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# Australia: New South Wales Supreme Court Issues Worldwide Injunction V. Twitter

*X v. Twitter Inc* [2017] NSWSC 1300

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In a decision which has received considerable local commentary in Australia, the equity division of the New South Wales Supreme Court has granted a worldwide injunction against Twitter (namely Twitter Inc., the U.S. company, and its Irish affiliate Twitter International) concerning a disclosure issue related to confidential financial information. The decision is viewed as controversial because of its worldwide scope against a social media platform and the anonymity of the moving party described as Plaintiff “X” in the decision. This brings to mind the recent decision by the Supreme Court in Canada granting a global injunction against Google [*Google, Inc. v. Equustek Solutions Inc.* (2017 SCC 34)] (which was reviewed in our September 2017 newsletter.

The use of so-called “super injunctions” and the grant of anonymous party injunctions (where the moving party’s name is kept secret) are somewhat controversial in Australian and English law but are well established in order to protect trade secrets and confidential information. Anonymous party proceedings are often used to protect celebrities and their private lives (although such proceedings are also considered controversial by some). Although super injunctions are much less common in Australia than in the U.K., the grant of injunctions to anonymous parties are not uncommon in Australia both by federal and state courts when applying statutes involving broad suppression orders.

Apparently, the court in this case viewed it as significant that Twitter did not present any formal appearance in the proceedings.

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In the words of the court:

*“I have taken into account the assertion in the Twitter email that it is “not feasible to proactively monitor user content for Offending material.” But the defendants chose not to put any evidence before the Court to explain their systems and processes or the factual basis for their contention. As counsel for the plaintiff stated “Unfortunately, we just don’t have the defendants here to explain what is involved” and “That’s a deficit brought about by the position taken by the defendants.”*

Although this case did not involve any intellectual property issue, it is noteworthy for the fact that another global injunction has been issued by a British Law jurisdiction and we may be seeing additional worldwide injunctions in the future, especially in cases involving social media websites such as Google and Twitter.

## **Primary Contacts**

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