

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No HQ09005155

[2009] EWHC 3423 (QB)

Royal Courts of Justice
The Strand
London
WC2A 2LL

Monday 23 November 2009

B e f o r e:

MR JUSTICE EADY

B E T W E E N:

LOCKTON COMPANIES INTERNATIONAL & OTHERS

Claimants

– v –

(1) PERSONS UNKNOWN

(2) GOOGLE INC

Defendants

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Mr Hugh Tomlinson QC (instructed by Olswang LLP)
appeared on behalf of the Claimants

The Defendants were unrepresented

J U D G M E N T
(Approved)

Monday 23 November 2009

MR JUSTICE EADY:

1. There are two questions which arise before me today on this application by Mr Tomlinson QC on behalf of the proposed claimants. The first relates to jurisdiction. Norwich Pharmacal relief is sought against Google Inc, which is based in the United States. They are registered in Delaware and are physically present in California. There has been communication with Google, which has indicated that it will comply with the requirements but does not accept the jurisdiction of the court and therefore I need to consider whether it is appropriate to grant permission to serve out against Google Inc.

2. My attention has been drawn to Practice Direction B3.1(3) and submissions have been made in the light of that, in particular to the effect that the first defendants (ie Persons Unknown) are likely to be in this jurisdiction from the nature of the offending communications in respect of which it is sought to bring proceedings against them. The recipients are in the jurisdiction. They would appear to be employees of an English company and the content of the offending e-mails relates to an English company and to its employees. It is therefore submitted that it is reasonable to infer that once the offending person or persons have been identified, service will be effected on them within the jurisdiction.

3. It is said that the second defendant (ie Google Inc) is a necessary and proper party to the claim. That is because it is submitted to be necessary to obtain an order against it to disclose information which would lead to the identification of the persons unknown who constitute the first defendants.

4. Norwich Pharmacal relief is regarded as substantive relief and therefore the application does not offend against the principle that one cannot assert jurisdiction against a party resident abroad purely for the purposes of disclosure of documents. It seems to me that in those circumstances the submissions should be upheld and the court should exercise its jurisdiction to grant permission to serve out within the provisions to which I have referred.

5. The second matter which comes before me is the substantive matter of Norwich Pharmacal relief. It is necessary therefore to consider the three criteria identified by Lightman J in the Mitsui case. It is clear that on the face of it wrongs have been committed within this jurisdiction, for example, by way of defamation, harassment and infringements of the data protection legislation. It is clear also that there is a need for an order under the Norwich Pharmacal jurisdiction with a view to obtaining the names of the persons concerned and that such an order can be effective only against Google Inc. There is reason to believe that Google can supply relevant information to enable the claimants to bring proceedings against the persons unknown for the reasons which are identified in the evidence of Mr Tench. It seems to me in the circumstances therefore appropriate to exercise the discretion of the court and make an order granting the Norwich Pharmacal relief. Therefore I will grant both orders sought.

MR TOMLINSON: I am most obliged, my Lord. I will prepare a minute of order and submit it in the usual way.

MR JUSTICE EADY: Very well. Thank you very much.
