

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
INTELLECTUAL PROPERTY LIST (CHANCERY DIVISION)

Rolls Building
Fetter Lane, London, EC2A 1NL

Date: 18 July 2018

Before :

MR JUSTICE ARNOLD

Between :

THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED	<u>Claimant</u>
- and -	
(1) BRITISH TELECOMMUNICATIONS PLC	<u>Defendants</u>
(2) EE LIMITED	
(3) PLUSNET PLC	
(4) SKY UK LIMITED	
(5) TALKTALK TELECOM LIMITED	
(6) VIRGIN MEDIA LIMITED	

Jaani Riordan, instructed by **DLA Piper UK LLP**, made written submissions on behalf of the
Claimant

The **Defendants** were not represented
The application was considered on paper

Judgment Approved

MR JUSTICE ARNOLD :

1. On 8 March 2017 I made an order (“the First Order”) on the application of the Claimant (“FAPL”) requiring the Defendants to take measures to block, or at least impede, access by their customers to streaming servers which deliver infringing live streams of Premier League footage to UK consumers (“the Target Servers”). I gave my reasons for making the First Order in *Football Association Premier League Ltd v British Telecommunications plc* [2017] EWHC 480 (Ch), [2017] ECC 17 (“*FAPL v BT I*”).
2. As explained in *FAPL v BT I* at [26], the First Order only lasted until 22 May 2017, which was the end of the 2016/2017 Premier League season. This was intended to enable an assessment of its effectiveness, and of any issues encountered, with a view to FAPL applying for a similar order to cover the 2017/2018 season, with any changes that might seem appropriate in the light of experience.

3. On 25 July 2017 I made a made a similar order covering the 2017/2018 season, that is to say, from 12 August 2017 to 13 May 2018 (“the Second Order”). I gave my reasons for making the Second Order in *Football Association Premier League Ltd v British Telecommunications plc* [2017] EWHC 1877 (Ch) (“*FAPL v BT I*”).
4. Paragraph 9 of the Second Order gave FAPL permission to apply to extend the operation of the Second Order for a further season. FAPL has now applied for such an extension. The application is supported by some of the Defendants and not opposed by the other Defendants and the terms of the order are agreed. Again, however, the Court must be satisfied that it is justified.
5. The evidence filed by FAPL in support of this application demonstrates that the Second Order was very effective in achieving the blocking of access to the Target Servers during Premier League matches. Moreover, no evidence has been found of overblocking despite checks having being undertaken.
6. The order sought by FAPL differs from the Second Order in two respects. First, there is an adjustment to the first criterion in Confidential Schedule 3 (see *FAPL v BT I* at [21]). This enlarges the subset of infringing steaming servers to be blocked. Secondly, the requirement to notify hosting providers is made subject to a short delay. This is in order to prevent the order being circumvented. The evidence filed by FAPL in support of the application demonstrates that there have been attempts to circumvent the Second Order, and therefore this concern is a very real one.
7. Having considered the evidence and the terms of the order, I am satisfied that the Court has jurisdiction to make the order sought and that it is appropriate to exercise my discretion to do so for essentially the same reasons as I gave in *FAPL v BT I*.
8. It is agreed that there should be no order as to costs.