

UK: 'Dynamic blocking' used for the first time to successfully tackle counterfeit medicines online

Pharmaceutical companies now have a significant new weapon in the fight against counterfeit and unauthorised medicines in the UK. In two recent High Court decisions, Novo Nordisk successfully obtained a website blocking order targeting websites involved in the online sale of fake and unlicensed products.

The blocking order [as originally granted by the High Court](#) required various named internet service providers (ISPs) to block access to four target websites known to be involved in the sale of counterfeit and unlicensed medicines, including unauthorised versions of Novo Nordisk's semaglutide medicines marketed under the OZEMPIC and WEGOVY trade marks. The court found that the website operators were engaged in extensive unlawful activity, not least trade mark infringement and passing off, together with multiple criminal offences under the Human Medicines Regulations 2012. The court also accepted that the products being promoted and sold posed potentially serious risks to public health.

The proceedings were remarkable from the outset. This was the first ever website blocking order targeting the sale of counterfeit and unlicensed prescription-only medicines and so pushed the boundaries of how these injunctions can be used in the pharmaceutical sector. Notably, the Medicines and Healthcare products Regulatory Agency (MHRA) had already attempted, unsuccessfully, to have the websites removed before seeking Novo Nordisk's assistance.

The decision also confirmed the important principle that the court's jurisdiction to grant website blocking relief in the pharmaceutical context is broad and will be engaged by any form of civil or criminal wrongdoing. Here, both the criminal activities under the 2012 Regulations and the trade mark infringement were crucial in persuading the court to grant the order.

The High Court's willingness to grant a website blocking order addressed a longstanding enforcement challenge for pharmaceutical companies: rogue websites can be created rapidly, operated anonymously and hosted overseas, making them difficult to identify and shut down using traditional legal mechanisms. As a result, the online sale of counterfeit and unlicensed medicines has remained a persistent concern for both pharmaceutical companies and regulators.

Website blocking orders are also an especially attractive form of relief because of their practical effectiveness. Similar orders in other sectors have shown average reductions in UK traffic to blocked websites of approximately 98%. However, obtaining an order against a specific group of target websites addresses only part of the problem. Online counterfeiters routinely migrate between domains and quickly launch replacement websites when existing sites are disabled.

Recognising this reality, Novo Nordisk subsequently applied to vary the blocking order to add seven further websites to the list and, crucially, introduce a form of 'dynamic blocking', under which it could self-certify that newly identified

infringing websites met confidential criteria set out in the order and require ISPs to block them without returning to court.

Although initially sceptical about the dynamic blocking mechanism, [the High Court judge was persuaded to grant the amended order](#). His concern was that some applications of the criteria would address only regulatory and criminal breaches under the Human Medicines Regulations 2012, rather than infringements of Novo Nordisk's private rights, effectively allowing a private party to enforce regulatory prohibitions. He also questioned whether it was appropriate for this enforcement to occur without court oversight at each stage and under a confidential process that was not visible to those affected.

The judge was nevertheless satisfied that the blocking injunction should be varied for three reasons.

First, as a matter of legal principle, the court's jurisdiction to grant relief against parties who have innocently facilitated wrongdoing is broad and is not confined to information disclosure orders.

Second, that jurisdiction extends beyond civil wrongdoing to criminal conduct where the applicant is the victim, meaning breaches of the 2012 Regulations still provided a sufficient legal basis for relief.

Third, the variation was justified on the facts. Enforcement action by the MHRA had met with only limited success, Novo Nordisk had demonstrated the expertise and resources needed to monitor websites effectively, and the MHRA expressly endorsed the proposed approach. Combined with various safeguards already built into the injunction, including a two-year sunset clause (after which ISPs must stop blocking target websites unless otherwise directed by the court), these factors created a robust and proportionate framework that supported the regulator's objectives while posing only a negligible risk of over-blocking legitimate activity. The public interest, and the MHRA's interest, in maintaining a high level of public health, together with Novo Nordisk's interest in protecting its trade marks and goodwill, clearly outweighed any interest of the website operators.

Taken together, the decisions provide pharmaceutical companies with a potentially powerful and practical means of tackling unlawful online activity that threatens both brand integrity and patient safety. For the first time, website blocking orders have been deployed in the sector, showing how trade mark rights, alongside regulatory breaches, can be used in a targeted and powerful way to disrupt the online sale of counterfeit and unlicensed medicines. The dynamic nature of these orders is particularly valuable, cutting through the familiar 'whack-a-mole' problem by capturing new domains as they emerge and making enforcement more agile and cost effective. As a result, website blocking orders are likely to become a valuable component of proactive pharmaceutical brand protection strategies.



Gill Dennis provides knowledge and innovation support to Pinsent Masons' IP practice across the UK and Europe with a focus on the protection and enforcement of brands. With almost 30 years' of legal practice and professional support experience, Gill provides the team with up-to-the-minute information and training on IP developments and leads on the delivery of bespoke current awareness training for clients. She has written extensively for the main industry press and is regularly asked to comment on branding issues by the wider media.



Florian Traub leads the trade mark and brand protection team at Pinsent Masons and has extensive experience in domestic and international filing, prosecution and portfolio management. He acts on behalf of clients before the EUIPO, WIPO and the national offices in the UK, Ireland and Germany. Florian has over twenty years' experience as a trade mark practitioner. He has also written and presented on many cross jurisdictional trade mark topics and is currently a member of the Editorial Board of INTA's Bulletins Committee.