Neutral Citation Number: [2026] EWHC 1535 (Ch)

Case No: IL-2025-000131

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

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 23/06/2026

Before :

MR JUSTICE ADAM JOHNSON

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Between :

(1) NOVO NORDISK A/S
(2) NOVO NORDISK LIMITED **Applicants**

- and -

(1) BRITISH TELECOMMUNICATIONS PLC
(2) EE LIMITED
(3) PLUSNET PLC
(4) SKY UK LIMITED
(5) TALKTALK TELECOM LIMITED
(6) VIRGIN MEDIA LIMITED **Respondents**

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Jaani Riordan (instructed by **Covington & Burling LLP**) for the **Applicants**
The **Respondents** did not attend and were not represented

Hearing date: 12 June 2026

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Approved Judgment

This judgment was handed down remotely at 11:30am on Tuesday 23 June 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Mr Justice Adam Johnson:

Introduction: "*dynamic blocking*"

1. This is an application for a website blocking order, or more accurately, an application to vary and extend an existing order made by Mellor J dated 2 October 2025. Mellor J gives the detailed background in his Judgment reported at [2026] EWHC 1094 (Ch).

2. Mellor J's order was directed at a number of intermediary Internet Service Providers ("*ISPs*"), and required them to take steps to block four "*Target Websites*", all of which in one way or another were involved in the sale of counterfeit and unlicensed medicinal products to UK consumers, including in particular versions of the Applicants' popular semaglutide products, the best known of which are OZEMPIC and WEGOVY.

3. The present application seeks to add a further seven Target Websites to the list. Had that been the limit of the proposed amendments, the matter would have been straightforward. However, a further variation is also sought. This is to allow what the Applicants call "*dynamic blocking*". The idea behind this is that the Applicants should not need to keep returning to Court as further potential Target Websites are identified. Instead, they should be entitled to self-certify against a number of designated criteria, set out in a confidential schedule. If the relevant criteria are met, then the Applicants will be able to notify the ISPs that the infringing websites are also proscribed as Target Websites, and thus require the ISPs to take steps to block them. The ISPs – the direct Respondents to the proposed Order – have been consulted about the structure and do not oppose it, on the basis that their costs of compliance are met.

4. Although initially sceptical about the propriety of the dynamic blocking method, having tested the point and heard argument on it, I am persuaded that it is appropriate to make the Order sought. I propose to state briefly my reasons for reaching that conclusion, and will seek to do so in a manner which preserves the confidential nature of the specified blocking criteria. That is essential to the effective operation of the proposed Order: if the criteria are publicised, the wrongdoers will be able to navigate their way around them.

General points

5. An initial point to note is that this is an area where creativity is needed in order to target wrongdoing effectively. That is because it is fast moving, and the wrongdoers are themselves creative. The evidence before me is that Mellor J's Order has been effective, in that traffic from UK consumers to all but one of the four initial Target Websites has massively declined. However, there have been attempts to circumvent the block by registration of "*mirror domain*" names, and moreover the Applicants have become aware of over 130 other websites that promote counterfeit and unlicensed semaglutide and cagrilintide products to UK consumers. The law is not afraid of adapting to new challenges, and there are many examples of that in the cases, perhaps the most recent of which is the development of the so-called "*newcomer*" injunction, the propriety of which was expressly affirmed by the Supreme Court in Wolverhamption City Council and ors v. London Gypsies and Travellers and ors [2023] UKSC 47. In any case, the dynamic blocking mechanism is not entirely new. Although there is no reported case dealing with it, in argument I was given two examples of recent

orders reflecting the same structure, in cases involving the broadcasting of football matches and other subscription broadcast content.

6. The context suggests strongly that some creative form of intervention is required. The wrongdoing is widespread and takes a number of forms. To begin with, the Applicants are the sole marketing authorisation holder in the UK and the EU for OZEMPIC and WEGOVY products, and are proprietors of the relevant UK registered trade marks and goodwill. So their private rights are being infringed. But there is also a wider public health issue. The sale of unlicensed prescription-only medicinal products can result in serious harm. Much of the activity has been linked to organised crime gangs, operating anonymously from abroad, typically using intermediary routing services but targeting UK consumers. Their activities involve regulatory offences under the Human Medicines Regulations 2012 (the "*2012 Regulations*"), but in a manner which the relevant regulator – the Medicines and Healthcare products Regulatory Agency ("*MHRA*") – has in practice found very difficult to police.

Legal Framework

7. As to the legal framework, part of the picture emerges from assimilated EU case law of the CJEU, interpreting Article 11 of Directive 2004/48/EC and Article 15(1) of Directive 2000/31/EC. These are the sources of EU law transposed by s.97A of the Copyright, Designs and Patents Act 1988, and which define the limits of injunctive relief available against intermediaries in respect of infringements of intellectual property rights. The case law makes it clear that the jurisdiction extends beyond the making of orders directed at bringing to an end existing infringements, and encompasses orders aimed at preventing future infringements (see L'Oreal SA v. eBay International AG, C-324/09, EU:C:2011:474 [2011] ECR I 0000 at [131]), at least if the future wrongdoing is of the same or an equivalent kind (see Glawisching-Piesczek v. Facebook Ireland Ltd, C-18/18, EU-C-2019:821 at [38]-[47]).

8. That is only part of the picture, however, because the conditions and procedures for injunctions against intermediaries are a matter for national law, although they must be effective and dissuasive (see recital (23) and Art 3(2) of Directive 2004/48/EC, and L'Oreal at [135]-[137]). In any case here, we are not solely concerned with infringements of IP rights which engage the Applicants' private interests, but also with wrongdoing which involves regulatory breaches and criminal conduct.

9. This latter point was one of particular concern to me during submissions. Mellor J justified his original order on the basis of two types of wrongdoing: infringement of the Applicants' private rights, arising from infringement of registered trade marks and passing off (see his Judgment at [25]-[30]); but also criminal wrongdoing arising from breaches of the 2012 Regulations, specifically (1) selling unauthorised medicinal products without any marketing authorisation; (2) selling prescription-only medicines otherwise than in accordance with a prescription; (3) selling prescription-only medicines without being authorised to dispense them; and (4) advertising such products for sale without proper authorisation.

10. As I read Mellor J's Judgment, his assumption as regards the four initial Target Websites was that their operation likely involved wrongdoing of both types – i.e., both infringement of the Applicants' private rights, and criminal wrongdoing arising from the 2012 Regulations. I think that clear from his paragraph 45(ii) where in dealing with

certain aspects of jurisdiction, he said that the services of the Respondent ISPs had been used "*to infringe the NN Marks, commit passing off, and commit serious violations of the 2012 Regulations*".

11. Under the proposed dynamic blocking criteria, however, the position might be different. Without describing the detail, I can put the point as follows. A number of criteria are proposed, which have potential to overlap, and which in practice are very likely to do so. On some permutations, however, the Applicants' private rights may not be engaged. Instead, the relevant wrongdoing will comprise only regulatory breaches and thus criminal wrongdoing, although the Applicants' broader interests will be affected by the criminal wrongdoing.

12. In light of this, the principal issue which I raised in argument was about the propriety of an Order which carried with it the potential for a party whose private rights are not directly infringed, to act as a form of private enforcement agency targeting regulatory breaches, and moreover doing so under a confidential mechanism which is not visible to the ultimate wrongdoers.

13. I am satisfied however that the Order sought is sound in principle and justified on the facts. My reasons for saying so are as follows.

14. To start with, the jurisdiction to make orders against third parties who have unwittingly become involved in facilitating someone else's wrongdoing is a wide one. Perhaps the best-known modern example is the so-called Norwich Pharmacal order, which requires the third party to provide information likely to assist in identification of the wrongdoer. But the jurisdiction is not limited to the disclosure of information. In Cartier International AG v. British Telecommunications plc and anor [2018] UKSC 28, itself a case about website blocking orders, Lord Sumption said at [15]:

> *"Website blocking orders clearly require more than the mere disclosure of information. But I think that it is clear from the authorities and correct in principle that orders for the disclosure of information are only one, admittedly common, category of order which a court may make against a third party to prevent the use of his facilities to commit or facilitate a wrong."*

15. It is also now well settled that the jurisdiction is not limited to cases where the underlying wrongdoing takes the form of a civil wrong, which infringes the private law rights of the applicant. It is also exercisable where the nature of the wrongdoing is criminal in character. That was made clear in Ashworth Hospital Authority v. MGN Limited [2002] UKHL 29, [2002] 1 WLR 2033. There, a hospital employee had provided information about the notorious murderer, Ian Brady, to an intermediary, who in turn had provided the information to a newspaper. The Court ordered the newspaper to provide a witness statement indicating how it had come to be in possession of the information, and identifying the employee. One question which arose was whether it was a prerequisite to any order that the hospital should intend to bring its own civil claim against the employee – in other words, was the power to require provision of information limited to cases where it was needed in order to allow the applicant to seek redress for a civil wrong. The House of Lords said no. At [2002] 1 WLR p. 2048D-E, Lord Woolf said:

> *"If the law has developed so as to enable, in the appropriate circumstances, the wrongdoer to be identified if he has committed a civil wrong, I can find no justification for not requiring the wrongdoer to be identified if he has committed a criminal wrong … If the victim of the wrongdoing is content that the wrongdoer should be prosecuted by the appropriate prosecuting authority, I cannot see any objection to his obtaining the identity of the wrongdoer to enable that to happen."*

16. Lord Woolf did though think that the remedy should be confined to those who were themselves the victims of crime. At p. 2048H he said:

> *"Certainly, I would agree that an individual who has not suffered in consequence of a crime would not be entitled to bring proceedings."*

The order sought in this case

17. Returning to the present case, I am satisfied that these principles provide an adequate platform for the relief sought by the Applicants, even as regards those possible permutations of the dynamic blocking criteria under which no civil wrongdoing is relied on. I accept that, in practice, such permutations may be rare; but all the same, it seems to me important to examine the issue of principle in order to be satisfied that the order can properly be made.

18. I accept that the order involves an extension of the logic applied in the Ashworth case, because there the order was directed at the provision of information by a third party, which the House of Lords accepted could be justified if the reason for obtaining it was to allow the applicant victim to make a referral of criminal conduct to the relevant prosecuting authority. The context here is different. Under the proposed structure, the Applicants themselves will be authorised to assess whether there are regulatory breaches involving criminal conduct, and then to notify the third-party ISPs who will be required to take steps to prevent it happening. All the same, it seems to me that in principle the structure is sound. If there is a wide jurisdiction to make orders against third parties who have become involved in facilitating wrongdoing by others in order to prevent continuation of that wrongdoing (Cartier), and if what is meant by wrongdoing in this context includes criminal wrongdoing provided that the applicant is a victim (Ashworth), then there can be no in principle objection to the order sought. The permutations of the dynamic blocking criteria which assume only breaches of the 2012 Regulations will still necessarily involve wrongdoing affecting the Applicants, who will thus be victims, and therefore have a sufficient basis in law for requiring steps to be taken by the ISPs to prevent the wrongdoing continuing.

19. If the structure is properly grounded in principle, it is then a matter of assessing whether it is appropriate as a matter of discretion on the facts of this case. Even testing it at its weakest point, I am satisfied that it is.

20. A central feature is the authority given to the Applicants to self-certify whether the relevant blocking criteria are engaged. That will involve them certifying whether there are infringements of the 2012 Regulations. One might think that more properly the role of the MHRA. Three factors are relevant however in justifying the intended approach.

First, as Mellor J pointed out in his Judgment at [46(vi)], the MHRA's own efforts at closing down infringing websites have met with limited success, despite the remedial armoury available to it as the UK medicines regulator. Second, I am satisfied on the evidence that the Applicants have the resources and skills available to be able to carry out the relevant and ongoing monitoring with an impressive degree of rigour and diligence: indeed, they are effectively doing so already. Third, and most importantly, the structure has the support of the MHRA, who have confirmed that there is significant alignment between the structure and the criteria applied by their own Criminal Enforcement Unit, and moreover have said that they welcome and support initiatives aimed at safeguarding the online environment and preventing the illegal sale of medicines in the UK market.

21. These factors are of central importance. They mean that the proposed order contains a rigorous scheme which is aligned with the interests of the relevant regulator and which has the regulator's support. It has the potential to plug a gap in control of the online environment which presently exists and which creates a public health risk. Experience suggests the structure is likely to be highly effective in reducing the level of access by UK consumers to the relevant Target Websites once designated. Given the way the criteria work, the potential for interference with legitimate commercial activity is negligible, and so there is no real risk of "*over blocking*".

22. The Order will continue to contain the basic safeguards identified in Mellor J's Judgment, such as a sunset clause and a requirement that the operators of Target Websites must be notified where practicable and provided with a copy of the non-confidential version of the order. The order gives any such party liberty to apply to vary or revoke it insofar as it affects them. Any person coming forward to challenge their designation will thus be able to apply to see the confidential version of the order (containing the blocking criteria), provided they can show a legitimate interest, and subject of course to a discussion about appropriate confidentiality terms (which might include ring-fencing circulation by means of a confidentiality club).

Conclusion

23. Mellor J concluded his Judgment at [47] by saying he was satisfied that the interests of the public and the UK medicines regulator in ensuring a high level of public health, and those of the Applicants in enforcing their rights in their trade marks and goodwill, clearly outweighed any conceivable interest of the Target Website operators. In my opinion the same logic applies as regards the variations and extensions now proposed by the Applicants. I will make the order sought accordingly.