

# Sky UK Ltd v British Telecommunications Plc

 No Substantial Judicial Treatment

## Court

Chancery Division

## Judgment Date

25 July 2023

## Where Reported

[2023] EWHC 2252 (Ch)

[2023] 7 WLUK 363

[Judgment](#)

## Subject

Intellectual property

## Other related subjects

Information technology; Sport; Media and entertainment

## Keywords

Blocking injunctions; Broadcasting; Copyright; Internet service providers; Online infringement; Sporting events; Streaming media

## Judge

[Meade J](#)

## Counsel

For the applicant: Jaani Riordan.

For the respondents: No appearance or representation.

## Case Digest

### Summary

(EXTEMPORE) The court made a website blocking order pursuant to the [Copyright, Designs and Patents Act 1988 s.97A](#) against internet service providers, under which the applicant broadcaster could select the times at which and periods for which the blocking was deployed.

## **Abstract**

The applicant broadcaster sought an injunction requiring internet service providers (ISPs) to block certain pirate websites that were streaming the applicant's copyright content.

The applicant sought a website blocking order pursuant to the [Copyright, Designs and Patents Act 1988 s.97A](#) against the ISPs. The applicant had discussed the order with the ISPs, which did not appear and did not oppose the order. The order sought had two elements: static blocking and dynamic blocking. That was a combination of the types of orders that had been made by the court over a number of years. The order was different from what had gone before in that, in respect of dynamic blocking, the blocking would apply, subject to giving notice to the ISPs, at times and for periods to be determined by the applicant, subject to an overall cap on the amount of blocking so that it would not be unduly burdensome for the ISPs. Part of the purpose of such dynamic blocking was to prevent or make it more difficult for pirates to counter the blocking.

## **Held**

Application granted.

The dynamic blocking at times and for periods selected by the applicant represented a new departure. That affected the proportionality assessment and had the potential for unpredictable effects, in particular on the ISPs. Although the blocking did not cover particular events, it was likely that the blocking would be deployed in respect of premium content such as major sporting events, and not content with a relatively small audience. The applicant had discussed the process with the ISPs and they appeared unconcerned. Even if the applicant chose to block non-premium content, the court was entitled to have regard to the totality of its investment in content and the amount it had paid for broadcasting rights. The evidence showed that the infringing websites carried virtually no legitimate content and consisted entirely of copyright material from the applicant or other third parties. There was also evidence that the risk of over-blocking was negligibly small. Although the proportionality analysis was different because of the new form of dynamic blocking, the court was satisfied that the applicant was entitled to the order sought. However, because of the risk of unpredictable consequences, the court would proceed cautiously and make the order

for four months only, rather than the 12 months sought, and the applicant could then apply to renew the order on the basis of practical experience and the court could review its operation, the basis of the criteria applied to select the blocking windows, and the views, if any, of the ISPs.