

# Kluwer Copyright Blog

## High Court extends Premier League's 'live blocking order' to the 2018/19 season.

Jeremy Blum, Charlie Purdie (Bristows LLP) · Saturday, August 18th, 2018

On 18 July, the High Court (Arnold J) in *The Football Association Premier League Ltd v British Telecommunications Plc & Ors* [2018] EWHC 1828 (Ch) granted an extension of a 2017 order requiring BT and others to block access to streaming services which gave unauthorised access to live Premier League football matches during the 2018/19 season.

Pursuant to section 97A of the Copyright, Designs and Patents Act 1988, the High Court has the power to grant such injunctions against a service provider, where that service provider has actual knowledge of another person using their service to infringe copyright.

### Background

The Football Association Premier League (FAPL) owns the copyright in films comprising television footage of all Premier League matches, and in the artistic works which appear within that footage such as logos and graphics that appear as an overlay to give additional information about the match.

In July 2017, in *FAPL v BT* [2017] EWHC 480 (Ch), BT and others were ordered by the High Court to use 'live blocking' to prevent users from accessing unauthorised 'live' streaming services (see [here](#)); this is in contrast to the usual injunctions under s97A which directly block the offending websites. This specific type of order was required by FAPL for a number of reasons, including increased access to services such as 'Kodi' boxes and Amazon Fire TV Sticks which do not require connection to a website, and an increase in high quality football streams becoming available.

The FAPL applied for an extension of this 'live blocking order' to cover the 2018/19 Premier League season.

### Decision

Arnold J granted the extension of the order referencing the following reasons, which are the same as those given for the proportionality of his previous order:

- the order would not impair the rights of the Defendants to carry on business;
- to the limited extent that it interferes with the rights of internet users to impart or receive information, the interference is justified by a legitimate aim, namely preventing infringement of FAPL's copyrights on a large scale;

- it will be effective and dissuasive, and there are no equally effective but less onerous measures available to FAPL;
- it avoids creating barriers to legitimate trade;
- it is not unduly complicated or costly; and
- it contains safeguards against misuse (see below).

The evidence submitted by the FAPL demonstrated that the order had been very effective in achieving the blocking of unauthorised streams and that no evidence had been found of overblocking.

Arnold J made amendments to the order to allow for more of the infringing streaming servers to be captured by the order and blocked, and to make the requirement to notify hosting providers of the block subject to a short delay in order to help prevent the order being circumvented.

### **How does a live blocking order differ from standard blocking orders?**

- This is a ‘live’ blocking order which only comes into effect at times when live Premier League match footage is being broadcast;
- The list of target servers is to be ‘re-set’ each match week during the Premier League season allowing new servers to be identified by FAPL and notified to the Defendants to be blocked each week;
- It is only applicable for a short period of time (i.e. the football season) that can potentially be extended in order to allow for an assessment of its effectiveness and of any issues encountered, and allowing for appropriate changes to be made to any extensions of the order (as happened in this case); and
- In addition to the safeguards which have become standard in section 97A website blocking orders (see [262] – [265] of the judgment of Arnold J in *Cartier International AG v British Sky Broadcasting Limited* [2014] EWHC 3354 (Ch) for a summary of such safeguards), the order requires a notice to be sent to each hosting provider each week when one of its IP addresses is subject to blocking – now subject to a short delay to prevent offending stream providers circumventing the block.

### **Comment**

The Courts of England and Wales have regularly used their jurisdiction under s97A to injunct non-infringing ISP intermediaries thus ‘blocking’ access by internet users to certain websites. The extension to live streaming services is a natural evolution of blocking orders and ensures as many access points as possible are covered.

---

*To make sure you do not miss out on regular updates from the Kluwer Copyright Blog, please [subscribe here](#).*

## **Kluwer IP Law**

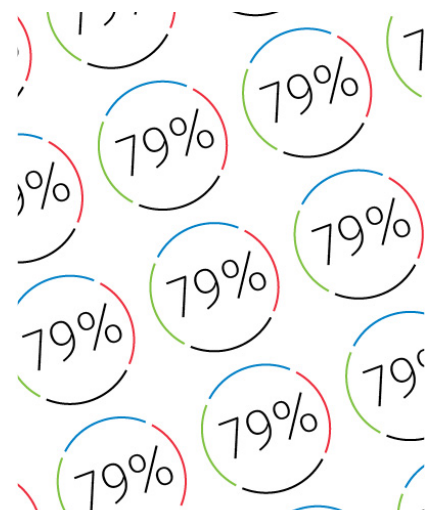
The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how **Kluwer IP Law** can support you.

---

79% of the lawyers think that the importance of legal technology will increase for next year.

**Drive change with Kluwer IP Law.**  
The master resource for Intellectual Property rights and registration.



2022 SURVEY REPORT  
The Wolters Kluwer Future Ready Lawyer  
Leading change

This entry was posted on Saturday, August 18th, 2018 at 12:27 pm and is filed under [Case Law](#), [Enforcement](#), [Infringement](#), [Liability](#), [Remedies](#), [United Kingdom](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. You can leave a response, or [trackback](#) from your own site.