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- * IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(COMM) 163/2024, I.A. 4270/2024, I.A. 4271/2024, I.A. 4272/2024
& I.A. 4273/2024

STAR INDIA PRIVATE LIMITED & ANR. Plaintiffs

Through: Mr. Siddharth Chopra, Mr. Yatinder Garg and Ms. Astha Sehgal and Ms. Srishti Dhoundiyal, Advocates for plaintiff.

versus

TERIIMERIDOORIYAN.COM & ORS. Defendants

Through: Ms. Mrinal Ojha, Mr. D. Datta and Ms. Tanya Choudhary, Advocates for D-24.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDR
23.02.2024

I.A. 4273/2024 (seeking leave to file additional documents)

1. The present application has been filed on behalf of plaintiffs under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 as applicable to commercial suits under the Commercial Courts Act, 2015 seeking to place on record additional documents.
2. Plaintiffs, if they wish to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.
3. Accordingly, the present application is disposed of.



I.A. 4271/2024 (exemption from filing clear copies)

1. Exemption is granted, subject to all just exceptions.
2. Applicants shall file legible, clear, and original copies of the documents on which the applicants may seek to place reliance within four weeks from today or before the next date of hearing, whichever is earlier.
3. Accordingly, the present application is disposed of.

I.A. 4272/2024 (exemption from issuing notice)

1. This is an application seeking exemption from serving notice under Section 80 CPC to defendant nos. 33, 36, 41, and 42.
2. Exemption is granted.
3. Application stands disposed of.

CS(COMM) 163/2024

1. Let the plaint be registered as a suit.
2. Upon filing of process fee, issue summons to defendants through all permissible modes. Summons shall state that written statement(s) be filed by the defendants within 30 days from the date of receipt of summons. Along with the written statement(s), defendants shall also file affidavit(s) of admission/denial of plaintiffs' documents, without which the written statement shall not be taken on record. Liberty is given to plaintiffs to file a replication within 30 days of the receipt of the written statement(s). Along with the replication, if any, filed by the plaintiffs, affidavit(s) of admission/denial of documents filed by the defendants, be filed by the plaintiffs, without which the replication(s) shall not be taken on record. If any of the parties wish to seek



inspection of any documents, the same shall be sought and given within the timelines.

3. List before the Joint Registrar for marking of exhibits on 30th April, 2024.
4. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

I.A. 4270/2024 (application under Order XXXIX Rule 1 & 2 of the CPC)

1. This application has been filed as part of the suit filed by plaintiffs seeking permanent injunction restraining infringement of its copyright and broadcast reproduction rights, under the Copyright Act, 1957 (“**the Act**”) on account of unlawful activities by defendant nos. 1 to 21 in facilitating/enabling/authorizing access to the public of the plaintiffs’ exclusive copyright in content, *inter alia*, films, general entertainment, content, original web-series etc. (“**plaintiffs’ content**”).
2. It is alleged that defendant nos.1 to 21 are *rogue websites* that communicate, make available to, and provide access to plaintiffs’ content without any authorization from various right owners, including the plaintiffs.
3. Plaintiff’s counsel submits that the content on ‘*Disney+ Hotstar*’ and the STAR Channels is produced by plaintiffs and forms the subject matter of the instant suit. As described in paragraph no. 8 of the plaint and documents at serial nos. 2 and 4, plaintiffs are the producers of various TV Shows, films and/or web-series which are disseminated on STAR Channels and/or ‘*Disney+ Hotstar*’ and have the exclusive distribution rights to publicly exhibit and communicate the said content through any medium or mode including on the



STAR Channels or ‘Disney+ Hotstar’. They are protected as ‘*cinematograph films*’ under Section 2(f) read with Section 13 of the Act.

4. It is asserted that defendant nos. 1 to 21 are liable for infringement of copyright under Section 51 of the Act and the various ‘exclusive rights’ that, *inter alia*, would be deemed to have been infringed/ violated by the defendant nos. 1 to 21 are:

- a. the right of making a copy of plaintiffs’ cinematograph films including the storing of it in any medium by electronic or other means;
- b. the right of communicating plaintiffs’ cinematograph films to the public.

5. Counsel for plaintiffs draws attention to the decision of this Court in ***UTV Software Communication v. 1337X.TO & Ors.***, 2019 SCC OnLine Del 8002, where a Coordinate Bench of this Court has deliberated in detail on the issues involved around infringing websites, in that, such infringing websites could contain infringing content, as well as content which was not showed. The Court has formulated certain illustrative guidelines for the Courts to assess while determining whether an infringing website would be considered as promoting or offering pirated content. For ease of reference, an extract from the decision is as under:

“59. In the opinion of this Court, some of the factors to be considered for determining whether the website complained of is a FIOL/Rogue Website are:

- a. whether the primary purpose of the website is to commit or facilitate copyright infringement;*



- b. the flagrancy of the infringement, or the flagrancy of the facilitation of the infringement;*
- c. whether the detail of the registrant is masked and no personal or traceable detail is available either of the Registrant or of the user.*
- d. whether there is silence or inaction by such website after receipt of take down notices pertaining to copyright infringement.*
- e. whether the online location makes available or contains directories, indexes or categories of the means to infringe, or facilitate an infringement of, copyright;*
- f. whether the owner or operator of the online location demonstrates a disregard for copyright generally;*
- g. whether access to the online location has been disabled by orders from any court of another country or territory on the ground of or related to copyright infringement;*
- h. whether the website contains guides or instructions to circumvent measures, or any order of any court, that disables access to the website on the ground of or related to copyright infringement; and*
- i. the volume of traffic at or frequency of access to the website;*
- j. Any other relevant matter.*

60. *This Court clarifies that the aforementioned factors are illustrative and not exhaustive and do not apply to intermediaries as they are governed by IT Act, having statutory immunity and function in a wholly different manner.”*

6. Counsel for plaintiffs has made this Court traverse through the above aspects, each supported by documentation filed by them.
7. It is evident from these documents which have been perused by the Court that *prima facie* the plaintiffs' content on its various channels *inter alia* Star



Plus, Star World, Star Movies, Star Bharat, Movies OK, Star Gold, Jalsha Movies (in all about 77 channels across 8 languages) and OTT platform – Disney + Hotstar has been hosted/carried on these infringing websites. The illustrative list of content to which the plaintiffs claim its copyright and which is being made available through the infringing websites is tabulated as under:

S. NO.	WEB- SERIES/ SERIAL	S. NO.	WEB- SERIES/ SERIAL	S. NO.	WEB- SERIES/ SERIAL
1.	Criminal Justice	2.	Aashiqana	3.	Saas, Bahu Aur Flamingo
4.	City of Dreams	5.	Masoom	6.	Aakhri Sach
7.	Hostages	8.	Shoorveer	9.	The Freelancer
10.	Out of Love	11.	Ghar Waapsi	12.	Karmma Calling
13.	Special Ops	14.	Dahan: Raakan Ka Rahasya	15.	Unheard
16.	Aarya	17.	Aakhri Shikaar	18.	Parampara
19.	Live Telecast	20.	Jhansi	21.	Human
22.	1962: The War in the Hills	23.	Fall	24.	Save the tigers
25.	November Story	26.	Teerandaz	27.	Sultan of Delhi
28.	Grahan	29.	Anger Tales	30.	Mansion 24
31.	The Empire	32.	School Of Lies	33.	Label
34.	The Great Indian Murder	35.	Shaitan	36.	Vadhuvu
37.	Rudra: The Edge of Darkness	38.	Trial	39.	Kerala Crime Files
40.	Kana Kaanum Kaalangal	41.	Dayaa	42.	Taaza Khabar
43.	Anupama: Namaste America	44.	Commando	45.	Loki
46.	Escaype Live	47.	Mathagam	48.	The Night Manager
49.	9 Hours	50.	Kaala	51.	Athidhi
52.	Keh Doon Tumhein	53.	Kaahin Kissii Roz	54.	Des Mein Niklla Hoga Chand
55.	Teri Meri Dooriyana	56.	K. Street Pali Hill	57.	Karma



58.	Anupama	59.	Jeet	60.	Hatim
61.	Kahaani Ghar Ghar Kii	62.	Kasautii Zindagii Kay	63.	Saans
64.	Shagun	65.	Koi Laut Ke Aaya Hai	66.	
67.	Kundali	68.	Saath Nibhana Saathiya	69.	Kehta Hai Dil
70.	Son Pari	71.	Yeh Rishta Kya Kehlata Hai	72.	Rishton Ka Chakravyuh
73.	Yeh Hai Mohabbatein	74.	Sapna Babul Ka Bidaai	75.	Saara Akaash
76.	Kuch Toh Hai Tere Mere Darmiyaan	77.	Baa Bahoo Aur Baby	78.	Shaurya Aur Suhani
79.	Pardes Mein Hai Mera Dil	80.	Kesar	81.	Raja Ki Aayegi Baraat
82.	Sanjivani: A Medical Boon	83.	Kabhi Aaye Naa Judaai		

8. Claim of the plaintiffs to this content is of an exclusive right under Section 14(d) of the Act and a concomitant right of broadcast reproduction under Section 37 of the Act. The right to sue for infringement arises under Section 51 of the Act.

9. Counsel for plaintiffs further points out that copyright infringement notices under the Digital Millennium Copyright Act, 1998 (“**DMCA**”) have been duly addressed and issued to each of the rogue websites, and are placed on record. None of the defendants have responded to the same. It is also alleged in the plaint that pursuant to receipt of the DMCA notice, some of the defendant websites despite restraining from illegal activities, have deliberately created redirected websites. An infringement report made available pursuant to an internal investigation has also been placed on record.



10. In light of these facts and circumstances, the plaintiffs in relation to the guidelines of ***UTV Software Communication (supra)*** claims as under:

- (i) It is evident from the overall content available on the infringing websites, of which screenshots have been placed on record, that the primary purpose is to commit or facilitate copyright infringement.
- (ii) The flagrancy of the infringement and the facilitation thereof, is evident from the messages on some of these rogue websites.
- (iii) As noted above, there has been silence and inaction by infringing websites after legal notices were sent.
- (iv) The infringing websites clearly make available indexes to the content to which the plaintiffs claim copyright.
- (v) The access to the owners/operators of infringing websites which are used in the infringing websites have been masked as evident from the WHOIS registrant details.
- (vi) It is pointed out that some of the defendants *inter alia* defendant no.1 and 8 have adopted the domain name in the name of plaintiffs' content itself.
- (vii) These websites are updating on a day-to-day basis and providing latest content of the plaintiffs.

11. Defendant nos. 22 to 31 have been arrayed, who are Domain Name Registrars (“**DNRs**”) for the infringing websites.



12. Defendant nos. 32 to 40 are various Internet Service Providers (“**ISPs**”) available domestically in India who provide access to internet in India. They control access to internet and are in a position to ensure that access to these infringing websites is not available.

13. Defendant no. 41 is the Department of Telecommunication (“**DOT**”), while defendant no. 42 is Ministry of Electronics and Information Technology (“**MEITY**”), which represents the Government and are the overall regulators of the internet environment in the country. They have been called upon for the purpose of ensuring that the ISPs are in compliance with any directions which may be passed by this Court.

14. Defendant no. 43 has been arrayed as “Ashok Kumar” which is a generic name (as John Doe) to include all those who in the future may be discovered as using the plaintiffs’ content.

15. In light of these circumstances, the Court is of the view that plaintiffs have made out a *prima facie* case for grant of an *ex-parte ad interim* injunction as also a dynamic injunction. Balance of convenience lies in favour of plaintiffs as irreparable loss would be caused if the same is not granted.

16. Accordingly, till the next date of hearing the following directions are issued:

a) Defendant nos.1 to 21 including their owners, partners, proprietors, officers, servants, affiliates, employees, and all others in capacity of principal or agent acting for and on its behalf, or anyone claiming through, by or under it, are restrained from in any manner communicating to the public, hosting, storing, reproducing, streaming,



broadcasting, re-broadcasting, causing to be seen or heard by public on payment of charge and/or making available for viewing plaintiffs' content through their websites including those listed as under:

S.No.	Websites Name	S.No.	Websites Name
1.	Teriimeridooriyan.com	2.	ziddidilserial.pk
3.	Playkaro.net	4.	Ww1.6hiidude.me
5.	Desi-serial.mom	6.	6hiidude.vip
7.	Castlehdapk.com	8.	Hdmoviehub.bio
9.	Barsatien.com	10.	hdmoviehub.blog
11.	barsaateinmausampyarka.com	12.	One.vegamovieshub.pro
13.	Hdmovie2.ren	14.	One.vegamovieshub.boutique
15.	hdmovie2.so	16.	Filmyzilla.pro.in
17.	Ww4.5movierulz.team	18.	Filmyzilla.org.bz
19.	5movierulz.cool	20.	Filmyfly.zip
21.	7starhd1.live	22.	Filmyfly.dad
23.	Www.kehdoontumhein.com	24.	Mkvhub.skin
25.	Tvshowhub.online	26.	Bid.ibomma.link
27.	Movieswatchonline0.com.pk	28.	Ltd.ibomma.rsvp
29.	watch-online-movies.com.pk	30.	10starhd.de
31.	7starhd.auction	32.	10starhd.host



33.	7starhd.dad	34.	ww9.5movierulz.top
35.	www.ziddidili.com	36.	Ww7.5movierulz.vet

- b) Defendant nos. 22 to 31 are directed to lock and suspend/deactivate the abovementioned domains/sub-domains of the infringing websites. In the event, the said defendants have any reservation, they shall address a written/email communication to the plaintiffs stating the reasons for the same. Plaintiffs are at liberty to approach this Court for any relief they may seek pursuant to the same.
- c) Defendant nos. 22 to 31 are directed to disclose complete details (*inter alia* name, address, email, phone number and IP address) of defendant nos.1 - 21, and mode of payment along with payment details used for registrations of the said domain names. The said disclosure shall be made by an affidavit and be filed before this Court within a period of four weeks.
- d) Defendant nos.32 to 40 (ISPs) are directed to block access to these infringing websites tabulated above, within 48 hours of receipt of this order.
- e) Defendant nos. 41 and 42 (DoT and MEITY) shall take steps to ensure that ISPs comply with the directions issued above, through appropriate communications and notices sent to the said ISPs, including other ISPs which are registered with them.



f) It is further directed that if any other mirror websites/ alphanumeric websites/ similar websites are found to be directly or indirectly infringing the plaintiffs' rights, the plaintiffs will be at liberty to communicate in writing/email to the DNRs, ISPs, DoT, MEITY. The said defendants shall ensure that the directions given above shall be extended to those websites as well. If any of these defendants have a reservation, they will be at liberty to address a written communication/email to the plaintiffs stating the reasons for the same. The plaintiffs are at liberty to approach this Court for any relief they may seek pursuant to the same. Plaintiffs shall also file within 24 hours of sending any such communication, an affidavit before this Court giving the list of the websites they have communicated to the said defendants, as well as supporting documentation in relation to the same. The plaintiffs shall be held to their affidavit and in the event any assertion by the plaintiff, of a website being a rogue website, is found to be incorrect or false, it may necessitate strictures/directions from this Court.

20. Compliance with Order XXXIX Rule 3 of the CPC be done within a week.
21. List before this Court on 03rd May, 2024.
22. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 23, 2024/RK/rj