

[1] defence which is at tab 4.  
 [2] **MR JUSTICE LADDIE:** Got it, yes.  
 [3] **MR COX:** Paragraph 3. If your Lordship kept  
 [4] a finger in the statement of claim, that might be a  
 [5] help.  
 [6] "In relation to paragraph 3 of the statement of claim"  
 [7] the one that your Lordship has looked at- "It is  
 [8] admitted that Paul King, Roger Sotherton and the  
 [9] plaintiff met at Shell- Mex house or about 23 October  
 [10] 1989."  
 [11] Well, that is irrelevant for these purposes. It is  
 [12] admitted that a copy of the document headed:  
 [13] Presentation and a letter dated 24th July from Roger  
 [14] Sotherton addressed to Brian Horley, were provided to  
 [15] Shell UK.  
 [16] "Save as aforesaid paragraph 3 of the statement of  
 [17] claim is not admitted."  
 [18] Now, my Lord, paragraph 6.2 of the defence:  
 [19] "It is admitted that Don Marketing UK Limited  
 [20] thereafter wrote to Mr. Horley on 10th July and 24th  
 [21] July 1990 concerning matters including the 'Disneytime'  
 [22] and 'Megamatch' promotions."  
 [23] **MR JUSTICE LADDIE:** Which is the second  
 [24] paragraph -  
 [25] **MR COX:** In that letter. And, my Lord, that

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[1] is the state of the pleadings. Now, my Lord, in the  
 [2] light of what one has now learnt, it is, I suppose,  
 [3] possible to construe those admissions as not accepting  
 [4] the letter. We would submit the contrary -  
 [5] **MR JUSTICE LADDIE:** Let me tell you how I  
 [6] read it, Mr. Cox. 6.2: It is admitted that Don  
 [7] Marketing wrote to Mr. Horley on 24th July concerning  
 [8] Disneytime and Mega Match. There is no other letter of  
 [9] 24th July, is there?  
 [10] **MR COX:** Exactly, no. And then with  
 [11] paragraph 3.2, copy was provided to Shell.  
 [12] **MR JUSTICE LADDIE:** That is slightly more  
 [13] ambiguous because it does not say when -  
 [14] **MR COX:** I agree  
 [15] **MR JUSTICE LADDIE:** But the only paragraph  
 [16] in the statement of claim which it looks like, says it  
 [17] was provided, supplied to Shell at the time.  
 [18] **MR COX:** Yes, my Lord. That is why we  
 [19] submit whatever the intention behind this pleading -  
 [20] **MR JUSTICE LADDIE:** Your client has been  
 [21] taken by surprise?  
 [22] **MR COX:** We were taken by surprise. May I  
 [23] say that even now we see from the chronology which my  
 [24] learned friend drafted, the meaning of the distinction  
 [25] of the use of the verb 'bore' the date. Your Lordship

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[1] may have seen it. It did not register. It did not  
 [2] register with us. Now, I see how foolish I have been,  
 [3] but it has, we submit, the hallmarks of an ambush and  
 [4]  
 [5] **MR JUSTICE LADDIE:** Whether it was an ambush  
 [6] or not, Mr. Cox, I am much more concerned to make sure  
 [7] that this dreadful trial is continuing in a way that is  
 [8] fair to both sides.  
 [9] **MR COX:** I am in your Lordship's hands,  
 [10] because I know your Lordship will ask me a number of  
 [11] other pertinent questions -  
 [12] **MR JUSTICE LADDIE:** No, these are pertinent  
 [13] enough as far as I am concerned. Your client wants to  
 [14] be able to get together, to show that this letter was  
 [15] written and sent at the time.  
 [16] **MR COX:** At the time and indeed -  
 [17] **MR JUSTICE LADDIE:** It is a matter entirely  
 [18] for you, Mr. Cox, but are you prepared to persuade me  
 [19] whether you have thought it necessary to approach  
 [20] Sainsbury's and get a copy of this letter from them or  
 [21] in view of the admission you did not think it was  
 [22] necessary to do that?  
 [23] **MR COX:** No, we did not. Until now, we had  
 [24] never dreamed that this theory could be advanced and  
 [25] still I should be surprised if this 'dreadful trial'

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[1] goes forward, that this is theory and no more.  
 [2] **MR JUSTICE LADDIE:** Of course, I agree. It  
 [3] is a load of tosh, but it is quite important tosh?  
 [4] **MR COX:** It is, if it is going to be  
 [5] admitted as a live issue in this trial because- well,  
 [6] your Lordship has the point.  
 [7] **MR JUSTICE LADDIE:** Of course. There can be  
 [8] no doubt as to the importance of this because, as I  
 [9] think the letter of 24th July, 1990 itself says, and as  
 [10] you put it to me in your opening, whatever was in  
 [11] concept 4 in the original proposal was fleshed out and  
 [12] contains much more in the letter of 24th July and the  
 [13] 24th July letter, therefore, is a significant part of  
 [14] the package of information which your client says he had  
 [15] handed over in confidence to Shell and it will, of  
 [16] course, have a knock- on effect on the view I may take  
 [17] of Mr. Lazenby because it is possible- once again I am  
 [18] only talking about the possibilities, Mr. Cox- it is  
 [19] possible for example, for the original concept 4 never  
 [20] to have come to Mr. Lazenby's attention except later  
 [21] when it was supplied under a letter which is not being  
 [22] challenged and also it could be said that it contains so  
 [23] little by comparison with the letter of 24th July, that  
 [24] in itself it was not adopted by Mr. Lazenby.  
 [25] Do not worry about whether that is right or

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