evidence had to be filed by 31 August 2023. I gave various consequential directions for the provision of evidence in answer and reply if Mr Emmott availed himself of the opportunity given to him to file additional evidence. In the event, he did not do so. That resulted in an application by Mr Wilson for a direction that the set-off application should not be listed until after MWP's strike-out applications had been determined, which I granted on 13 October 2023.

14. Against that background, I turn to the strike-out application. Mr Wilson's submission is that the set off application is "*entirely misconceived, flawed and doomed to fail and should never have been brought or made*". Mr Wilson maintains that the strike out application is one that I have jurisdiction to determine applying CPR r. 3.4. I do not accept that a court either has the power or, if it has the power, should generally exercise the power, to strike out an application notice issued under CPR 23. CPR 3.4 is concerned with the striking out of a statement of case. What constitutes a statement of case is set out in CPR 2.3(1) and is a pleading. It does not include an application notice issued in accordance with CPR 23. Given the way this application has been formulated, I would be entitled to dismiss the application on that simple basis.

15. That said, as I said at the outset of this judgment, every attempt has been made to control this avalanche of litigation, largely without success. There is a pressing need to ensure as far as possible that only a proportionate share of the available judicial resources should be made available to this dispute. Accordingly, I consider in the exceptional circumstances of this case, that if Mr Wilson on behalf of MWP is able to identify a point or points which render the set-off application not realistically arguable either in law or fact, I should either stay the set-off application using the power conferred on me by CPR 3.1(2)(f) or summarily dismiss the set-off application using the inherent powers the court has to control its own procedure and/or the general power conferred on the court by CPR 3.1(2)(m).

16. As I have explained, the issue that arises on the set-off application concerns whether, as at the date when Mr Emmott otherwise became liable to pay MWP as a result of Judge Rowley's order, he was entitled to set off the sum that was due against the judgment debt. As I have explained, MWP maintains that no right of set-off could or can arise because of the sums that MWP alleges were due from Mr Emmott to Mr Sinclair and which have become due to MWP as a result of the assignment to MWP by Mr Sinclair's trustees of the rights to recover those sums.

17. As Mr Emmott, the availability of set-off at a general level depends not merely on establishing a sufficient closeness of connection between the claims against which set off is asserted and cross-claims which it is sought to set off, but also requires the court to apply a functional test concerning whether it would be unjust to enforce the claim without taking account of the cross-claim. It is arguable that similar principles would apply where it is argued, as MWP argues, that what would otherwise be a clear defence of set-off has been lost as a result of the subsequent assignment of third party debts many years after the relevant claims and cross-claims arose. Mr Emmott maintains that it is plain applying this test that set off should be available to him. Mr Wilson considers the opposite should be the result. I do not consider it is appropriate to either stay or summarily dismiss the set-off application by reference to this point. Determination of that point would require much more detailed consideration of both the law, facts and context than can or should occur on a strike-out application of this sort. In my judgment, the relevant detailed consideration can only properly be given to this point when the set-off application is listed and determined on its merits.

18. There is a substantial factual dispute about what was due to Mr Sinclair from Mr Emmott. That is the subject of the Part 7 claim to which I referred earlier. Unless MWP could prove the relevant sums are due to the summary judgment standard on the set-off application that will provide a further substantial difficulty for MWP. Given the disputes which exist, it would be wrong to stay or summarily dismiss the set-off application by reference to the issue I am now considering, without the factual issue being tested as it must be. The appropriate time to test that will be the hearing of the set off application.

19. Mr Wilson has another point, however. He maintains that the total value of all the costs claims made in all jurisdictions across the world in favour of MWP and against Mr Emmott far exceed the value of the judgment sum and thus that set-off is not on any view available in relation to the sums due as a result of Judge Rowley's order. As Mr Emmott submits, that involves a careful analysis of what was due at, or has become due since, the date when he asserted his right of set-off in relation to Judge Rowley's order. There are disputes about that. I cannot and should not attempt to resolve those issues on this application. In these circumstances it would be wrong to either stay or summarily dismiss the set-off application by reference to this point when the merits of MWP's assertions can only be determined, at the earliest, at the hearing of the set-off application, when however, MWP will have to prove what it alleges to the summary judgment standard.

20. There is, however, a third discrete point that Mr Wilson relies on, and in reality this is the only point he can properly rely on for the purpose of suggesting that the set-off application should be either stayed or summarily dismissed. Mr Wilson submits that by reason of the effect of a series of deeds, some of which have only relatively recently become available, it is clear that Mr Emmott assigned the judgment debt to Mr Sinclair in a series of transactions and that the effect has been to eliminate Mr Emmott's right to recover any part of the judgment debt so that set-off is, on MWP's submission, impossible. If Mr Wilson is able to make good that point then I accept it would be appropriate to stay or summarily dismiss the set-aside application in the interests of removing from further determination an application which would have no realistic prospect of success.

21. The relevant instruments that either individually or collectively are said to have the effect for which MWP contends are: (a) the second addendum to the funding agreement (to which I referred earlier in this judgment); (b) one or more of a series of deeds of assignment between Mr Emmott and Mr Sinclair; and/or (c) a vesting letter by which Mr Emmott apparently vested a right to recover part of the judgment debt in Mr Sinclair.

22. Turning first to the second addendum, it inserts into the original funding deed the following:

> "(2) There shall be a new clause 5.1(a) and 6.1(b) of the funding deed as follows:
>
> > '5.1(a) Any recovery made by Mr Emmott from MWP in or arising out of the arbitration proceedings including the security for costs pledged by MWP in the arbitration proceedings is to be applied first to the repayment of the amounts advanced by Mr Sinclair pursuant to the amended funding deed and this addendum before being applied by Mr Emmott for his own benefit or for the purpose of paying other sums then owing by him to others, including sums owing by Mr Emmott to his legal advisors.
> >
> > 5.1(b) For the avoidance of doubt, payment by Mr Emmott of the loan made under both the amended funding deed and this addendum does not include any element of profit by Mr Sinclair …'"

23. Although Mr Wilson submits the effect of the second addendum is to transfer the right to recover any part of the judgment debt to Mr Sinclair, in my judgment it is at least realistically arguable that that is not its effect. The full scope of the arguments available to Mr Emmott as to the true meaning and effect of the deed was not explored at the hearing since the hearing was an application for summary disposal of the set-off application, but it should be noted first that the second addendum refers to "*any recovery made*", which arguably means any sum paid to Mr Emmott, of which there has been none. However an answer to this point is that if Mr Emmott is permitted to set off part of the judgment debt against costs otherwise due from him to MWP, that is a "… *recovery made…"* at the point at which the set-off would take effect.

24. Leaving that point to one side, the point that Mr Wilson relies upon primarily is that the second addendum says that any such recovery "… *is to be applied first in the repayment of the amounts advanced by Mr Sinclair pursuant to* …" the funding deed. Mr Wilson submits that any part of the judgment debt that is set off against a costs order Mr Emmott is liable to pay means that to that extent the judgment debt will not be available to be applied to repay the amounts advanced by Mr Sinclair pursuant to the funding deed. In principle, I agree that that is so. However, that involves MWP proving the state of indebtedness of Mr Emmott to Mr Sinclair under the funding deed at the date when Mr Emmott claims to be entitled to set off the judgment debt against the costs sum concerned. That is a disputed issue. Although Mr Emmott has not filed any evidence going to that issue, he is entitled to address that issue by reference to MWP's schedules. The point of substance is that even If the schedules demonstrate to summary judgment standard that Mr Emmott owes substantial sums to MWP, that does not assist because what is relevant is the amount of any sum remaining outstanding that was advanced pursuant to the funding deed or the amount of any other sums that have been set off by agreement against the judgment sum prior to the date when Mr Emmott asserted a right to set-off in respect of the costs order the subject of the set-off application. That is not something that can safely be resolved on an application of this sort.

25. I now turn to the deeds of assignment and the vesting letter. Turning first to the deeds of assignment, the first is dated 26 November 2018. In that document the "debt due" is defined as being the judgment debt of £3,209,613 plus the dollar element of $841,213 plus interest on both at 8 per cent from 1 January 2014. It records that Mr Sinclair had by the date of the deed advanced £907,745 and £105,801 to Mr Emmott, and at paragraph 1.1 it was provided:

> "Mr Emmott hereby assigns all his rights, title, interest and benefit in that part of the debt due, amounting to the sum of £1,316,396.24."

However, by clause 1.3 it was agreed that:

> "This deed is conditional on MWP accepting that you [Mr Sinclair] may exercise a right of set-off with respect to the assigned

property."

This was amended by further deed on 3 December 2018 to increase the sum assigned to £1,446.468.

26. The purpose of these arrangements was to enable Mr Sinclair to discharge debts due from him to MWP. The deed of assignment dated 8 November 2020 to which I refer below records that MWP consented to the 2018 assignment and its amendment. I agree with Mr Wilson that the effect of this is to reduce the amount of the judgment debt from £3,209.613 to £1,763.145-odd plus the $841,213, but subject to interest that had accumulated down to 3 December 2018 and which continued to accumulate on the reduced sum thereafter.

27. Turning to the 8 November 2020 deed, this provided at clause 1.2 that:

> "Mr Emmott hereby assigns all his rights, title, interest and benefit in that part of the judgment debt amounting to the sum of £1,047,000 to Mr Sinclair."

The judgment debt was defined as before. Of the sums assigned, £383,332 was said in a recital to be "… *the balance due under the funding deed in full and final settlement of all sums due under the funding deed* …" The balance was said to be an advance by Mr Emmott to Mr Sinclair repayable on demand. Unsurprisingly, given its purpose, the deed was not conditional on a consent from MWP. There is no evidence in answer to the set-off application from Mr Emmott that suggests this deed should not take effect in accordance with its terms. On that basis its effect was to reduce the judgment debt from £1,763,145 (to which it had been reduced by the previous deeds to which I have referred) to £716,145 plus the $841,213 together with interest that had accumulated down to the date of that deed, together with interest on the reduced sum thereafter.

28. The third deed of assessment on which MWP relies is that dated 3 March 2021. By clause 1, Mr Emmott agreed to transfer, novate and assign the sum of £1,672,893 to Mr Sinclair. It does not say in terms that this was part of the judgment debt. The amount of the judgment debt by that stage was, as I have said, about £716,145. The US Dollar debt element which was equivalent to, at the sterling equivalent in 2021,

£611,000-odd. Ignoring interest, that comes to about £1,327,145. The effect of the third assignment would have been to discharge the remaining part of the judgment debt before taking account of interest. As to that, assuming applying the rate of 8 per cent (the rate referred to in the Deeds within the definition "*debt due*") from 1 January 2014 (the start date referred to in the definition of "*debt due*" in the Deeds) of £1,327,145 produces a sum of about £740,000-odd. However even allowing for this, it would appear that if the 2021 deed took effect in accordance with its terms, there would be at least £390,000-odd left once account of interest was taken. In fact, it would be more because interest accumulated on the judgment sum on greater amounts before each assignment. None of these calculations can be regarded as anything more than approximate illustrations.

29. However, the real point is that Mr Emmott says (and Mr Wilson does not, I think, dispute) that MWP did not consent to the 2021 deed. By clause 1.4 of the 2021 deed it was made conditional upon MWP agreeing to the deed. It follows that it is at least arguable on that basis that the 2021 deed never took effect. On that basis, as at that date, there was about £1,327,145 in round terms of the judgment debt that remained outstanding.

30. The final instrument on which Mr Wilson relies is what he calls the vesting letter dated 1 May 2020. In chronological terms that comes before the second deed of assignment dated 8 November 2020 referred to above. By that document Mr Emmott apparently acknowledges that Mr Sinclair is entitled to 30 per cent of all sums recovered by him from MWP up to a maximum sum of £1.2 million. Mr Emmott has not asserted in his evidence in the set-off application that the letter did not take effect other than in accordance with its terms. If that is so then the result by the time the November 2020 deed came go be signed was that the remaining principal of the judgment debt was about £563,145-odd plus the $841,000 sum in addition. The sterling equivalent of £841,213 in November 2020 means that that had a value of about £730,000, giving a total amount at principal of about £1.3 million in round terms. Deducting from that the sum of £1,047,000 leaves a sum, ignoring interest, of about £250,000. If the third deed had no effect because it was not consented to, that was the sum apparently remaining before interest and ignoring anything else available for set-off against the judgment debt.

31. Whilst the mathematics I have done must be of necessity crude, provisional and highly approximate, it shows that I cannot safely conclude on the basis of the material to which I have referred that the set-off application should be stayed or summarily dismissed on the basis that there was nothing left against which the claimed set off could take effect. At the hearing of the set off application the parties will no doubt prepare the necessary calculations with more accuracy than I have been able to. As will be apparent, I have been left by the parties to do the best I can with this material without any sensible assistance in the detail of the effect of the various documents. In those circumstances, I am satisfied, for the reasons set out above, that it would be wrong to stay or summarily dismiss the set-off application, which must be determined on its merits with sufficient time being allowed for detailed submissions to be advanced, not merely by reference to the effect of the various deeds but more particularly (because this is ultimately what will matter) by reference to such other sums as can be identified as due and owing from Mr Emmott that can properly be said to be relevant to the set-off argument.

32. Accordingly, I direct that the set-off application be listed on the first available date convenient to the parties. I will hear the parties on the appropriate length of the hearing, but provisionally I consider it should be between one and two days in length.

The Debarring Order

33. Unless and until the set-off issue is finally resolved in favour of MWP, the debarring application is premature. Unless that can be achieved at the hearing of the set off application, that may have to await final determination of the Part 7 proceedings I referred to earlier. In any event, as I have explained, most if not all of the costs orders by reference to which the debarring order is sought are the subject of statutory demands with applications to set aside the statutory demands. It would be wrong in principle for me to consider making a debarring order unless and until those applications have been resolved.

34. In the result: (a) I make no order on the strike out application; and (b) I will hear the parties on what should be done with the debarring order, although, given my conclusions, it should probably be stayed pending final determination of the strike out

application. Subject to the submissions from the parties, I propose to do is to direct that the costs of and occasioned by the applications I have just determined be reserved to be dealt with by me or the judge determining the set-off application as and when that is listed and determined on its merits.

(After further submissions)

35. The issue I now have to determine is whether or not the hearing of the set-off application should be heard at an attended hearing in London or should be dealt with remotely. It is perfectly true to say, as Mr Wilson submits, that remote hearings have taken place on a fairly routine basis in relation to these proceedings since the pandemic because once the pandemic occurred there was no choice but for these hearings to take place remotely. Since then, I have been generous in permitting the hearing of numerous applications on a remote basis because of the location of the parties. However, the default position of the Commercial Court, now that the pandemic has ended, is that hearings lasting half a day or longer should take place in court on an attended basis.

36. Mr Wilson says that is unfair or unreasonable because of the travelling times from Kazakhstan to London. With great respect to him, that is not a material consideration. The Commercial Court's business consists of a huge number of cases involving at least one of the parties being located overseas and in some cases claims where all relevant parties are located overseas. That does not lead to the conclusion that a hearing estimated to last longer than half a day should not take place as an attended hearing.

37. I am prepared to direct that that the hearing should take place on an attended basis in London in a window when the parties will in any event be in London, if that can be arranged without the hearing being delayed more than it would otherwise be. However, I am entirely satisfied that the appropriate course is to direct that the set off application be listed as an attended hearing in court. The application is potentially of huge significance to Mr Emmott and will involve some detailed technical and accounting evidence. So as to avoid any misunderstandings I emphasise that both parties should attend in person either themselves or by counsel at a hearing in a court in the Rolls Building. If Mr Wilson prefers to instruct counsel but observe the hearing remotely

(which is a hybrid hearing) then that too can be arranged. But the hearing must take place in London, in court.

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

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This transcript has been approved by the Judge