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| <b>Neutral Citation No: [2026] NIKB 4</b>                                                       | <b>Ref: SIM12966</b>         |
| <i>Judgment: approved by the court for handing down<br/>(subject to editorial corrections)*</i> | <b>ICOS No: 26/2617</b>      |
|                                                                                                 | <b>Delivered: 29/01/2026</b> |

**IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND**

**KING'S BENCH DIVISION  
(COMMERCIAL LIST)**

**SWITZER CONSULTING LIMITED**

**Plaintiff**

**and**

**MICHAEL FLATLEY**

**Defendant**

**Gary McHugh KC with Jordan McClurkin (instructed by Conor Sally Solicitors) for the**  
**Plaintiff**  
**David Dunlop KC with John Coyle (instructed by McIlldowies Solicitors) for the**  
**Defendant**

**SIMPSON J**

***Introduction***

[1] This matter initially came before me on 13 January 2026 on foot of an ex parte application dated 12 January 2026 on behalf of the plaintiff seeking an injunction, inter alia, restraining the defendant from cancelling, postponing or in any way interfering with the show known as 'Lord of the Dance' touring operation, to include contacting promoters or venues in relation to the said show. The application was grounded on an affidavit from Mr Joe Gallagher, director in the plaintiff company.

[2] A Writ of Summons was also issued on 12 January 2026. As well as the injunction sought, the Writ claims damages for breach of contract, negligence, misrepresentation, interference with the plaintiff's economic interests causing loss by unlawful means, conspiracy to cause loss by unlawful means and trespass to property. It is the plaintiff's case that the defendant is currently in breach of a "Services Agreement and Licence" ("the Services Agreement") dated 12 July 2024 and made between the plaintiff and the defendant.

[3] At the hearing on 13 January it was represented to me that the matter was urgent, because there is a scheduled performance of the Lord of the Dance (“LOTD”) in Dublin on Thursday 5 February 2026. Para 31 of Mr Gallagher’s grounding affidavit stated that the reason for the application being made ex parte ie without notice to the defendant and, therefore, without the defendant being given an opportunity to make representations was because:

“I am concerned that, if put on notice of the subject application, the defendant would seek to accelerate his efforts to damage the show and the plaintiff, like he has done so since December 2025 ...”

[4] The affidavit outlined matters which the plaintiff said had occurred in December 2025 which led to concerns about the defendant’s behaviour in relation to the show. For example, the plaintiff exhibited the screen shot of a text message to Mr Gallagher from a Mr Denis O’Sullivan, sent on 30 December 2025, which began:

“Please understand you have no further involvement whatsoever in anything to do with the Michael Flatley/Lord of the Dance shows ...”

[5] On the basis of the information put before me by Mr McHugh KC for the plaintiff, I granted the injunction, but with a short return date, to ensure that the defendant could, as soon as possible, make representations to the court. That has been done; further affidavits have followed from both sides; and the substantive inter partes interim injunction hearing came on before me on 28 January 2026.

[6] The defendant is the well-known Irish dancer and musician. In his first affidavit he said that he has “created, produced, directed, choreographed and starred in Irish dance shows which have had worldwide success, including Riverdance, Lord of the Dance, Feet of Flames and Celtic Tiger.” He has been in the entertainment industry for over 40 years.

[7] In the several affidavits before the court many allegations, some trenchant and quite personal, were made and denied. It is trite law that in an application such as this is the court cannot, and indeed should not, try to resolve hotly disputed issues of fact on the basis of affidavit evidence. It is only after a trial, where deponents may be subject to cross examination, that resolution of disputed facts can take place. This means that there is a considerable amount of material in the affidavits, and in the exhibits to the affidavits, and substantial parts of the submissions of counsel which will not be specifically dealt with in this judgment. They are for the trial of this matter.

[8] In this judgment I will, therefore, seek to set out only those matters which are relevant to my consideration of the issues.

[9] Before I do so, however, it is necessary to set out some relevant legal principles which will guide my consideration of the issues.

### *Legal principles*

[10] The principles are well known and familiar. I will mention just a couple of authorities. First, in *Dunnes Stores (Bangor) Ltd v New River Trustee Ltd* [2015] NICH 7, Deeny J said:

“[5] The law in relation to interlocutory injunctions was clarified in the landmark judgment of the House of Lords in *American Cyanamid Co v Ethicon Limited* [1975] AC 396. There is a tendency to over summarise and therefore blur the effect of the judgment of Lord Diplock in that case. For convenience I quote my own analysis of the matter in *McLaughlin & Harvey Limited v Department of Finance and Personnel* [2008] NIQB 122 at paragraph [6], cited, inter alia, in *Lamey v Belfast Health and Social Care Trust* [2013] NIQB 91 and *Coutts v Collins* [2014] NICH 24:

‘It can be seen that the test laid down by the House of Lords, is sequential.

- (i) Has the plaintiff shown there is at least a serious issue to be tried?
- (ii) If it has, has it shown the damages would not be an adequate remedy for the plaintiff and would be an adequate remedy for the defendants if an injunction were granted and it ultimately succeeded?
- (iii) If there is doubt about the issue of damages the court will then address the balance of convenience between the parties.
- (iv) Where other factors are evenly balanced it is prudent to preserve the status quo.
- (v) If the relative strength of one party's case is significantly greater than the other that may legitimately be taken into account.
- (vi) There may be special factors in individual cases.

I would add, seventhly, the court has an overall discretion to do what is just and convenient in the circumstances. I would remind parties of the statutory basis for the exercise of the court's power in this regard. Section 91 of the Judicature (NI) Act 1978 empowers the court to grant a mandatory or other injunction 'in any case where it appears to the court to be just and convenient to do so for the purpose of any proceeding before it.' That again makes clear that the court has an overall discretion to exercise this power when it is 'just and convenient to do so.'

[6] In drawing attention to the overall discretion that remains after addressing the individual elements identified by Lord Diplock I am reflecting the views of Lord Goff of Chievely in *R v Secretary of State for Transport ex parte Factortame Limited (No. 2)* [1991] 1 AC 643. I also take into account the dicta of Lord Hoffman in *National Commercial Bank Jamaica Limited v Olint Corporation Limited* [2009] 1 WLR 1405 (PC). I note this at paragraphs [17] and [18]:

[17] 'The basic principle is that the court should take whichever course seems likely to cause the least irremediable prejudice to one party or the other. This is an assessment in which, as Lord Diplock said in the *American Cyanamid* case [1975] AC 396, 408:

'It would be unwise to attempt even to list all the various matters which may need to be taken into consideration in deciding where the balance lies, let alone to suggest the relative weight to be attached to them.'

[18] Among the matters which the court may take into account are the prejudice which the plaintiff may suffer if no injunction is granted or the defendants may suffer if it is; the likelihood of such prejudice actually occurring; the extent to which it may be compensated by an award of damages or enforcement of the cross-undertaking; the likelihood of either party being able to satisfy such an award; and the likelihood

that the injunction will turn out to have been wrongly granted or withheld, that is to say, the court's opinion of the relative strength of the parties' cases."

[11] Mr Dunlop submits that, in effect, the injunction sought is a mandatory injunction, rather than a prohibitive injunction – in the sense that if granted the effect will be that the defendant will remain tied into a contract which he considers no longer to be in his best interests. Mr McHugh says that no explanation is given as to whether the defendant intends to seek termination of the contract. On balance, I think that this could properly be termed a mandatory injunction. If I grant the injunction the parties, however much they are at arm's length and however much trust and confidence has eroded, or broken down completely, will have to remain in contract; on the defendant's part, extremely reluctantly.

[12] Once the court has decided that the injunction sought is a mandatory injunction, the court's approach was identified in *Harvey v Santander UK PLC* [2023] EWHC 2947 (KB), thus (para 32):

"For a mandatory injunction a court must feel a high degree of assurance that at trial it will appear that the injunction was rightly granted – a higher standard than for a prohibitory injunction (*Shepherd Holmes Ltd v Sandham* [1971] 1 Ch 340, 351H-352A). An application for an interlocutory mandatory injunction should be approached with caution and the relief granted only in a clear case (*Locabail International Finance Ltd v Agroexport* [1986] 1 WLR 657 @ 663G-664D).

[13] Further, as this was an application made ex parte, there is a duty on the plaintiff to make full and frank disclosure to the court. In *Mex Group Worldwide Ltd. v Ford and others* [2024] EWCA Civ 959, although the Court of Appeal was dealing with a Mareva injunction, it reiterated the relevant principles in relation to full and frank disclosure at para [119] which are equally applicable to this case:

"It is unnecessary to set out the law in relation to full and frank disclosure in any great detail. The relevant principles were summarised by Carr J (as she then was) in *Tugushev v Orlov & Ors* [2019] EWHC 2031 (Comm) at [7]. She said:

'The law is non-contentious. The following general principles can be distilled from the relevant authorities by way of summary as follows:

- i) The duty of an applicant for a without notice injunction is to make full and accurate disclosure of all material facts and to draw the court's attention to significant factual, legal and procedural aspects of the case;
- ii) It is a high duty and of the first importance to ensure the integrity of the court's process. It is the necessary corollary of the court being prepared to depart from the principle that it will hear both sides before reaching a decision, a basic principle of fairness. Derogation from that principle is an exceptional course adopted in cases of extreme urgency or the need for secrecy. The court must be able to rely on the party who appears alone to present the argument in a way which is not merely designed to promote its own interests but in a fair and even-handed manner, drawing attention to evidence and arguments which it can reasonably anticipate the absent party would wish to make;
- iii) Full disclosure must be linked with fair presentation. The judge must be able to have complete confidence in the thoroughness and objectivity of those presenting the case for the applicant. Thus, for example, it is not sufficient merely to exhibit numerous documents;
- iv) An applicant must make proper enquiries before making the application. He must investigate the cause of action asserted and the facts relied on before identifying and addressing any likely defences. The duty to disclose extends to matters of which the applicant would have been aware had reasonable enquiries been made. The urgency of a particular case may make it necessary for evidence to be in a less tidy or complete form than is desirable. But no amount of urgency or

practical difficulty can justify a failure to identify the relevant cause of action and principal facts to be relied on;

- v) Material facts are those which it is material for the judge to know in dealing with the application as made. The duty requires an applicant to make the court aware of the issues likely to arise and the possible difficulties in the claim, but need not extend to a detailed analysis of every possible point which may arise. It extends to matters of intention and for example to disclosure of related proceedings in another jurisdiction;
- vi) Where facts are material in the broad sense, there will be degrees of relevance and a due sense of proportion must be kept. Sensible limits have to be drawn, particularly in more complex and heavy commercial cases where the opportunity to raise arguments about non-disclosure will be all the greater. The question is not whether the evidence in support could have been improved (or one to be approached with the benefit of hindsight). The primary question is whether in all the circumstances its effect was such as to mislead the court in any material respect;
- vii) A defendant must identify clearly the alleged failures, rather than adopt a scatter gun approach. A dispute about full and frank disclosure should not be allowed to turn into a mini-trial of the merits;  
...
- ix) If material non-disclosure is established, the court will be astute to ensure that a claimant who obtains injunctive relief without full disclosure is deprived of any advantage he may thereby have derived;
- x) Whether or not the non-disclosure was innocent is an important consideration,

but not necessarily decisive. Immediate discharge (without renewal) is likely to be the court's starting point, at least when the failure is substantial or deliberate. It has been said on more than one occasion that it will only be in exceptional circumstances in cases of deliberate non-disclosure or misrepresentation that an order would not be discharged;

- xi) The court will discharge the order even if the order would still have been made had the relevant matter(s) been brought to its attention at the without notice hearing. This is a penal approach and intentionally so, by way of deterrent to ensure that applicants in future abide by their duties;
- xii) The court nevertheless has a discretion to continue the injunction (or impose a fresh injunction) despite a failure to disclose. Although the discretion should be exercised sparingly, the overriding consideration will always be the interests of justice. Such consideration will include examination of i) the importance of the facts not disclosed to the issues before the judge ii) the need to encourage proper compliance with the duty of full and frank disclosure and to deter non-compliance iii) whether or not and to what extent the failure was culpable iv) the injustice to a claimant which may occur if an order is discharged leaving a defendant free to dissipate assets, although a strong case on the merits will never be a good excuse for a failure to disclose material facts; ..."

[14] I will deal further with the issue of full and frank disclosure later in this judgment, but there is one matter which featured significantly in submissions which I should deal with at this stage. This was the issue of the beneficial ownership of the shares in the plaintiff company, with the defendant asserting that he is, in fact, the beneficial owner of the shares.

[15] There appear in the papers two documents, each described as a Declaration of Trust and each relating to the shareholding in the plaintiff company. In each, the

person described as holding the shares on trust for the defendant is Alexandra Walshe, the daughter of a former adviser of the defendant. A draft document, prepared by the defendant's then solicitor, but never executed, is exhibited, which would have required delivery to the beneficiary, the defendant, of an executed stock transfer form and the relevant share certificates on his request. The other, the apparently executed Deed, makes the transfer of the shares conditional on the discharge of the obligations under the Settlement Agreement and the Share Purchase Agreement. The whole matter is distinctly puzzling, but fortunately not one which I have to resolve.

[16] Mr Dunlop submits that if the significance of this document had been drawn to the court's attention in the ex-parte hearing, the court may well have refused to grant the injunction. The trust deed was referred to in correspondence, which was before me, but its significance was not highlighted. As I have identified, the executed deed indicates that the defendant is the beneficial owner of the shares in the plaintiff company, but his legal ownership could only come about on the completion of certain obligations. In that version of the Trust Deed, therefore, his beneficial ownership was contingent. I consider that if this document had been drawn to my attention in the ex-parte hearing, the beneficial ownership being contingent, I am not persuaded that I would have refused the injunction.

### *Background to the dispute in brief*

[17] From in or about 2019 the show LOTD was operated by a company known as MFCE Entertainment (Holdings) Ltd., a joint venture company involving the defendant and a Mr Philip Moross who were co-directors in the company. Over time, disputes arose between the defendant and Mr Moross and their relationship deteriorated. At one point the defendant issued a Statutory Demand for outstanding moneys. Ultimately the defendant and Mr Moross resolved their disputes in a series of agreements entered into on 12 July 2024.

[18] First, a Settlement Agreement was concluded between Cutting Edge Group Ltd (a company associated with Mr Moross), the plaintiff, the defendant and Mr Moross personally. It recorded that the parties "have settled their differences and have agreed terms for the full and final settlement of the disputes and wish to record those terms of settlement on a binding basis ..." It is recorded in clause 3:

"In consideration for this agreement the parties shall enter into the Share Purchase Agreement, CEG and MF shall enter into the Administration Agreement and MF shall withdraw the Statutory Demand ..."

[19] The Share Purchase Agreement was entered into by the same parties as the Settlement Agreement, plus MFCE and a further company, Waterford Property Investments Ltd. By this agreement CEG sold its shareholding in MFCE, 3,500,000 shares, to the plaintiff in the present case, Switzer Consulting Ltd, for the nominal

price of \$1. The parties were in agreement that CEG/Mr Moross was owed \$2,997 million, and the Administration Agreement set out the mechanism by which that would be repaid.

[20] The Administration Agreement was entered into only between CEG and the defendant. In brief, the effect of this was that the defendant granted CEG the “sole and exclusive licence to administer (including to authorise others to exercise) any and all grand rights to the Works ...”, being the LOTD production. However, the Administration Agreement also provided, in the same clause, that CEG immediately granted back to the defendant:

“The sole and exclusive right to authorise licences of grand rights in the works for each show direct, but such right shall be automatically revoked prospectively if CEG does not receive [its] share by the applicable deadline ...”

[21] What CEG was entitled to receive was 50% of the royalties payable in relation to the works and the duration of the contract period of the Administration Agreement was said to be “until an amount equal to relevant sum [being the £2,997 million] has been received and retained by [CEG].” Thus, the defendant was to pay off the money owed by him over time by way of the royalties for the performance of the works.

[22] Clause 8.3 of the Agreement states:

“This Agreement constitutes the entire agreement ...”

[23] On the same date as those agreements were concluded the defendant and the plaintiff in this case entered into the Services Agreement. For the plaintiff Mr McHugh KC argued that all the agreements made on 12 July 2024 are linked. He says that one cannot understand the import of the Services Agreement without an understanding of the context in which that agreement came into being. In particular, the background to the overall settlement relates to the payment of a total sum of \$2,997 million by the defendant to Mr Moross. The Administration Agreement provides that royalties generated by the performances of LOTD are to be paid 50/50 to the defendant and to Mr Moross. He seemed to suggest that the plaintiff was playing some role in ensuring that Mr Moross was appropriately paid.

[24] In my view, in my consideration of the issues raised in this interim injunction application, while the context of the Services Agreement is of interest, nevertheless it is the terms of the Services Agreement itself which are germane.

[25] In clause 3 of the Services Agreement the defendant granted to the plaintiff an exclusive licence:

“... to do the following acts in connection with the exploitation of any and all of its licensed rights, subject to and in accordance with this agreement:

- i. undertake any act as if [the plaintiff] was the owner of the copyright, including (a) to copy works, (b) to issue copies to the public, (c) to rent or lend works to the public, (d) to perform, show or play works in public, (e) to communicate works to the public, (f) to make an adaptation of a work (including in the creation of new works), and (g) to conduct any of the aforesaid acts in relation to an adaptation of a work ...;
- ii. undertake any act as if [the plaintiff] was the owner of the trademarks (including to make use of such trademarks in the course of trade); and
- iii. undertake any action as if [the plaintiff] was the owner of the IPR (intellectual property rights).”

[26] Clause 6 is entitled “The Services and Supplier’s obligations” and sets out the services to be supplied by the plaintiff, and its obligations under the Services Agreement. Clause 6.2 begins “Switzer shall provide business management, accountancy, payroll and banking services to [the defendant], including but not limited to:

- “(a) provision of business management advice and assistance in respect of the management of all activities relating to live dance shows, global touring of dance shows, any dramatic or musical works created by or on behalf of Michael Flatley, the ongoing development of the LOTD brand and the production of live or live experiential LOTD shows or live experiential shows created and/or developed by Michael Flatley or other LOTD members on a sole and exclusive basis in the relevant territories;
- (b) provision of advice and assistance to LOTD in respect of maximisation of business revenues to include but not limited to collection and receipt of all revenues and discharge of all legitimate expenditure;
- (c) general business management services;

(d) accounting services.”

[27] Clause 6.3 sets out various obligations on the part of the plaintiff, including at clause 6.3(c) the obligation to “maintain records and accounts of its provision of the Services ...”

[28] The duration of the contract is 60 months, from July 2024.

[29] In Clause 7 the fees payable to the plaintiff are identified as £35,000 per month for the first 24 months of the agreement, the first payment being due on signature of the agreement; and £40,000 per month for the remaining 36 months.

[30] Clause 12 provides for the payment of royalties. By clause 12.2, royalty payments are not to be administered by the plaintiff but “Each promoter [of a show] shall be directed by Switzer to pay such royalties that are due to [the defendant] directly into a bank account provided by [the defendant].”

[31] Clause 14 provides for the termination of the Services Agreement, inter alia if the plaintiff commits a material breach of the Agreement or if its “financial position deteriorates to such an extent that Switzer is insolvent.”

[32] Clause 17.11 provides that the governing law of the Services Agreement, unlike the other agreements referred to above, is Northern Ireland law. That explains why the application is brought in this jurisdiction.

[33] The defendant does not accept the validity of the Services Agreement, even though his signature appears on the document, but he accepts that for the purposes of this application the court must approach the matter as if it were valid and binding on him. In his first affidavit the defendant says that the plaintiff has “wholly failed to provide most” of the services in the Services Agreement and that “its recent actions have cut across the effective and successful marketing and production of the proposed LOTD shows.” He also reserves his position in relation to the exercise of his termination rights under the Services Agreement.

[34] The plaintiff disputes the allegation that it failed to provide any of the services, and points to the steady payment of royalties to the defendant, amounting to some £416,000 which has been paid since the signing of the Services Agreement.

### *Discussion*

[35] The first matter for the court to consider is whether there is a serious issue to be tried. Mr Dunlop has conceded on behalf of the plaintiff that this issue is not in dispute.

[36] Secondly, I have to decide if the plaintiff has established to the satisfaction of the court that damages would not be an adequate remedy for the plaintiff if the injunction was not granted.

[37] The Services Agreement in this case, properly understood, is a services and licence agreement. All the plaintiff has is the licence to do those matters identified in the Agreement. Accordingly, the plaintiff has no proprietary interest in the LOTD shows, nor has it any right to remuneration other than by payment of the fees which are provided for in the Agreement. The Services Agreement is for a finite period of 60 months, unless subsequently renewed or previously terminated. It commenced on 12 July 2024 and for the first 24 months (ie until July 2026) the plaintiff's remuneration is £35,000 per month. For the next 36 months the remuneration is £40,000 per month.

[38] It is clear, therefore, that the only entitlement of the plaintiff under the contract is to be paid those contractual sums on performance of its obligations. Importantly, the plaintiff has no entitlement to any share of the profits of LOTD nor has it any interest in the intellectual property rights of LOTD. Accordingly, in any action for breach of the Services Agreement, for example for a wrongful termination of the agreement by the defendant, it would only be entitled to liquidated damages, easily calculated. Damages are not 'at large.'

[39] The papers contain an affidavit from Mr Barry Creed, solicitor in the firm of Creed McStay LLP in Dublin. He confirms (para 3) "that the sum of 500,000 euros has been deposited with my firm." This money was paid to him by the company Stolensky Ltd, an investment company which has had dealings for some time with the defendant. Mr Creed goes on to say (para 5):

"I hereby undertake to this Honourable Court that such monies will be held in the client account of Creed McStay LLP pending the final resolution of [the present] proceedings ... between the parties... and will not be disbursed for any other purpose without further order of this Honourable Court or agreement of all parties."

[40] There is also an affidavit from Patrick Burke, a director of Stolensky Ltd confirming that Stolensky Ltd has deposited that sum with Creed McStay LLP. In his affidavit he also says that he has read all the pleadings and affidavits in this matter, that Stolensky Ltd has "unencumbered assets in excess of 50 million euro", and in para [5] he states:

"I can confirm that the company has undertaken to discharge any service fee that may be found due and owing to the plaintiff and will immediately commence monthly payments to Creed McStay Solicitors of 35,000 euros. These monies are to be held in the firm's client account

until further order of the court in this litigation in Belfast  
..."

And at para [8]:

"The purpose of this arrangement is to ensure that the defendant's alleged financial obligations under the Service Agreement ... are met during the currency of these proceedings, thereby protecting the interests off the plaintiff."

[41] In all the circumstances, therefore, I am satisfied that damages are an adequate remedy for the plaintiff and that the money is available to pay for any damages sustained.

[42] That is enough to decide the matter, but lest I am wrong in that conclusion and this matter comes to be considered on any appeal, I turn to consider the issue whether, if the plaintiff subsequently loses the case and the court comes to order the plaintiff to pay damages to the defendant, damages would be an adequate remedy for the defendant. This involves a consideration of the ability of the plaintiff to pay. When the matter came before me, although it was not shown to me, the plaintiff's balance sheet showed that it had negative assets to the amount of £27,854.

[43] Had this matter been drawn to my attention, as it should have been in view of the plaintiff's obligation to make full and frank disclosure to the court, I would not have been satisfied that the plaintiff could provide a meaningful cross undertaking in damages. In those circumstances I would have refused the injunction. Recognising, however, that the "court nevertheless has a discretion to continue the injunction (or impose a fresh injunction) despite a failure to disclose" (see the citation from the *Tugushev* case above) I will continue to examine this issue of the adequacy of damages for the defendant if the injunction remains in place.

[44] When Mr Dunlop first appeared before me he drew my attention to negative asset position of the plaintiff, and made submissions about the matter. Following his submissions, on Saturday last, 24 January 2026, a further set of accounts was filed, purporting to show assets of £2,140,660. Note 3 to the accounts says:

"The company holds an operating licence which provides the right to stage and exploit performance productions. The licence is recognised as an intangible asset where it is probable that future economic benefits will flow to the company and the cost or valuation can be measured reliably."

[45] Essentially this appears to mean that those responsible for the accounts have taken the future value of the management fees to the end of the 60 month period as

the asset. However, in my view this is a fundamentally flawed approach. On its very face the Services Agreement is conditional upon the plaintiff continuing to perform its obligations under it. Clause 6 provides for termination. In those circumstances I cannot see how accounts can be filed essentially taking the whole of what is contingent income and describing it as an asset worth £2,140,660.

[46] A brief letter from an accountant, a Mr Damian Quinn of Gortin Road Accountancy Services Ltd, appears in the papers. It states the accountancy firm has “reviewed cashflow predictions prepared by the directors for the calendar year 2026 ...” However, for some unexplained reason, the cashflow predictions are not attached to the accountant’s letter nor do they appear anywhere in the papers before me. I have no idea, therefore, what those predictions would show. In the circumstances, while I might not go as far as Mr Dunlop, who described the document as “not worth the paper it is written on”, I consider the accountant’s letter to be wholly unhelpful.

[47] Further, the exhibited documents show that there is a charge registered against the plaintiff in favour of one Bruce Macinnes on foot of a Facility Agreement. The Facility Agreement is not provided. The Schedule to the charge does not identify any assets and the amount of money referable to the charge is not stated anywhere. Accordingly, the court is completely unaware of the effect of the charge on the financial position of the plaintiff.

[48] In the circumstances, therefore, I could not be satisfied to the requisite standard that the plaintiff’s cross undertaking in damages is a meaningful one. So, on that further basis, I would refuse to grant an injunction.

[49] In case I am wrong about that matter also, I turn to consider where the least irremediable harm would lie. As I noted above, the plaintiff has only a finite remuneration potential. There is, in the Creed McStay client account the sum of 500,000 euros. In addition, there is an undertaking from Stolensky Ltd “to discharge any service fee that may be found due and owing to the plaintiff” and that that company “will immediately commence monthly payments of Creed McStay Solicitors of 35,000 euros.”

[50] As opposed to that if the court grants an injunction until trial of the action the potential losses to the defendant, who owns the intellectual property to LOTD which, itself, generates significant revenue, are potentially unquantifiable. In the light of the apparent financial position of the plaintiff – at least as matters stand evidentially today – any such damages would, on the balance of probabilities, be unlikely to be met by the plaintiff.

[51] In all the circumstances I consider that the course of action which seems to me to be likely to cause the least irremediable prejudice would be to refuse the injunctive relief sought.

[52] I identify no special factors in the case.

### *Conclusion*

[53] Accordingly, I dismiss the plaintiff's application for an injunction pending the trial of this action and I discharge the injunction which I granted on 13 January 2026.

[54] In view of the many unresolved issues raised in this case, I am minded to reserve the question of costs to the trial judge.