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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 14th July, 2022
+ **CS (COMM) 60/2022 & I.As.1338/2022, 3184/2022, 7176/2022,
10662-63/2022**

DOCTUTORIALS EDUTECH PRIVATE LIMITED Plaintiff
Through: Ms. Anjali Anchayil, Advocates.
versus

TELEGRAM FZ-LLC & ORS. Defendants
Through: Ms. Anushka Sharda and Mr. Madhav
Khosla, Advocates for D-1.
(M:9811039074)
Mrs. Bindra Rana, Ms. Priya
Adlakha, Ms. Rima Majumdar and
Ms. Shilpi Sinha, Advocates for D-2.
(M:9818202368)
Ms. Nidhi Raman, CGSC with Mr.
Zubin Singh, Advocate for D-3.
(M:9555672532)

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The present suit has been filed by the Plaintiff - Doctutorials Edutech Private Limited (*hereinafter "Plaintiff"*) seeking mandatory and permanent injunction, as also grant of damages, for protection of various copyrighted works and the Plaintiff's trademark 'DocTutorials', including video lectures and other related contents, which the Plaintiff has created for the purpose of imparting coaching for medical entrance examinations.
2. The Plaintiff provides an online medical entrance examination coaching platform for examinations such as NEET PG, FMGE and NEET SS. The Plaintiff runs its business through a website registered as



<https://www.doctutorials.com/> and a mobile application 'Doc Tutorials'. The Plaintiff has around 5900 active subscribers. The Plaintiff's annual revenue was around 7 crores in the financial year 2021-22. The Plaintiff provides high quality audio visual medical content which is paid, soft copy notes, test and discussion videos, regular test series, etc. All of these can be accessed by subscription through the mobile application or the Plaintiff's website.

3. The grievance in the present suit was that there were several unknown persons, who were uploading and transmitting the video lectures on publicly accessible platforms. Defendant No.1/Telegram FZ-LLC (*hereinafter "Telegram"*) is a cloud-based messaging platform and Defendant No.2/Mega Limited (*hereinafter "Mega"*) offers cloud storage and file hosting. Both these platforms are being used by unknown Defendant Nos. 5&6 to share the Plaintiff's content unauthorizedly. Despite efforts, the Plaintiff could not identify the unknown persons, who were indulging in such illegalities. Accordingly, the present suit was filed seeking blocking orders and take down orders against the said websites, URLs and Telegram channels.

4. This Court had, vide order dated 25th January, 2022, passed a detailed order issuing an injunction against the Defendants in the following terms:

"19. The present suit has been filed for grant of permanent injunction and damages against unknown defendants no.5 and 6 (whose identities are unknown and hence, designated as John Doe) and their associates to restrain them from infringing the plaintiff's intellectual property and releasing the plaintiff's paid video lecture content on public platforms operated by the defendants no.1 and 2, along with ancillary reliefs.



20. Plaintiff, who is the exclusive licensee of the copyrighted material which forms part of the subject matter of this suit, is in the business of providing online medical examination coaching platforms for medical entrance examinations and runs its business through the website <https://www.doctutorials.com/> and a mobile application 'DocTutorials'. It is claimed that due to high quality videos and other preparatory materials made available by the plaintiff to its users, the plaintiff is a leading platform and source of examination preparation for students all over India.

21. It is averred that the defendants no.5 and 6 have hacked into the secure service of the plaintiff and accessed the copyrighted paid video content using the usernames such as 'OmniGratis', 'OmniGrata', etc. My attention has been drawn to various channels made using the platform offered by the defendant no.1 and website provided on the platform of the defendant no.2 containing the infringing material. Despite notices from the plaintiff, the defendants have not taken down the infringing material.

22. Senior counsel appearing on behalf of the defendant no.1 submits that as and when the defendant no.1 is notified about the infringement activities being carried out on their channels with specific links, the defendant no.1 expeditiously takes them down, which has also been acknowledged by the plaintiff. He states that in the future as well, the defendant no.1 would continue to expeditiously take down all links in respect of the infringing material, upon communication by the plaintiff.



23. Counsel appearing for the defendant no.2 also makes a similar statement, that the defendant no.2 is willing to take down all offending websites expeditiously, upon being notified of the same by the plaintiff.

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28. In my view, plaintiff has made out a prima facie case for grant of ex parte ad interim injunction. From the material shown to the Court, it appears that the defendants no.5 and 6 are infringing on the copyrighted material of which the plaintiff is the exclusive licensee and are making unauthorized use of the same. Thus, balance of convenience is in favour of the plaintiff. Irreparable harm and injury would be caused to the plaintiff if an ex parte ad interim injunction is not granted in favour of the plaintiff.

29. Consequently, till the next date of hearing the defendants no.5 and 6, their owners, partners, proprietors, officers, servants, employees, and all others in the capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, etc. are restrained from using the plaintiff's trademark and copyrighted content on the channels/website(s) as detailed in prayer (i) to the present application on the platforms run by defendants no.1 and 2.

30. Defendants no.1 and 2 shall remain bound by their statement that they will take down all unauthorized illegal content in respect of copyrighted video content of the plaintiff which is posted/hosted/uploaded on their channels and upon being notified by the plaintiff, will expeditiously block access and take down the said channels.



31. Defendants no. 1 and 2 are directed to provide all details of the offending parties that are available with them to the plaintiff, including the IP details, identification, emails, phone numbers.”

5. A perusal of the above directions would reveal that insofar as Defendant Nos. 4 & 5 are concerned, they were directed to take down all the unauthorized illegal contents and also provide details of the offending parties including the IP details, identification, emails, phone numbers etc. Thereafter, Telegram filed an application being **I.A. 3184/2022** seeking modification of the order dated 25th January, 2022, to the effect that the directions for providing data of the unknown Defendants ought to be recalled, so long as Telegram takes down the unauthorized content. It raises several defences in this regard.

6. Insofar as Mega - a New Zealand based company - is concerned, it has filed an affidavit of compliance dated 6th May, 2022, in which certain details of the offending parties, who had started the impugned links, have been provided. The said data was provided to the ld counsel for the Plaintiff, who has today made a submission that from the data which has been provided, the Plaintiff is unable to identify the actual persons, who were communicating the infringing content on these channels and on the said URLs and websites.

7. Accordingly, ld. Counsel for the Plaintiff submits that the injunction order and the orders directing take down be finally confirmed in the suit. No further reliefs are being pressed by the Plaintiff. Ld. Counsels appearing for Mega and Telegram submit that they have no objection to the 'take-down' orders being confirmed.



8. This Court has perused the affidavit filed by Defendant No.2. It is seen from the data provided by Defendant No.2 in the compliance affidavit, that the only identities that these persons have, are email addresses and in some cases, IP addresses. However, there are no other details, as according to Id. counsel for Defendant No.2, the cloud service is a free cloud service to the extent of some amount of storage, where limited details are required for registration. It is only after the first level of storage is crossed, that the same becomes a subscription service, and requires further details for registration.

9. In view of the stand taken by the counsels for the parties, the present suit is decreed with the direction that whenever unauthorized and illegal content, relating to the copyrighted data or any content using the Plaintiff's mark, is noticed in any of the channels/websites/URLs hosted by Telegram or Mega, the Plaintiff would be free to issue notice to Telegram and Mega/ Defendant Nos. 1&2. Upon receiving such notice, Defendant Nos. 1&2 shall immediately take down all the illegal/unauthorized content posted or uploaded or communicated on their platforms within 48 hours.

10. Insofar as Department of Telecommunications/Defendant No.3 (*hereinafter* "DoT") is concerned, the said URLs, websites, as communicated by the Plaintiff from time to time, in accordance with the above paragraph, shall also be blocked within 48 hours, which shall be given effect to by the ISPs.

11. Insofar as the stand of Defendant Nos.1 & 2 that they are not authorized to disclose details of the persons including subscriber information, emails, IP address details, phone numbers etc. are concerned, it is made clear that the legal issues that arise therein are left open for being adjudicated upon in an appropriate case.



NEUTRAL CITATION NO: 2022/DHC/002605

12. The suit shall stand decreed in terms of this order. Decree sheet be drawn accordingly. All pending applications are also disposed of in the above terms.

PRATHIBA M. SINGH
JUDGE

JULY 14, 2022/dk/ms

