

## Message

**From:** Andrew Parsons [GRO]  
**Sent:** 06/04/2019 07:42:57  
**To:** Rodric Williams [GRO]  
**CC:** Katie Simmonds [GRO]; Jonathan Gribben [GRO]; Angela Van-Den-Bogerd [GRO]  
**Subject:** Worden 3 - instructions needed [WBDUK-AC.FID123887118]  
**Attachments:** \_LETTER\_155188145(1)\_Freeths 6 Apr 19\_ Further Supplemental Report of Robert Worden.DOCX

Rodric

As mentioned the other day, Robert Worden has been undertaking further analysis which has led him to want to file a further supplemental report (Worden 3). This email seeks to update you on the position and seeks your approval to send the attached draft letter.

### Worden 3

RW's reports have so far focused on reviewing FJ's documents across all branches over 20 years. He has now focussed his analysis to look only at documents that mention Cs branches. This analysis is possible because (i) we have a list of all the Cs FAD codes and (ii) FJ's documents regularly refer to FAD codes when dealing with an issue in a particular branch.

RW's theory is that this more targeted review will allow him to show that (i) bugs didn't affect Cs and / or (ii) remote access did not affect Cs. These two limbs are described separately below.

#### (i) Cs Bugs

This review involves running a search through the Peaks and KELs for C branches. RW's initial result was that there were 1,700 hits in the Peaks. This pool has then been reduced to around 170 by searching for a "£" which would indicate a financial problem. RW has then manually reviewed those 170 Peaks and has so far found none that are clearly the result of a bug. There are a number that might be bugs but further analysis is needed.

The legal team's concerns with this approach are:

- The only outcome is that the total number of identified bugs in Horizon (currently 29 in JS2) either stays flat or goes up. So the analysis will have a neutral or bad outcome for PO.
- The initial starting number of 1,700 peaks involving Cs is optically bad. Green will spin this as Cs having lots of problems with Horizon.
- RW is engaging in yet further maths and assumptions to complete his analysis, all of which can be attacked in XX.

#### (ii) Remote access

This review involves running a search through the OCPs, OCRs and MSCs for C branches. The OCPs, OCRs and MSCs are FJ's change control documents. They should capture any change made to Horizon, including remote access. This review has so far shown only a handful of possible instances of remote access in Cs branches, but further analysis may be able to eliminate these down to 1 or 2, or even possibly none. FJ are doing this analysis in parallel to RW to verify the outcome.

The legal team's concerns with this approach are similar to above:

- The only outcome is that the total number of instances of remote access can only go up. RW will argue that he would prefer to have a higher but more certain number, than allow Coyne to "fill the gap" by speculating that there might lots of unidentified remote access events out there.
- RW is engaging in yet further maths and assumptions to complete his analysis, all of which can be attacked in XX.

We also have serious concerns about the general concept of a Worden 3 report, whatever its content or outcome:

- It will look like a last minute ambush. Fraser has complained bitterly about this type of conduct by experts in previous judgments outside this litigation.
- If the results are good for PO, it will look like the legal team has pushed this.

- Green will ask questions about why this analysis has not been done before (to which RW will say that it only recently occurred to him to do it).
- We will necessarily need to give Coyne the right of reply.

In our view, even if the content of Worden 3 is good for PO (and that is not guaranteed), it will backfire and lead to criticism from the Court.

The above has been discussed at length between RW and Counsel. We have pressed RW hard not to do this work or produce Worden 3. RW is resolute that he is required under his expert duty to bring this new information to the attention of the Court. There is no prospect of persuading him not to do it and we obviously have no power to block this.

#### **Draft letter**

In light of the above, the best we can do is to try to draw some of the sting from Worden 3 by (i) giving Cs an early warning of what is coming and (ii) making clear that this is RW's work and not prompted by the legal team.

Tony has therefore prepared the attached letter – its only 3 paras - that he would like to send to Freeths asap (preferably on Monday). I would therefore be grateful for your comments on the draft letter at your earliest convenience.

As always, happy to discuss.

Kind regards  
Andy

#### **Andrew Parsons**

Partner  
Womble Bond Dickinson (UK) LLP

d: **GRO**  
m: **GRO**  
t: **GRO**  
e: **GRO**

[Manage your e-alert preferences](#)



womblebond Dickinson.com

