Davila, District Judge:

Plaintiff Google LLC brings this action against [Equustek] to prevent enforcement of a Canadian court order requiring Google to delist search results worldwide. Google now moves for a preliminary injunction. Equustek has not filed an opposition brief. Google's motion will be granted.

I. Background ...

Google filed this action on July 24, 2017, seeking "a declaratory judgment that the Canadian court's order cannot be enforced in the United States and an order enjoining that enforcement." Google now moves for preliminary injunctive relief.

II. Legal Standard

A party seeking a preliminary injunction must establish that (1) it is likely to succeed on the merits of its claims, (2) it is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities weighs in its favor, and (4) an injunction is in the public interest. ...

III. Discussion

Google argues that the Canadian order is "unenforceable in the United States because it directly conflicts with the First Amendment, disregards the Communication Decency Act's immunity for interactive service providers, and violates principles of international comity."

A. Likelihood of Success on the Merits

Section 230 of the Communications Decency Act "immunizes providers of interactive computer services against liability arising from content created by third parties." *Fair Hous. Council of San Fernando Valley v. Roommates.com, LLC,* 521 F. 3d 1157, 1162 (9th Cir. 2008) (en banc). It states that "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." 47 U.S.C. § 230(c)(1). Congress enacted Section 230 in 1996 to address "the threat that tort-based lawsuits pose to freedom of speech in the new and burgeoning Internet medium." *Zeran v. Am. Online, Inc.*, 129 F.3d 327, 328, 330 (4th Cir. 1997). Section 230 does not allow internet users to escape accountability for publishing unlawful material; rather, it reflects Congress's policy choice "not to deter harmful online speech through the separate route of imposing tort liability on companies that serve as intermediaries for other parties' potentially injurious messages." *Id.* at 330–31.

To qualify for Section 230 immunity, Google must show that (1) it is a "provider or user of an interactive computer service," (2) the information in question was "provided by another information content provider," and (3) the Canadian order would hold it liable as the "publisher or speaker" of that information. Klayman v. Zuckerberg, 753 F.3d 1354, 1357 (D.C. Cir. 2014) (quoting 27 U.S.C. § 230(c)(1)); see also Caraccioli v. Facebook, Inc., 167 F. Supp. 3d 1056, 1065 (N.D. Cal. 2016).

Here, Google satisfies all three elements. First, there is no question that Google is a "provider" of an "interactive computer service." *See* 47 U.S.C. § 230(f)(2) ("The term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server.").

Second, Datalink—not Google—"provides" the information at issue. Google crawls third-party websites and adds them to its index. When a user queries Google's search engine, Google responds with links to relevant websites and short snippets of their contents. Google's search engine helps users discover and access content on third-party websites, but it does not "provide" that content within the meaning of Section 230.

Third, the Canadian order would hold Google liable as the "publisher or speaker" of the information on Datalink's websites. The Supreme Court of Canada ordered Google to "de-index the Datalink websites" from its global search results because, in the Court's view, Google is "the determinative player in allowing the harm to occur" to Equustek. The Ninth Circuit has held that, regardless of the underlying cause of action, a claim treats an intermediary as a publisher when it requires the intermediary to remove third-party content. *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1103 (9th Cir. 2009). The *Barnes* panel held that "removing content is something publishers do, and to impose liability on the basis of such conduct necessarily involves treating the liable party as a publisher of the content it failed to remove." *Id.* at 1103. The Canadian order treats Google as a publisher because the order would impose liability for failing to remove third-party content from its search results.

Google meets the requirements for Section 230 immunity. As such, the Court finds that Google is likely to prevail on the merits of its Section 230 argument.[2]

B. Irreparable Harm, Balance of the Equities, and the Public Interest

Google is harmed because the Canadian order restricts activity that Section 230 protects. In addition, the balance of equities favors Google because the injunction would deprive it of the benefits of U.S. federal law.

An injunction would also serve the public interest. Congress recognized that free speech on the internet would be severely restricted if websites were to face tort liability for hosting user-generated content. It responded by enacting Section 230, which grants broad immunity to online intermediaries. *See, e.g.*, 47 U.S.C. § 230(a)(3), (b)(2), (b)(3) ("The Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity ... It is the policy of the United States ... to promote the continued development of the Internet and other interactive computer services and other interactive media [and] to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.").

The Canadian order would eliminate Section 230 immunity for service providers that link to third-party websites. By forcing intermediaries to remove links to third-party material, the Canadian order undermines the policy goals of Section 230 and threatens free speech on the global internet.

IV. Conclusion

Google's motion for preliminary injunctive relief is GRANTED.

QUESTIONS

1. Equustek did not appear in the United States court to defend against Google's request for an injunction, even though it was willing to litigate its case against Google up through the Supreme Court of Canada? Why not?
2. What can Google now show to users in the United States when they search for "GW1000?" What about users in Canada? Argentina?

3. Is Google now subject to two directly conflicting orders, one from a Canadian court and one from a United States court? What do you expect to happen next in the Canadian litigation?