

## UK Supreme Court allows Google to appeal in Vidal-Hall data protection liability case

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The UK's highest court, the Supreme Court, has now announced (see [here](#)) that it will in part allow an appeal to be heard that has been brought by Google against the Court of Appeal's ruling of 27 March 2015 in the Vidal-Hall case. Generally-speaking the Supreme Court's focus is on cases that raise points of law of general public importance, so the judicial profile of data protection issues is now being sharply raised.

The Court of Appeal's ruling in this matter concerns a dispute over user information obtained through cookies via the Apple Safari browser and has been seen as a landmark case concerning data protection liability and the UK Data Protection Act 1998 ("the DPA 1998"). The two key aspects of the Court of Appeal's ruling were that:

- Misuse of private information is now classified as a tort, meaning in the case at hand that proceedings can be issued against a party outside the jurisdiction of the UK; and,
- Financial compensation for distress caused by breaches of the DPA 1998 may now be claimed, despite there being no monetary loss, the legal provision which had to date prevented this having been disappplied by the Court of Appeal (the issue here concerned the relationship between the DPA 1998 and EU data protection rules).

Google applied to the Supreme Court for permission to appeal the following grounds:

- First, whether the Court of Appeal was right to hold that the claimants' claim for misuse of private information are claims made in tort for the purpose of service out of the jurisdiction - the Supreme Court has refused this ground on the basis that it doesn't raise a point of law;
- Second, whether the Court of Appeal was right to hold that section 13(2) of the DPA 1998 is incompatible with Article 23 of EU Data Protection Directive 95/46 - the Supreme Court has allowed this ground to be heard; and,
- Third, whether the Court of Appeal was right to disapply section 13(2) of the DPA 1998 on the grounds that it conflicts with the rights guaranteed by Articles 7 and 8 of the EU Charter of Fundamental Rights - the Supreme Court has also allowed this ground to be heard.

No date for the next steps in the proceedings have been announced but it can be expected to be a little while before this matter proceeds.

We have earlier reported in detail on the Court of Appeal's ruling in the Vidal-Hall case [here](#).

[André Bywater](#) is a commercial lawyer with Cordery in London where he focuses on regulatory compliance, processes and investigations.

[André Bywater](#), Cordery, Lexis House, 30 Farringdon Street, London, EC4A 4HH

Office: +44 (0)207 075 1785

[andre.bywater@corderycompliance.com](mailto:andre.bywater@corderycompliance.com)

