

Interlocutory Injunction Upheld Against Non-Party (Google Inc.)

The British Columbia Court of Appeal has upheld an interlocutory injunction made against Google Inc., a non-party, in litigation between Equustek Solutions Inc. and Datalink Technologies Gateways Inc. The decision is available [here](#).

The plaintiffs alleged that the defendants had counterfeited their product. In an effort to prevent the defendants from selling the counterfeit product, which was being done over the internet, the plaintiffs sought and obtained an interlocutory injunction against Google Inc., a Delaware corporation based in California, ordering it to exclude a list of certain web sites from search results. The aim was to stop customers from finding the defendants. Google Inc. appealed the injunction on several grounds.

The court concluded that it had *in personam* jurisdiction over Google Inc. because it conducted business in the province: it advertised to residents of British Columbia and it actively obtained data for use in its search engines in British Columbia. It held that the fact that Google Inc. was a non-party did not prevent the making of the injunction as against it. It also held that the fact that the injunction had extraterritorial effects, requiring Google Inc. to take steps outside British Columbia, was not a valid objection. On these issues the court reviewed several leading United Kingdom cases, including *The Siskina*, *Channel Tunnel Group* and *South Carolina Insurance*. It also commented favourably on the recent decision in *Cartier International AG v British Sky Broadcasting Limited*, [2014] EWHC 3354 (Ch.). Key Canadian authorities relied on include *MacMillan Bloedel*, *BMW* and *Minera Aquiline Argentina*.

The decision is likely to be important on the question of what it means to carry on business over the internet.