

Kluwer Copyright Blog

A Norwich Pharmacal order

Maurizio Borghi · Tuesday, April 17th, 2012



UK: High Court Chancery Division, 26 March 2012, Golden Eye (International) Ltd v Telefonica UK Ltd.

Copyright owners (‘owners of the copyrights in pornographic films’) brought a claim for **Norwich Pharmacal relief** (“If through no fault of his own a person gets mixed up in the tortious acts of others so as to facilitate their wrong-doing he may incur no personal liability but he comes under a duty to assist the person who has been wronged by giving him full information and disclosing the identity of the wrongdoers”) against an internet service provider due to suspicions of peer-to-peer file sharing of their materials by internet users. The object of the claim is to obtain disclosure of the names and addresses of customers of O2 who are alleged to have committed infringements of copyright through peer-to-peer filesharing using the BitTorrent protocol. “The claim raises fundamental questions as to the operation of the Norwich Pharmacal regime, the legitimacy of so-called “speculative invoicing” and how to balance the rights of copyright owners and consumers.”

Whereas the Court acknowledged the right of the copyright owners to seek redress for infringement, it held that any claim letters or “speculative” invoices that are sent to internet users should safeguard their right to privacy and data protection. “I conclude that the Claimants’ interests in enforcing their copyrights outweigh the Intended Defendants’ interest in protecting their privacy and data protection rights, and thus it is proportionate to order disclosure, provided that the order and the proposed letter of claim are framed so as properly to safeguard the legitimate interests of the Intended Defendants, and in particular the interests of Intended Defendants who have not in fact committed the infringements in question.”

For the full text of the judgment, click [here](#).

A full summary by Stavroula Karapapa & Maurizio Borghi, Brunel University will be added to the Kluwer IP Cases Database (www.KluwerIPCases.com).

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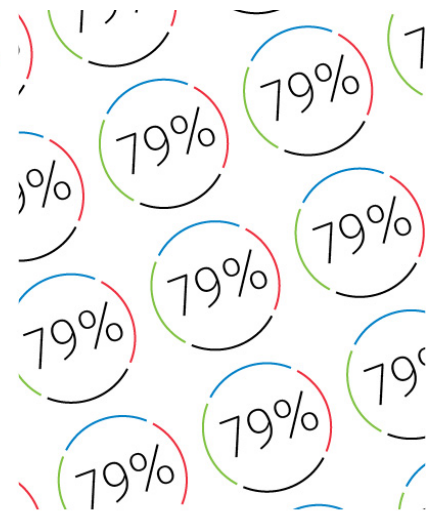
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