

IN THE HIGH COURT OF JUSTICE

I/A no: 40 of 2009

CHANCERY DIVISION

BEFORE CHIEF MASTER WINEGARTEN ON 19 NOVEMBER 2009

BETWEEN :

DIGIPROTECT GESELLSCHAFT ZUM SCHUTZE DIGITALE MEDIEN GMBH

Applicant

- and -

- (1) BE UN LIMITED
- (2) BRITISH TELECOMMUNICATIONS PLC
- (3) ENTANET INTERNATIONAL LIMITED
- (4) KCOM GROUP PLC
- (5) PLUSNET PLC
- (6) TELEFÓNICA O2 UK LIMITED
- (7) THUS LIMITED
- ~~(8) TISCALI UK LIMITED~~



Respondents

ORDER

UPON the Application of the Applicant by Notice dated 14 August 2009;

AND UPON hearing solicitors for the Applicant;

AND UPON respondents 2 and 5 not contesting to this Order but indicating by a letter from their solicitors that they have had due notice of this Application and do not intend to contest it;

AND UPON respondents 2 and 5 undertaking to carry out a reasonable search of its records to identify the name and address of the registered line holder assigned to the respective internet protocol address listed in Schedule 1 hereto;

AND UPON reading the documents marked in the Court file as having been read and it appearing that there is a prima facie case that each of the subscribers associated with

the IP addresses listed in Schedule 1 to this Order have copied the Applicant's work(s) on to his or her personal or office computer (the "Work(s)") without the Applicant's permission for the purpose of making it available via file sharing websites for third parties to download, which may give rise to a claim for copyright infringement;

AND UPON it appearing to the Court that on the aforementioned facts the Applicant has a real prospect of success in a claim by the Applicant for relevant infringement of the copyright in one or more of the Works;

AND UPON the Applicant undertaking not to disclose to the general public, by making or issuing a statement to the media, the names or addresses of any person or persons whose identity is made known to the Applicant as a result of the grant of the relief ordered below until after (1) the express consent of the respective person, or (2) the Applicant has commenced proceedings in the High Court, to enforce its copyright and related rights against such person or persons as contemplated by paragraph 1 of this Order;

IT IS ORDERED THAT:

1. The Respondents shall by the dates set out in paragraph 2 disclose to the Applicant's solicitors (if or to the extent known or otherwise available to the Respondents after carrying out a reasonable search) the name and postal address ("personal data") of the registered line holder assigned to the internet protocol address listed in Schedule 1 hereto, on the dates and times shown therein and which relate to the Respondents in question. Such disclosure shall be in an editable electronic text format by way of Microsoft Excel file saved in an encrypted form to a compact disk, or any other digital media.
2. The date for disclosure of personal data, as regards each Respondent, shall be as follows:
 - (a) for all Respondents other than 1, 2, 5, and 6: by 4pm on 21 December 2009;
 - (b) for Respondents 1 and 6: by 4pm on 19 March 2009;
 - (c) for Respondent 2 within nine months from the service of this Order;
 - (d) for Respondent 5, by 4pm on 30 December 2009;

As regards Respondents 3, 4 and 7:

3. The reasonable costs of complying with this Order shall be paid by the Applicant to the Respondents in any event;

As regards Respondents 1 and 6:

4. The Applicant shall pay to the respective Respondent all the reasonable costs of that Respondent in complying with this Order. For the avoidance of doubt such reasonable costs will include all the reasonable costs (including solicitors' costs) of (1) considering the Application, (2) responding to, preparing for and attending (if necessary) the hearing of this Application, (3) complying with this Order (including reasonable software development costs for the purposes of efficiently complying with this and future orders to be agreed) and (4) responding to queries and complaints pertaining to this Order which are received by the respective Respondent after the date on which disclosure takes place.

As regards Respondents 2 and 5 :

5. The Applicant shall pay to the respective Respondent all the reasonable costs of that Respondent in complying with this Order. For the avoidance of doubt such reasonable costs will include all the reasonable costs (including solicitors' costs) of (1) considering the Application, (2) responding to, preparing for and attending (if necessary) the hearing of this Application, (3) complying with this Order and (4) responding to queries and complaints pertaining to this Order which are received by the respective Respondent after the date on which disclosure takes place.

As regards all Respondents:

6. The Respondents shall supply at the same time as complying with paragraphs 1-5 of this Order details of their administrative and legal costs incurred in complying with this Order. The Respondents shall notify the Applicant in writing of those respective costs incurred.
7. Each of the Respondents shall, within a reasonable period of time of incurring any aforementioned costs, notify the Applicant in writing of those respective costs incurred by such Respondent in accordance with paragraphs 4 and 5 above.
8. The Applicant shall pay to the respective Respondent all such reasonable costs within twenty one days of receipt of the notification of the same.
9. The Applicant will not use or disclose any documents and/or information disclosed pursuant to this Order for any purpose other than pursuing a claim for infringement of the copyright of the Applicant in one or more of the Works.
10. The Applicant shall include in every first letter of claim to each potential Defendant (1) a copy of this Order, and (2) in the first paragraph of such letter the following words, namely – *“By an Order dated2009 of Chief Master Winegarten sitting at the High Court, your internet service provider was required to give disclosure of your name and address for the purpose of this letter. For your information we enclose a copy of that Order”*.
11. Within six months of the date of disclosure referred to in paragraph 3 above, the Applicant shall provide to Respondents 1, 2, 5 and 6 a written report stating precisely

from the relevant names disclosed (1) how many of those persons were sent letters of claim, and (2) against which persons legal proceedings were issued.

12. The Applicant and the Respondents have permission to apply.

Dated this 19th day of November 2009