



Case No: QB-2020-004499

Neutral Citation Number: [2021] EWHC 2006 (QB)

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand
London, WC2A 2LL

Thursday, 27 May 2021

BEFORE: MRS JUSTICE TIPPLES

B E T W E E N:

RAFFAELE MINCIONE

Claimant

- and -

GEDI GRUPPO EDITORIALE SpA

Defendant

MS L SKINNER QC and MS K SJØVOLL (instructed by Withers LLP) appeared on behalf of the claimant/respondent

MR A EARDLEY (instructed by Archerfield Partners) appeared on behalf of the defendant/applicant

JUDGMENT
(Approved)

Digital Transcription by Epiq Europe Ltd,
Unit 1 Blenheim Court, Beaufort Business Park, Bristol, BS32 4NE
Web: www.epiqglobal.com/en-gb/ Email: civil@epiqglobal.co.uk
(Official Shorthand Writers to the Court)

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.

MRS JUSTICE TIPPLES:

Introduction

1. This is the defendant's application under CPR Part 11 for a declaration that the court has no jurisdiction to try the claimant's claim for a so-called "internet injunction". The application is made by an amended application notice dated 5 February 2021 and is supported by the witness statement of Kevin John Bays ("**Mr Bays**") dated 5 February 2021.

Background

2. The factual and procedural background to this application is as follows.
3. The claimant is an Italian national who holds a British passport, having obtained British citizenship along with his wife and two daughters in 2018. The claimant is now resident in Switzerland. He describes himself as a businessman with more than 20 years' experience in investment management and banking and he has established significant business connections and reputation within the financial sector in this jurisdiction.
4. The defendant is an Italian company which publishes the daily newspaper, *La Repubblica*, and the weekly magazine, *L'Espresso*. These are Italian language publications reporting on politics and current affairs.
5. *La Repubblica* is published online and is accessible worldwide and in a digital edition which is an exact replica of the day's hard copy edition. The digital edition is available to subscribers only. Some of the content of the online edition is available for free and the rest is intended to be accessible only to subscribers, although it appears that non-subscribers may be able to access the content for free.

6. *L'Espresso* is published online and in digital and hard copy edition. The online version is accessible worldwide. The defendant maintains that much of its content is initially accessible only to subscribers and only becomes freely accessible after 180 days.
7. The defendant also operates the *Rep TV* website and a YouTube channel, on which it posts videos.
8. *La Repubblica* and *L'Espresso* have reported on a story, which the defendant describes as a “developing story”, concerning the alleged misuse of Vatican funds to invest in real estate in London, to the detriment of the Vatican itself but to the benefit of various advisors and middlemen. The defendant has, in particular, reported on “letters rogatory” sent by the Vatican authorities to prosecutors in Italy and Switzerland in relation to these allegations. The claimant has been identified in those letters as one of the individuals involved.
9. The claim form was issued on 17 December 2020.
10. The claim concerns the online publication of four *La Repubblica* and *L'Espresso* articles and two online videos in September and October 2020. These publications all reported on the letters rogatory and the allegations contained in them about the claimant. The claim for damages is limited to online publication in England and Wales. The claimant places reliance upon third-party republications of the imputations contained in the defendant's articles.
11. Paragraph 6 of the claim form seeks an injunction restraining the defendant, whether by its officers, directors, servants, or agents or otherwise, from further publishing or causing to be published in this jurisdiction the statements complained of or any similar words defamatory to the claimant. This claim for an injunction is then reflected in paragraph 2 of the prayer for relief in the particulars of claim.
12. Paragraph 7 of the claim form seeks an order pursuant to section 12 of the Defamation Act 2013 (“**the 2013 Act**”) that the defendant publish a summary of the judgment in these proceedings. The claim for an order under section 12 is then reflected in paragraph 3 of the prayer for relief in the particulars of claim.

13. On 4 January 2021, the defendant acknowledged service stating that it intended to contest jurisdiction.
14. The issue as to the court's jurisdiction to hear the claim falls to be determined by reference to Council Regulation (EU) 1215/2012 (“**the Recast Brussels Regulation**”/“**RBR**”). The RBR was preserved post-Brexit in respect of claims issued during the Implementation Period, which this claim was.

The Defendant’s application

15. The defendant seeks the following relief by its amended application notice dated 5 February 2021:
 - a. A declaration pursuant to CPR Part 11 that the court has no jurisdiction to try the claim for an injunction or for an order pursuant to section 12 of the 2013 Act, or should not exercise such jurisdiction as it may have, insofar as such injunction and order would require the defendant to publish or cease and desist from publishing online material.
 - b. An order striking out paragraph 6 of the claim form, paragraph 36 of the particulars of claim, and paragraphs 2 and 3 of the prayer, (those being the paragraphs where the claim for an injunction under a section 12 order are asserted); alternatively, a summary judgment on the claim for an injunction and a section 12 order.
16. Alternatively, the defendant seeks relief at paragraph (c) of the amended application notice, which is expressed in these terms:

“An internet injunction expressed to be limited to England and Wales would in fact require the defendant to cease and desist from publication elsewhere in the UK and in the rest of the world and accordingly ... the court has no jurisdiction to grant such an injunction or should not exercise such jurisdiction as it may have; for the same reasons, the court has no jurisdiction to make a section 12 order requiring online publication, even if expressed to be limited to England and Wales, or should not exercise such jurisdiction as it may have.”

17. The claimant seeks this relief because the defendant is domiciled in Italy. The claimant does not have his centre of interests in this jurisdiction, and accordingly the court has no jurisdiction pursuant to Article 7(2) of the RBR to grant any form of internet-based relief, even if expressed to be limited to England and Wales. Alternatively, the defendant maintains that the claimant's statement of case discloses no reasonable grounds for the grant of an internet injunction or a section 12 order requiring online publication and/or the claim for such amounts to an abuse of process and/or the claimant has no realistic prospect of obtaining an internet injunction or a section 12 order. Accordingly the claim should be struck out or the defendant granted summary judgment.
18. The defendant states that it knows of no other reason why the claims for an injunction and a section 12 order should await trial.
19. The application is, as I have mentioned above, supported by the evidence of Mr Bays.
20. On 12 April 2021 the claimant served evidence in response, and that led to the service of the amended application notice. This is because originally the defendant challenged the court's jurisdiction to try the claimant's claim for damages as well as for an injunction. However, in the light of the evidence served by the claimant, the defendant abandoned his jurisdiction challenge to the damages claim, and is now only pursuing a jurisdiction challenge in respect of part of the claim, namely the internet injunction and the section 12 order. This gives rise to a discrete costs issue, which I shall deal with at the end of this judgment.
21. There is also a second witness statement from Mr Bays dated 24 March 2021, which the defendant also relies on.

Relevant law

22. Before I turn to the parties' submissions, the relevant legal principles can be summarised as follows.

23. First, once the issue of jurisdiction is raised, the burden is on the claimant to satisfy the court that it does have jurisdiction under the RBR. The standard of proof which the claimant must discharge is that of a “good arguable case”, which in this context means, “the better of the argument”: see *Saïd v Groupe L'Express* [2019] EMLR 9 (“*Saïd*”), Nicol J at para 44 and *Soriano v Forensic News LLC* [2021] EWHC 56 (QB), Jay J at para 38.
24. Second, the general rule under the RBR is that a defendant should be sued in the courts of the member state where they are domiciled: see Article 4. However, there is an exception to the general rule, set out in Article 7(2) of the RBR, which provides that a person domiciled in a member state may be sued in another member state “in matters relating to tort, delict or quasi-delict in the courts for the place where the harmful event occurred or may occur”. This is the provision that the claimant relies on in this case, in order to bring his claim in this jurisdiction. Further, the principles of legal certainty and proximity are set out in recitals 15 and 16 to the RBR.
25. Third, there is a “valuable summary” of the law in relation to the “ambit of the jurisdictional portal conferred by way of special jurisdiction” under article 7(2) of the RBR in the judgment of Nicol J in the *Saïd* case at paragraphs 9 to 31 (see *Napag Trading Limited v GEDI Gruppo Editoriale SpA* [2021] EMLR 150 (“*Napag*”) per Jay J at paragraph 23. However, as I shall come on to explain, the claimant does not agree with Nicol J’s analysis of the law and, in particular, at paragraph 31.
26. Fourth, in the context of libel, a “harmful event” occurs in each member state where defamatory material is published and causes injury to the claimant’s reputation: *Shevill v Presse Alliance SA* [1995] 2 AC 18, CJEC (“*Shevill*”) at paragraphs 24 to 33. This means that a claimant has a choice. He may therefore bring an action against a defendant in the defendant’s home state in respect of all the harm caused by the defamation, or he may bring a claim in each state where there was a publication of the defamatory material which caused harm to the claimant's reputation there, which is sometimes referred to as the “mosaic alternative”. However, in the latter case the claim must be limited to the damages for harm caused by publication in that state.

27. Fifth, in a case concerning online publication, a claimant may additionally claim damages under Article 7(2) in respect of all the harm caused by that online publication, wherever occurring, if they bring their claim in the member state where they have their “centre of interests”: see *eDate Advertising GmbH v X; Martinez v MGN Limited* [2012] QB 654, CJEU (“*eDate*”) at paragraph 52.
28. Sixth, in *Bolagsupplysningen OÜ v Svensk Handel AB* [2018] QB 963, (“*Bolagsupplysningen*”) the CJEU clarified that, although in *Shevill* it had ruled that a claimant could sue for defamation in each member state where there was a publication and damage to reputation, an application to rectify incorrect information and to have content taken down from the internet was a single and indivisible application, and (following *Shevill* and *eDate*) could only be made in the jurisdiction where the court was able to rule on the entire claim for damages: see *Kennedy v National Trust for Scotland* [2020] QB 663, CA at paragraph 80.

The main issue

29. It is the decision of the Court of Justice of the European Union in *Bolagsupplysningen*, and its application to the facts of this case, which is at the heart of the dispute between the parties in relation to this application. The central issue being whether the court ever has jurisdiction to grant an internet injunction where a claimant brings his claim in defamation in England and Wales under RBR 7(2) on what is known as the “mosaic basis”.
30. There is no dispute in this case that the claimant’s centre of interests is not in England and Wales. Further, there is no allegation in the claim form or in the Amended Particulars of Claim as to where the claimant maintains his centre of interests is located, and that is a matter which is unknown.

Defendant’s submissions

31. Mr Eardley for the defendant, makes four main submissions.

32. First, this application is properly brought under CPR Part 11. Whether the court may grant an injunction, in a case such as this, is a question of jurisdiction, which is separate and distinct from the question of whether it has jurisdiction to try the claim for damages. As the application is properly brought under CPR Part 11, it must be determined now. The court cannot (or in any event, should not) defer the issue until trial.
33. Second, in relation to the damages claim, the court only has jurisdiction to hear the claim for damages arising from publication in England and Wales. However, England and Wales is not the place where the defendant is domiciled. It is not the place where the event giving rise to the damage occurred, and it is not the place where the claimant has his centre of interests. This means that this court's jurisdiction is limited to the jurisdiction under the "mosaic" principle recognised in *Shevill* and *eDate*. That being so, the court has no jurisdiction to grant an internet injunction. This is because such an injunction may only be granted by a court with jurisdiction to hear a claim for which the entirety of the damage is suffered by online publication, not a court which is seized of a damages claim on the mosaic basis.
34. Third, if that is wrong, and an English court seized of a damages claim on the mosaic basis does have jurisdiction to grant an internet injunction, then it has jurisdiction to do so only where, in terms and effect, such an injunction is limited to future online publication in England and Wales. No such jurisdiction arises in this case because, even if expressed to be limited to publication in England and Wales, an injunction would inevitably affect the defendant's ability to publish elsewhere.
35. Fourth, even if the court has jurisdiction, there is no prospect of it granting an injunction on the facts of this case.

Claimant's submissions

36. Ms Skinner QC, for the claimant, likewise makes four main submissions on behalf of the claimant.
37. First, it is unnecessary and disproportionate to determine the jurisdiction issue at this stage. This issue should be adjourned generally, together with the application to dispose

of the section 12 order. This is so that the court will be in a much better position to decide whether to exercise its jurisdiction to grant the relief sought, having heard the evidence and made factual findings at trial.

38. Second, the court does have jurisdiction to try the claimant's claims for injunctive relief and for a section 12 order and there is no reason why it should not exercise it. This is because his claims are confined to remedies in this jurisdiction and, to the extent that the decision of Nicol J in *Said* suggests otherwise, *Said* is plainly wrong and based on a misinterpretation of *Bolagsupplysningen* and should not be followed.
39. Third, there is no good practical reason why the court should decline to exercise the jurisdiction that it has. The defendant's assertions that, as a matter of fact, any such orders that the court may make will require it to comply outside the jurisdiction are either, (a) (in respect of publication outside the UK) not borne out on the evidence because of the availability of geo-blocking; or (b) (in respect of publication in the UK but outside of the jurisdiction of England and Wales) represent a proportionate interference with the defendant's Article 10 rights in all the circumstances.
40. Fourth, to deny the claimant the right to final injunctive relief and a section 12 order in circumstances where (necessarily) the court has determined that the defamatory statement is untrue, has caused or is likely to cause serious harm to the claimant's reputation and its continuing publication here would be unlawful, would itself represent an unlawful interference with his Article 8 rights to reputation contrary to the court's duty to act compatibly with the Convention under section 6 of the Human Rights Act 1998 ("**the 1998 Act**").

Procedure

41. I now deal with the first issue, which is procedure. CPR Part 11(1) provides that: "A defendant who wishes to – (a) dispute the court's jurisdiction to try the claim ... may apply to the court for an order declaring that it has no such jurisdiction ...". The rule then sets out a defendant who wishes to make such an application must first file an acknowledgment of service, and does not lose the right to challenge jurisdiction by doing

so, but must make the application challenging jurisdiction within 14 days of doing so, otherwise he will lose the right to do so.

42. CPR Part 11(1) does not, on its face, permit a defendant to challenge jurisdiction in relation to any part of the claim. However, the notes in *Civil Procedure 2021* (Volume 1) (“**the White Book**”) at paragraph 11.1.6 explain: “Although not expressly stated in Pt 11, the relief granted by the court may relate to only part of the case”. There is no authority cited in support of this note, and counsel did not refer me to any. Given the wording of the rule, particularly when contrasted with a rule such as CPR Part 24.2(a), it seems to me surprising that the note in the White Book, if right, is not supported by authority. However, Ms Skinner for the claimant did not take any point on this and did not seek to argue that the note in the White Book is wrong.
43. I shall therefore proceed on the basis that the court does have jurisdiction to determine the defendant’s application under CPR Part 11 in respect of part of the claim. However, if that is not the right approach, then the defendant has made an application under CPR Part 24.2 and, if the defendant’s argument on jurisdiction is right, then it will be possible to determine that issue at this stage of the proceedings under CPR Part 24.2(a)(i) on the basis that the claimant has no real prospect of succeeding on that issue.

Claimant’s application for an adjournment

44. Ms Skinner’s first point is that the defendant’s jurisdiction challenge should not be determined at this stage. In essence, Ms Skinner submits that it is premature to do so as the court is not, at this stage, equipped with all the necessary factual information. The difficulty with that submission is that the defendant’s jurisdiction challenge gives rise to a pure point of law which, if Mr Eardley’s submissions are correct, will be determinative of the defendant’s application and the claimant’s claim for an injunction in relation to internet publication in the terms sought. Further, jurisdiction is a point that the parties were ready to argue before me and, in my view can be determined now. In these circumstances, there is little point in adjourning this jurisdiction challenge to be determined at a later date, particularly when putting the matter off may lead to uncertainty in the litigation and unnecessary costs being incurred.

45. I therefore reject the claimant's application to adjourn the jurisdiction challenge generally until after trial.

Edate and Bolagsupplysningen

46. Before turning to the decision of *Bolagsupplysningen*, it is necessary to refer to the earlier decision of the Court of Justice of the European Union in *eDate*.

47. I have summarised the decision in that case in the fifth of the legal points I have identified above.

48. In *eDate*, there were in fact two cases referred to the CJEU, and I take the facts from the headnote in the law report. In the first case, the defendant, an Austrian company which operated an internet portal, published information on its website regarding the claimant's conviction some years previously for murder. The claimant, a German national, brought his action in Germany seeking an injunction to prohibit the defendant from publishing any further information about him. In the second case, the claimants, a French actor and his father, brought a claim in France against the defendant, a publishing company incorporated in England and Wales, complaining that a posting on the website of an English newspaper published by the defendant interfered with their private lives.

49. In each case, the defendant argued that the court in which the proceedings had been brought lacked jurisdiction, and the national court referred to the CJEU questions in relation to Article 5(3) of Council Regulation (EC) No. 44/2001 (the predecessor to Article 7(2) of the RBR) was to be applied to the alleged infringement of personality rights by means of content based on a website.

50. On 29 March 2011, the Advocate General, Cruz Villalon, delivered his opinion in relation to the questions that had been referred to the CJEU. Paragraphs 42 to 48 of that opinion is a section entitled "The Internet, the press and dissemination of information".

51. Paragraph 43 says this:

"The invention and establishment of the internet, and of the worldwide web ... put an end to that tendency towards territorial

fragmentation of the media. In fact, it reversed it so that the dissemination of information became a global rather than a national phenomenon ... Using an intangible, technological medium which allows the mass storage of information and its immediate distribution anywhere on the planet, the internet provides an unprecedented platform in the sphere of social communication techniques ... On the other hand, the internet has transformed the temporal conception of those relationships because of the immediacy with which their content may be accessed and because of their potential for permanency on the net. Once content is circulated on the net, it is, in principle, available via the net forever.”

52. The Advocate General continued at paragraph 44 in these terms:

“As a result of the foregoing, a media outlet which decides to publish its content on the internet adopts a method of ‘distribution’ which is radically different from that required by conventional media. Unlike the press, a website does not require a prior business decision about the number of copies to distribute or, much less, to print, because distribution is global and instantaneous: it is common knowledge that a website may be accessed anywhere in the world where there is internet access. Access to the media outlet is also different, as are the advertising methods which surround the product. The net, as I have just explained, enables permanent, universal access, which individuals may distribute immediately to one another. Even media outlets on the internet which must be paid for are different from other forms of media because generally the purchase is made on a worldwide basis.”

53. In paragraph 46 the Advocate General explained that:

“The features described above have an unquestionable impact on the legal sphere. As has been stated, the global and immediate distribution of news content on the internet makes a publisher subject to numerous local, regional, state and international legal provisions ... Accordingly, the need to provide the media with legal certainty, by preventing situations which discourage the lawful exercise of freedom of information (the so-called chilling effect), acquires the character of an objective which the court must also take into consideration.”

54. Then, at paragraph 47, he said this:

“Further, the control exerted by a media outlet over distribution of and access to its medium becomes blurred and, on occasions, unattainable. When information content is uploaded to the net, individuals immediately become -- voluntarily or involuntarily -- distributors of the information, by means of social

networks, electronic communications, links, blogs or any other methods which the internet provides ... Even the restriction of content by means of paying access, which is occasionally subject to territorial limitations, faces serious difficulties when it comes to preventing the mass distribution of information.”

55. Mr Eardley points to these paragraphs of the Advocate General’s opinion as recognising first the vast number of ways that information can be distributed and redistributed, on the internet and second that, although it is possible to put territorial limitations on access to content, that faces serious difficulties when it comes to mass distribution of information.

56. The consequences of the internet were considered by the CJEU at paragraphs 45 and 46 of its judgment:

“[45]. Further, the internet, unlike traditional media, is characterised by a significant lack of political power. Its global nature hinders intervention by the public authorities in activities which take place on the net, leading to a material deregulation which is criticised in many circles... In addition to that material deregulation, there is also a conflict of laws fragmentation, a dispersed amalgam of national legal systems with their respective provisions of private international law which often overlap and hinder any approximation of the rules which govern a particular dispute.

[46]. The features described above have an unquestionable impact on the legal sphere. As has been stated, the global and immediate distribution of news content on the internet makes a publisher subject to numerous local, regional, state and international legal provisions. Moreover, the absence of a global regulatory framework for information activities on the internet, together with the range of provisions of private international law laid down by states, exposes the media to a fragmented, but also potentially contradictory legal framework, since that which is prohibited in one state may, in turn, be permitted in another... Accordingly, the need to provide the media with legal certainty, by preventing situations which discourage the lawful exercise of freedom of information (the so-called chilling effect), acquires the character of an objective which the court must also take into consideration...”

57. Paragraph 46 is plainly important. In *Shevill*, the court knew how many hard copies of the issue of “*France Soir*” had been distributed (see *Shevill* at 21E-F). However, in the

context of an online publication, it is not always possible, on a technical level, to quantify that distribution with certainty and accuracy.

58. In this context, the CJEU explained the challenges presented by the internet in these terms:

“[47]. The difficulties in giving effect, within the context of the internet, to the criterion relating to the occurrence of damage which is derived from *Shevill's* case contrasts, as the Advocate General noted at point 56 of his opinion, with the serious nature of the harm which may be suffered by the holder of a personality right who establishes that information injurious to that right is available on a worldwide basis.”

59. The court then concluded that:

“[48.] The connecting criteria referred to in para 42 of the present judgment must therefore be adapted in such a way that a person who has suffered an infringement of a personality right by means of the internet may bring an action in one forum in respect of all of the damage caused, depending on the place in which the damage caused in the European Union by that infringement occurred. Given that the impact which material placed online is liable to have on an individual's personality rights might best be assessed by the court of the place where the alleged victim has his centre of interests, the attribution of jurisdiction to that court corresponds to the objective of the sound administration of justice, referred to in para 40 above.”

60. The CJEU therefore added to the principles established in *Shevill* and reached a conclusion which Mr Eardley submitted was in accordance with the proximity principle (set out at recital 16 to the RBR).

61. Against that background, I now turn to the decision in *Bolagsupplysningen*.

62. I can take the facts from the headnote. The claimant, an Estonian company, and one of its employees brought an action before an Estonian court for an order that a Swedish trade association rectify incorrect information published on its website pertaining to the company and pay the company compensation for the harm sustained and also pay the employee compensation for non-material damage. An Estonian court found that since the information and comments were published in Swedish without a translation and were

incomprehensible to persons residing in Estonia the action was inadmissible because the damage had not occurred in Estonia.

63. The Estonian court held that it was therefore not possible to apply Article 7(2) of the RBR so that the defendant could not be sued in a member state, other than that of his domicile, where the harmful event had occurred or might occur. On appeal, the Estonian Supreme Court referred three questions to the matter to the CJEU. It is only the first question that is of relevance in the present context. This is dealt with at paragraphs 45 to 49 of the judgment:

“[45]. By its first question, the referring court asks, in essence, whether Article 7(2) of Regulation No 1215/2012 must be interpreted as meaning that a person who alleges that his personality rights have been infringed by the publication of incorrect information concerning him on the internet and by the failure to remove comments relating to him can bring an action for rectification of that information and removal of those comments before the courts of each member state in which the information published on the internet is or was accessible.

[46]. That question must be answered in the negative.

[47]. It is true that, in the *eDate* case [2012] QB 654, paras 51 and 52, the court held that the person who considers that his rights have been infringed may also, instead of an action for damages in respect of all the harm caused, bring his action before the courts of each member state in whose territory content placed online is or has been accessible, which have jurisdiction only in respect of the harm caused in the territory of the member state of the court seised.

[48]. However, in the light of the ubiquitous nature of the information and content placed online on a website and the fact that the scope of their distribution is, in principle, universal (the *eDate* case, para 46), an application for the rectification of the former and the removal of the latter is a single and indivisible application and can, consequently only be made before a court with jurisdiction to rule on the entirety of an application for compensation for damage pursuant to the case law resulting from *Shevill's* case [1995] 2 AC 18, paras 25, 26 and 32 and the *eDate* case, paras 42 and 48, and not before a court that does not have jurisdiction to do so.

[49]. In the light of the above, the answer to the first question is that Article 7(2) of Regulation No 1215/2012 must be interpreted as meaning that a person who alleges that his personality rights have been infringed by the publication of incorrect information

concerning him on the internet and by the failure to remove comments relating to him cannot bring an action for rectification of that information and removal of those comments before the courts of each member state in which the information published on the internet is or was accessible."

64. Paragraph 47 sets out where the person, who considers that his rights have been infringed as a result of the content placed online may bring his actions for damages, and the "mosaic" alternative is explained. Paragraph 48, on the other hand, sets out where that person may bring an action to rectify incorrect information published online concerning him and to remove any comments online which relate to him. It is plain that the "mosaic" alternative is not an option in these circumstances.
65. This decision was considered by Nicol J in *Said*, which I now turn to.

Said

66. In that case, the claimant was a businessman living in Monaco. He sued the defendants, who were domiciled in France, for libel in respect of an article which had been distributed in hard copy and published on their website. 279 copies of the print edition of the article had been circulated in England and Wales. The claimant limited his claim for damages to publication of the article in England and Wales, and therefore he was pursuing his claim in damages on the "mosaic" alternative.
67. Further, the relief sought by the claimant in the claim form included an injunction in these terms at paragraph 4:

"An injunction restraining the first defendant, whether by its directors, officers, employees, agents or otherwise howsoever, and the second defendant, whether by himself, his agents or otherwise howsoever, from publishing or causing to be published the same or similar words defamatory of the claimant."

68. The wording of the injunctive relief sought by the claimant in *Said* is, therefore, remarkably similar to the injunction sought by the claimant in this case.

69. The defendants in *Said* applied for a ruling that the court had no jurisdiction to determine the claim. That application was made in August 2018 and, on 26 November 2018, the claimant served his evidence in answer. The following day his skeleton argument for the hearing was served, in which it was explained that: “it was the claimant’s case that his centre of interests was in England and therefore, consistent with *Bolagsupplysningen*, the claimant was entitled to an internet injunction” (see *Said* at paragraph 39). That skeleton argument was served the day before the hearing.
70. Therefore, in that case, the claimant appears to have accepted that, in order to seek an injunction in the terms set out in paragraph 4 of the claim form (which Mr Eardley describes as an “internet injunction”), the claimant had to have his centre of interests in England and Wales, otherwise he would fall foul of the principle established by the CJEU in *Bolagsupplysningen* and the courts of England and Wales would not have any jurisdiction to deal with his claim for an injunction.
71. On the evidence, Nicol J concluded that the claimant had not shown a good arguable case that his centre of interests was in England and Wales. The defendants were not domiciled in the jurisdiction and, as a result, “in accordance with *Bolagsupplysningen* this Court does not have jurisdiction to grant an injunction to restrain publication of the article on the internet” (see *Said* at paragraph 73).
72. Nicol J considered *Bolagsupplysningen* in some detail at paragraphs 24 to 30 of his judgment. Having done so, at paragraph 31 he said this:

"I take from *Bolagsupplysningen* the following:

i) So far as internet publications are concerned, a claimant who is seeking relief such as an injunction may do so only (a) in a member state where the defendant is domiciled (so that the courts of that member state have jurisdiction under Article 4(1)); or (b) in the member state where claimant has his centre of interests...

iii) The court was concerned exclusively with publications on the internet. So far as remedies for print publications are concerned, a claimant's options as set out in *Shevill* remain the same.

iv) Likewise, the court was concerned exclusively with remedies for the rectification or removal of information from the internet. So far as other remedies, such as damages are concerned (even damages

for internet publications) the court appears to have made no change to the previous position."

73. Further, the principle that Nicol J took from *Bolagsupplysningen* is stated in unqualified terms at paragraphs 46 and 55 of the judgment.
74. The claimant's case is that the first point that Nicol J has "taken from" *Bolagsupplysningen* is wrong. Ms Skinner submits that *Bolagsupplysningen* concerned an action for rectification of information on the internet and the removal of comments on the internet. This type of relief is more limited than the relief "such as an injunction" referred to by Nicol J in his first point, and is more limited than the injunctive relief which was sought by the claimant in *Said*. In this context, Ms Skinner submits that Nicol J's analysis of *Bolagsupplysningen* is wrong and as a result, I should not follow it.
75. In *Napag Jay J* cited Nicol J's analysis of *Bolagsupplysningen* with approval.
76. In these circumstances, unless I am convinced that the judgment of Nicol J in *Said* is wrong, as a judge of first instance I should follow it as a matter of judicial comity (see *Huddersfield Police Authority v Watson* [1947] KB 842 at 848, per Lord Goddard).
77. The claimant maintains that his claim for an injunction is confined to material in this jurisdiction. He is not, he says, seeking rectification of information off the internet or removal of comments anywhere in the world. That, he says, is not the relief sought in this claim. Indeed, the claimant says, if that had been the relief he was seeking then he would have sought relief under section 13 of the 2013 Act in his claim form, and he has not done so. *Bolagsupplysningen* is not therefore a decision which has any relevance to the issues in this claim, as the injunction sought in this case is directed at restraining publication only in this jurisdiction. The consequence of this is that the injunctive relief sought by the claimant is, and would be, available in all courts where a court can award a claimant damages (ie on the mosaic basis).
78. The difficulty with this argument is that, whichever way you look at it, the claimant is seeking injunctive relief in order to control the way the alleged defamatory statements are published by the defendant on the internet. The particular challenges presented by the distribution of information online were spelt out in the Advocate General's opinion

in *eDate* and expressly recognised in the CJEU's judgment in *eDate* at paragraphs 45 and 46.

79. If a person considers that his personality rights have been infringed as a result of online publication, he may wish to bring an action for damages in respect of the harm caused, and seek relief to prevent the distribution of the information alleged to be defamatory online. Paragraph 46 of the judgment in *Bolagsupplysningen* is directed at where that person's action for damages in respect of all harm caused must be brought. Paragraph 47 of the judgment is directed at where the relief to prevent the distribution of the information online must be brought. In the context of that case, it was described as an application for rectification of information and removal of comments. That is a remedy which in this jurisdiction is plainly injunctive relief in relation to information and content which has been placed online, the nature of which is "ubiquitous" and the scope of distribution is "in principle, universal". It is, of course, the very nature of information published online that its scope of distribution is in principle, universal. The fact that, in any particular case, attempts may be made to territorially ring fence the information by processes such as geo-blocking does not alter the fact that it is by reason of the fact that the information is published online which makes the distribution of it, in principle, universal and that is what paragraph 47 of *Bolagsupplysningen* is directed at.
80. It is in that context that, in relation to the facts of *Saïd*, the claimant advanced his case for the injunctive relief sought, which for all material purposes is the same as the relief sought by the claimant in this case, on the basis that his centre of interests was England and Wales. This must have been because the claimant in *Saïd* recognised that unless his case was advanced on that basis, his claim for an injunction in relation to the publication of information online was bound to fail as a result of the decision in *Bolagsupplysningen*.
81. Further, as to what Nicol J took from the decision of *Bolagsupplysningen*, which is set out in paragraph 31 of his judgment, I do not see any reason to depart from his analysis or any reason why the analysis set out in paragraph 31(i) of his judgment is wrong. Rather, it seems to me that Nicol J was correct to say that, so far as internet publications are concerned, a claimant who is seeking relief such as an injunction may do so only (a) in a member state where the defendant is domiciled; or (b) in the member state where

the claimant has his centre of interests. That, in my view, does not state the decision in *Bolagsupplysningen* too broadly.

Conclusion: internet publication

82. I therefore reject Ms Skinner's submission in relation to *Bolagsupplysningen* and the point of law to which the defendant's application gives rise. This court does not have any jurisdiction to try the claimant's claim for the injunction sought in relation to internet publications, and having reached that conclusion, any points under Articles 8 and/or 10 of the 1998 Act do not arise.
83. I will therefore make the declaration sought by the defendant that the court has no jurisdiction to try the claim for an injunction in relation to internet publications set out in paragraph 6 of the claim form dated 17 December 2020.
84. It follows from this conclusion that the court does not have jurisdiction to order the publication of any judgment on the internet under section 12 of the 2013 Act as, in this case, that would also fall foul of the principle in *Bolagsupplysningen*. I therefore also make the declaration sought that the court does not have jurisdiction to grant the relief sought under paragraph 7 of the claim form in relation to the publication of a summary of the judgment in these proceedings online.
85. In light of that conclusion, I can deal with the remaining issues argued before me more briefly.

Internet publication: Defendant's alternative approach

86. The next point is that if, contrary to the conclusion just expressed, this court does have jurisdiction to grant an injunction as sought by the claimant, whether such an injunction could ever be granted on the undisputed facts of this case. I cannot, at this stage, resolve any factual disputes, but I can have regard to matters of fact which are not in dispute.
87. Mr Eardley, for the defendant submits that this is a point which can be resolved on the undisputed facts as it is plain that, if the court did have jurisdiction to grant an injunction preventing the publication of information online, it would be impossible on the facts of

this case to limit that injunction to this jurisdiction. It is common ground that, in this case, the place where the harmful event occurred was England and Wales, which means that if any injunction is granted in this jurisdiction, it is necessary to look at whether that will have any impact on the online publication of any information in Scotland and/or Northern Ireland as well.

88. Mr Eardley then invited the court to consider the manner in which the alleged defamatory articles are published online at present. For example, the first article was published by the defendant in its digital edition of *La Repubblica* dated 29 September 2020 and online at www.repubblica.it from 29 September 2020 and continuing to date. This is supposed to be a subscription only service, but as the claimant's evidence explains, it is fully available to non-subscribers. That evidence is set out in paragraph 21 of the witness statement of Ms Joanne Victoria Sanders, a partner at Withers LLP, dated 12 April 2021. Further, it is alleged that the first article has been republished in a number of places, some of which are not licensed by the defendant and over which the defendant has no control. Further, on 30 September 2020, the defendant published a video online via its YouTube account which is alleged to be defamatory.
89. Having identified those examples by reference to the amended particulars of claim, Mr Eardley submits that it is necessary to consider what the defendant would have to do in order to comply with the injunction as sought by the claimant. He says that the defendant would be required to remove all articles and videos from the internet altogether; the defendant would be required to introduce geo-blocking; geo-blocking only works at a UK level (and is not limited to England and Wales) and in any event is easy to circumvent; and finally YouTube is exclusive to the UK as a whole. In this context, Mr Eardley submits it is plain that this is not a case in which the court, if it had jurisdiction could grant an injunction in relation to internet publications against the defendant.
90. Ms Skinner submits that the defendant does not say that the injunction sought by the claimant prohibiting it from publishing statements online will inevitably be of universal effect. Further, she says that the defendant has a choice in order to comply with the terms of the injunction. The defendant can use geo-blocking to restrict access to the information on a territorial basis, or can decide not to publish the information online.

However, how the defendant goes about complying with the terms of the injunction is entirely a matter for the defendant.

91. I now turn to the evidence on this issue. The evidence from Mr Bays in relation to the geo-blocking of material which has been published on the internet is at paragraphs 50 to 55 of his witness statement dated 5 February 2021, and he deals with third-party websites at paragraph 56.

92. Mr Bays says this:

"[50]. The defendant does not use geo-blocking for any of its four websites that are the subject of this claim. The content delivery network presently used for the Websites (CloudFront, provided by Amazon AWS) has only a crude, generic geo-blocking function. It could be used to block access to the entire website from the entirety of the UK, but it does not permit access to be blocked to an individual article on a website, or for access to be blocked only from England and Wales. In order to block access to an individual article it would be necessary for the defendant to purchase an additional product. In response to Withers' questions, the defendant identified Amazon's AWS Web Application Firewall ('AWS WAF') as such a product. The defendant estimates that, having regard to the volume of traffic on the defendant's website, that the cost of AWS WAF would be US \$45,000 per annum, not including the additional employee time involved in flagging content which required to be blocked. AWS WAF would not permit geo-blocking to be limited to IP addresses in England and Wales. Its effect would be to disable access to an article for all IP addresses in the UK.

[51]. The defendant has also informed me that geo-blocking is acknowledged to be an imperfect tool since it can be bypassed easily by users, for example, by use of a virtual private network.

[52]. The position in respect of publication via the defendant's websites is therefore that, using its present technology, the defendant could not comply with the injunction the claimant seeks except by removing the online versions of its articles worldwide and desisting from publishing online, anywhere in the world, any further coverage of the Vatican financial scandals to the same effect as the articles complained of. It could only block access on a more targeted basis by buying in technology at a price which, I would invite the court to find, would be disproportionate, and even this would block access in the UK as a whole, not England and Wales, and it would be open to being bypassed."

93. At paragraph 53 of his witness statement, Mr Bays explained that the digital editions of *La Repubblica* and *L'Espresso* are replicas of the relevant hard copy edition. His evidence is that it would only be possible to prevent a subscriber in England and Wales from reading the articles complained of or future articles concerning the claimant by terminating their subscription. In relation to geo-blocking the *La Repubblica* YouTube channel, Mr Bays' evidence is that the defendant has no control over where content it has already uploaded to the channel may be viewed. He also explains that prior to uploading content, under YouTube's upload policy it is possible to stipulate that it should not be accessible in the UK, but it is not possible to restrict publication only in England and Wales. In relation to geo-blocking Twitter, Mr Bays explains that the defendant and its journalists have no control over where tweets containing text or photographs are read. Users may only impose geographical descriptions on video content (and then only prior to uploading). He then explains that in order to comply with an injunction, the defendant would have to refrain from tweeting any headline or other tweet that repeated the allegations complained of.
94. Ms Sanders, the claimant's solicitor, answered Mr Bays' evidence in her witness statement dated 12 April 2021. She dealt with this evidence on geo-blocking at paragraphs 56 to 59 of her witness statement. Her evidence at paragraphs 58 and 59, in particular, takes issue with the cost of introducing the geo-blocking function on the relevant websites operated by the defendant and whether or not that is proportionate in the context of the defendant's business. That is not an issue I can resolve at this stage.
95. As to the other points made by Mr Bays which I have just mentioned, these are dealt with at paragraphs 62 to 64 of Ms Sanders' witness statement in which she makes the following points. At paragraph 62, she takes issue with the evidence from Mr Bays that it is only possible to prevent a subscriber in England and Wales to the digital editions of *La Repubblica* and *L'Espresso* from reading the articles complained of or future articles concerning the claimant by terminating their subscriptions. She says the reasoning given for this is that digital editions are replicas of the relevant hard copy edition. However, it does not follow from this that this must be so as the defendant has a choice. In relation to the YouTube video, Ms Sanders says:

“It appears that this could be resolved by the defendant deleting the second video from YouTube entirely and then re-uploading it with the stipulation that it should not be accessed in the UK as per YouTube’s upload policy.”

Lastly, in relation to tweets, she takes issue with Mr Bays’ evidence and makes, what are described as submissions, in relation to how that should be approached.

96. However, what is rather more important is that Ms Sanders does not dispute Mr Bays’ evidence that (a) the effect of the firewall identified by the defendant would be to disable access to an article for all IP addresses in the UK (and would not be limited to IP addresses in England and Wales); and (b) geo-blocking can be bypassed easily by users, for example by use of a virtual private network.
97. In response to this, Ms Skinner for the claimant makes a number of points. First, she does not accept that the effects of geo-blocking are extraterritorial and submits this is an issue which can only be determined with expert evidence. Second, she submits that, even if this is the case, that does not mean that will be the position at the end of the trial, and the technology may have moved on. Third, even if an injunction has a limited extraterritorial effect, that is not an absolute bar to relief. Fourth, the fact that geo-blocking can be circumvented is not a good reason why the court would decline to grant injunctive relief.
98. In my view, in the light of the evidence of Mr Bays, which is not in dispute, it is clear that the claimant is asking for the court to make an injunction against the defendant in relation to online publication which will inevitably take effect outside England and Wales. This is because the undisputed evidence is that geo-blocking can only be done at a UK level, and the removal of a YouTube video can also be only done at a UK level. This means that, even if the terms of the injunction are expressly limited to England and Wales, that order will inevitably extend beyond the jurisdiction of England and Wales to Scotland and Northern Ireland. That consequence, it seems to me, on the uncontested evidence, is sufficient to dispose of this point, and I am satisfied that even if there were jurisdiction to grant an injunction in the terms sought by the claimant, there is no proper basis to grant such an injunction in relation to the facts of this case.

99. In this context, I do not need to deal with the defendant's strike out and/or summary judgment application in relation to the injunction concerning online publication, which are put forward as a further alternative to the grant of the relief sought.

Injunction - non-internet publication

100. I now turn to the defendant's application for an injunction in relation to non-internet publication. The defendant has made a separate freestanding application to strike out the claimant's claim for injunctive and other relief in respect of hard copy publication on the basis that it discloses no reasonable grounds for the grant of relief in respect of hard copy publication; or alternatively that the claimant has no real prospect of obtaining such relief, because no complaint is made of hard copy publication.
101. The claimant maintains that prior to the issue of proceedings, the defendant did not, despite being requested to do so, provide any information as to hard copy circulation or indeed as to the extent of online publication. The claimant say that so far as he is aware, hard copy publication in England and Wales had ceased as of around March 2020, when the first lockdown as a result of the COVID-19 pandemic was imposed. It is for that reason, he says, that he did not complain about hard copy publication.
102. Further, the evidence of Mr Bays is that the defendant ceased sending hard copies of *La Repubblica* to the UK for distribution in March 2020 due to the pandemic and, as a result, no copies of *La Repubblica* containing versions of the articles complained of were distributed in England and Wales. In relation to *L'Espresso*, Mr Bays' evidence is that the third article did not appear in any hard copy version of *L'Espresso*. His evidence is the fourth article appeared in the hard copy edition dated 1 November 2020 with a different headline and subtitle, and 18 copies were sold in the UK.
103. The situation therefore is that only one of the four articles complained of was published in hard copy, that it had a different headline and subtitle, and only 18 copies were sold. Further, the defendant has informed the claimant that it would oppose any application by the claimant to amend to include a claim in relation to the hard copy publication. The claimant says that in that context it is not proportionate of him to seek to amend the claim to make specific complaint of the hard copy publication, particularly when the defendant has now abandoned its wholesale challenge to the claimant's case on serious harm. In any event, the claimant maintains it is not required to have made a complaint of hard copy publication in order to obtain final injunctive relief extending to prevention of such publication. This is because after the trial of an action for libel which the judge has

decided in a claimant's favour, the court has jurisdiction to grant an injunction restraining any future or further publication of the words complained of or any similar defamatory matter. The court will grant such an injunction if it is satisfied that there is reason to apprehend further publication by the defendant. Ms Skinner refers to *Gatley* at paragraph 9.41 and also to the judgment of Nicol J in *Saïd* at paragraphs 63 to 66.

104. Mr Eardley disagrees. He submits that the claimant has no real prospect of succeeding in respect of this issue at trial, as the damages claim is limited to online publication only. There is therefore no prospect of the court prohibiting hard copy publications of future articles when the claimant has not advanced a case that hard copy publication of the existing articles has caused him serious reputational harm in England and Wales.
105. I am not persuaded by Mr Eardley. The injunction sought by the claimant would only be granted if he had succeeded on his claim at trial and, if a libel claimant succeeds at trial, ordinarily a final injunction will be granted which can only be in respect of non-internet publications in the present context. If the claimant is successful at trial, even though he has not advanced a case that the hard copy publication of the existing articles has caused him serious harm, he is not precluded from seeking a final injunction which prevents the defendant from publishing the same or similar defamatory statements in printed form. However, as Nicol J pointed out in *Saïd*, the efficacy of such an injunction in the present circumstances would be limited, as the defendant would still be able to make the articles available on the internet.
106. Accordingly, this part of the defendant's application is dismissed.

Disputed costs of abandoned application

107. The last issue concerns the costs of the abandoned part of the defendant's jurisdiction challenge. The defendant's application when issued in February 2021 was a wholesale challenge to the claimant's claim on the basis that the court did not have any jurisdiction to try the damages claim or the claim for injunctive relief.

108. The claimant served his evidence in response to the defendant's application under cover of a letter from his solicitors dated 12 April 2021. The last paragraph of that letter says this:

“Faced with an application to strike-out the entire claim, our client has been forced to incur very significant cost in the preparation of the enclosed evidence. Prior to the issue of the application we wrote to you on 2 February to invite you not to proceed with this course. Your client chose to do so. In the light of this evidence we invite the defendant to withdraw its application now, before any further costs are incurred in dealing with any reply evidence and in preparation for the hearing. Our client requires payment of his costs of the application on the standard basis, to be assessed if not agreed, together with a substantial payment on account.”

109. On 4 May 2021, Archerfield, the defendant's solicitors, wrote to the claimant's solicitor stating that the defendant was no longer pursuing its application to strike out in relation to the damages claim. In doing so, they sought to suggest that the claimant should have set out more information about his connections to the jurisdiction “previously”. They further contended that the costs of that part of the application should be costs in the case on the basis that the evidence prepared is “evidence your client will need to adduce at trial”. Finally, the defendant's solicitors stated that the defendant would not be serving any evidence in reply. The next day, the claimant's solicitors responded, pointing out that the defendant's contention that the costs incurred were in some way inevitable or required for trial was wrong, given that the future cause of the action is entirely unknown. In any event, the costs issue was not agreed the parties, and that is a matter I am required to resolve.

110. Ms Skinner submits that the defendant should pay the claimant's costs of the abandoned application to be assessed on the standard basis with a payment on account.

111. Mr Eardley submits that the correct order is costs in the case as, in effect, the evidence which has been served will be of assistance to the claimant at trial, and if he succeeds at trial he will recover his costs and if he does not, he will not.

112. The general rule under CPR Part 44.2 is that the unsuccessful party will be ordered to pay the costs of the successful party, but the court may make a different order. The rule

then sets out various considerations the court may take into account in deciding whether to make a different order.

113. In this case, the defendant made an application to the court to decide that it had no jurisdiction to try the damages claim. It decided not to pursue that application in the light of the evidence served by the claimant in response. In that context, the defendant is the unsuccessful party in relation to that part of this application. It gave up, and the claimant was put to the expense of responding to that application. The claimant's particulars of claim were served in December 2020 and, although amendments have been made to them, those amendments are not extensive. The evidence the claimant served in response to the defendant's application may well assist in relation to preparations for trial, but that evidence was not prepared for that purpose. The evidence was prepared to answer the defendant's application, which it has now abandoned. In these circumstances, there is no reason to depart from the general rule that the unsuccessful party must pay the successful party's costs, and the defendant must pay the claimant's costs of and occasioned by responding to that part of the defendant's application dated 5 February 2021 challenging the court's jurisdiction to try the damages claim, such costs to be subject to detailed assessment on the standard basis if not agreed. I will hear from counsel in relation to the amount to be paid on account for such costs.

(After further submissions)

114. I now deal with the question of costs. The defendant's application was amended following the service of evidence on 21 April 2021. Part of the application was abandoned, and I have determined the costs in relation to that part of the application separately (paragraphs 107 to 113 above). The costs I am now concerned with is the balance of the application which concerned the issue of whether this court has jurisdiction to grant an injunction in relation to online publication, which has been determined in favour of the defendant.
115. I order that the costs of that application are paid by the claimant, such costs to be subject to detailed assessment on the standard basis if not agreed.
116. I do not order any payment on account as one has not been sought.

117. In terms of the quantum of those costs, there is a specific application made by the claimant that they should be discounted in some way to reflect the fact that the defendant has been unsuccessful on part of that application, namely in relation to its application for summary judgment, alternatively a strike out in relation to the hard copy publication. That was a specific aspect of the application sought as a free standing order.
118. It is right the defendant was unsuccessful on that point. However, it seems to me that point was *de minimis* in the context of this application as a whole. The court does, of course, have jurisdiction to make a percentage cost or issues-based cost order but given the very small part that aspect of the application played in terms of the argument before the court, it would not be appropriate to discount the costs in any way and I do not do so.
119. The next application is in relation to the claimant's costs of the abandoned application and a payment on account. Those relate to the discrete costs issue I have dealt with in my judgment (see paragraph 107 to 113 above). I have been provided with a costs schedule, which claims £161,993.40 in respect of costs thrown away as a result of the defendant pursuing an application challenging the jurisdiction of the damages claim.
120. It is fair to say that, at first blush, that amount of costs does seem to be extraordinary. Mr Eardley in relation to this costs schedule makes a number of points. First of all, he points to the fee-earner rates being above those set out in the rates suggested in the White Book -- of course, those rates are somewhat historic in the White Book -- but also the number of hours spent on certain things, including the 91 hours spent on the claimant's witness statement and the extensive time spent on documents and phone calls and so on.
121. It seems to me that it is obviously entirely appropriate that these costs are subject to detailed assessment, and Ms Skinner has not suggested otherwise. However, the points raised by Mr Eardley do, to my mind, call into question the total amount of costs claimed and what would actually be covered following assessment.
122. Mr Eardley proposed a figure of no more than £50,000 on account. Ms Skinner suggested that 60 per cent should be paid, which would amount to a figure of some

£97,000. But it seems to me the appropriate amount to pay on account is £50,000 and I order that to be paid within 14 days.

(After further submissions)

123. The claimant now seeks permission to appeal my decision. I refuse permission to appeal. It seems to me that the point of law that I was required to decide, and which I determined on this application, is settled by the decision in *Bolagsupplysningen*, which is correctly analysed by Nicol J in *Saïd*, which has since been cited with approval by Jay J in *Napag*.
124. For me, as another puisne judge, I can only depart from those decisions in *Saïd* and *Napag* if I am satisfied they were obviously wrong, and I am not. It seems to me they were right.
125. That is determinative of the defendant's application and Ms Skinner's alternative points in relation to her so-called factual issues that do not arise, but in any event on the undisputed evidence, I reached a clear view that they could not succeed either.
126. For those reasons, this is not an appeal which has a real prospect of success, nor are there any other compelling reasons which mean it should be dealt with by the Court of Appeal.
127. So, I refuse permission to appeal.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

Unit 1 Blenheim Court, Beaufort Business Park, Bristol BS32 4NE

Email: civil@epiqglobal.co.uk

Approved by Mrs Justice Tipples on 15 July 2021.