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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 14th November, 2022

+ CS(COMM) 364/2021 and I.A. 9865/2021

STAR INDIA PVT LTD & ANR.

..... Plaintiffs

Through: Mr. Yatinder Garg, Advocate.
(M:9999064036)

versus

MOVIESGHAR.ART & ORS.

..... Defendants

Through: Mr. Siddharth Varshney, Advocate
for D-43. (M:7727660808)
Ms. Shweta Sahu, Advocate for D-46.
(M:7738741586)
Ms. Nidhi Mittal, Ms. Aparna Arun,
Ms. Damini Garg and Mr. Ojaswa
Pathak, Advocates for DoT.**CORAM:****JUSTICE PRATHIBA M. SINGH****Prathiba M. Singh, J.(Oral)**

1. This hearing has been done through hybrid mode.
2. The present suit has been filed by Plaintiff No. 1- Star India Pvt. Ltd. and Plaintiff No.2- Novi Digital Entertainment Pvt. Ltd. against various rogue websites arrayed as Defendant Nos.1 to 42 in the plaint. In the suit, the Plaintiffs seek a permanent injunction restraining the said websites from retransmitting, broadcasting, streaming or in any manner communicating to the public the cinematograph film '*Bhuj: The Pride of India*'.
3. The Plaintiffs are producers and owners of various television channels as also 'Disney + Hotstar' mobile application and OTT platform. The case of the Plaintiffs is that they are a leading production house and own exclusive copyrights in respect of a large number of cinematograph films as

also other copyrighted content. The present suit relates to a cinematograph film titled 'Bhuj: The Pride of India' which was set for release in 2021-22. It is a film related to the Indo-Pak war of 1971 and inspired from persons involved in the said war. The rights in the said cinematograph film are exclusively owned by the Plaintiffs.

4. The Plaintiffs had apprehensions, owing to various facts pleaded in the plaint, that the Defendant rogue websites were likely to indulge in unlawful streaming of pirated copies of the said film which would have had adverse monetary impact on the Plaintiffs. Accordingly, the Plaintiffs filed the present suit seeking the following reliefs against rogue websites as also the Domain Name Registrars (*hereinafter* 'DNRs') of some of the domain names, ISPs and DoT & MeitY:

"i. Pass an order and decree of permanent injunction restraining the Defendants No. 1 to 42 on both 'http' and 'https' (and such other websites / entities which are discovered during the course of the proceedings to have been engaging in infringing the Plaintiffs' exclusive rights and Copyrights), their owners, partners, proprietors, officers, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, from in any manner communicating, hosting, streaming, and/or making available for viewing and downloading, without authorization, on their websites or other platforms, through the internet in any manner whatsoever, the Film and content related thereto, so as to infringe the Plaintiffs exclusive rights and Copyrights;

ii. Pass an order and decree directing the Defendant No. 46, its directors, partners, proprietors, officers, affiliates, servants, employees, and all others in capacity of principal or agent acting for and, on its

behalf, or anyone claiming through, by or under it, to suspend the domain name registration of domain names of Defendant Nos. 41 and 42 by Defendant No. 46 (GoDaddy) as already identified by the Plaintiffs in the instant suit in Memo of Parties or such other domain names that may subsequently be notified by the Plaintiff to be Rogue Websites which infringe its exclusive rights;

iii. Pass an order and decree directing the Defendant Nos. 47 to 55, their directors, partners, proprietors, officers, affiliates, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, to block access to the various websites identified by the Plaintiff in the instant suit at S. No. 1 of the Documents or such other websites that may subsequently be notified by the Plaintiff to be infringing of its exclusive rights;

iv. Pass an order and decree directing the Defendant Nos. 56 and 57 to issue a notification calling upon the various internet and telecom service providers registered under it to block access to the various websites identified by the Plaintiff in the instant suit at S. No. 1 of the Documents or such other websites that may subsequently be notified by the Plaintiff to be infringing of its exclusive rights;

v. An order for damages of Rs. 2,00,01,000/- to be paid by the Defendant Nos. 1 to 42 and such other websites / entities which are discovered during the course of the proceedings to have been engaging in infringing the Plaintiffs' exclusive rights, to the Plaintiff on account of . their illegal and infringing activities and a decree for the said amount be passed in favour of the Plaintiff (the Plaintiff reserves its right to claim additional damages and amend the pleadings accordingly once the magnitude of the Defendants' illegal / infringing activities and the revenues earned by the Defendants'

in pursuance to such illegal / infringing activities is ascertained upon discovery in the instant action);

vi. An order for delivery of all the apparatus and/or material that the Defendant Nos. 1 to 42 use or may be using to infringe the Plaintiffs' exclusive rights, to the authorized representatives of the Plaintiffs for the purposes of destruction;

viii. An order for rendition of accounts of profits illegally earned by the Defendant Nos. 1 to 42, (and such other websites / entities which are discovered during the course of the proceedings to have been engaging in infringing the Plaintiffs' exclusive rights), on account of their illegal hosting, streaming, publishing, exhibiting, making available and/or communicating to the public of the Plaintiffs' Channels including the internet and telecom service providers registered under it;

vii. An order for costs in the present proceedings in favour of the Plaintiff; and”

5. Vide order dated 9th August, 2021, the Court had considered the matter and had issued the following directions:

“5. It is the case of the plaintiffs that the said film 'Bhuj: The Pride of India' is likely to be released on 13.08.2021 and the plaintiffs apprehend that the said defendants No. 1 to 42 would violate the copyright and other rights of the plaintiffs by broadcasting or in any other manner dealing with the aforesaid film which would cause irreparable harm and damage to the plaintiffs.

*6. The plaintiffs have made out a prima facie case. **The defendants No. 1 to 42 and any other website identified subsequently by the plaintiffs on an affidavit to be filed in court, their owners, partners, proprietors, etc. are restrained from in any manner communicating to the public, hosting, storing,***

reproducing, streaming, broadcasting, etc. the aforesaid film of the plaintiffs which would tantamount to infringement of the plaintiffs copyright and broadcast reproduction rights. A direction is passed against defendant No. 46 directing defendant No. 46 to suspend the domain registration of defendants No. 41 and 42 and any other domain names identified subsequently by the plaintiffs on an affidavit to be filed in court. An interim injunction is also passed directing defendants No. 47 to 55, their partners, owners, etc. to take steps to block access to the various domains identified by the plaintiffs at Serial No. 1 of the documents list filed by the plaintiffs who are said to be responsible for hosting, reproducing, streaming, etc. and any other domain names identified subsequently by the plaintiffs on an affidavit to be filed in court, the aforesaid film of the plaintiffs amounting to infringement of the plaintiffs' copyright. A direction is also passed to defendants No. 56 and 57 to issue a notification calling upon the various internet and telecom service providers registered under it to block access to the various domains identified by the plaintiffs in the instant suit at Serial No. 1 of the documents as noted above or any other domain names which are identified subsequently by the plaintiffs on an affidavit to be filed in court. The defendants will take immediate steps on the orders passed today by this court which will be uploaded on the website.”

6. Pursuant to the said order, further additional URLs / domain names were also found to be illegally streaming the cinematograph film. Accordingly, the Plaintiffs have brought on record the following infringing domain names/ websites by way of affidavits:

S.No.	No. of Additional Websites	Date of Filing
1	25 Websites	16 th August, 2021
2	22 Websites	18 th August, 2021
3	36 Websites	31 st August, 2021
4	25 Websites	10 th September, 2021
5	45 Websites	1 st November, 2021
6	92 Websites	29 th November, 2021
7	42 Websites	9 th September, 2022
8	29 Websites	10 th September, 2022
9	29 Websites	12 th September, 2022
10	40 Websites	15 th September, 2022
11	34 Websites	19 th September, 2022
12	30 Websites	24 th September, 2022
13	50 Websites	30 th September, 2022
14	35 Websites	6 th October, 2022
15	55 Websites	17 th October, 2022
16	50 Websites	1 st November, 2022
17	50 Websites	10 th November, 2022
Total= 689 Additional Websites		

7. Parallely, Defendant No.56 and 57, namely, DoT & MeitY are stated to have blocked all the infringing websites upon being intimated about the same by the Plaintiffs. The ISPs are also stated to have given effect to the said orders.

8. Today, Id. Counsel for the Plaintiffs submits that the cinematograph film subject of the present suit has already been released on various online platforms and OTT platforms.

9. Despite being served, none of the rogue websites have entered

appearance. On behalf of Defendant No.46- GoDaddy.com, LLC, it is submitted by Ms. Sahu, Id. Counsel that Defendant No.42- khatrimaza.casa was not under the control of GoDaddy at the time of the passing of the injunction order and the same was moved to another DNR just prior to the injunction order dated 9th August, 2021. It is further submitted by Ms. Sahu, Id. Counsel that the domain name of Defendant No.41- btcmovies.xyz was put under suspension by GoDaddy after the injunction order. However, since no locking order was passed, the said domain name has moved out of the control of GoDaddy. In respect of btcmovies.xyz, she confirms that blocking orders issued by the DoT/MeitY have been given effect to and the said domain name continues to remain suspended. Mr. Siddharth Varshney, Id.Counsel has appeared for Defendant No.43- Super Cassettes Industries Pvt. Ltd. (T-Series).

10. Heard. All the Defendant rogue websites have been served or are aware of the orders passed by this Court. However, none of the Defendant-domain names or further domain names which have been added have appeared before the Court. Vide order dated 1st September, 2022, Id. Joint Registrar has closed the right of the Defendant rogue websites to file written statement. The movie has already been released on various platforms including the OTT platforms and other online platforms. In view thereof, since the rights of the Plaintiffs are not in question, a permanent injunction is liable to be granted in terms of paragraph 66(i) of the plaint against all the rogue websites i.e., Defendant Nos. 1 to 42 and the other domain names added by subsequent affidavits totalling 689 additional websites/ domain names.

11. Insofar as the other Defendants who are Domain Name Registrars are

concerned, they shall ensure that the impugned domain names are suspended, locked and *status quo* is maintained in respect of the same. The same shall not be permitted to be transferred to any third party. The orders of blocking shall also stand confirmed permanently in respect of all the impugned domain names / websites.

12. In view of the above, the Plaintiffs do not press for any further reliefs of damages or rendition of accounts.

13. The suit is decreed in the above terms. Decree sheet be drawn accordingly.

14. All pending applications are disposed of.

PRATHIBA M. SINGH
JUDGE

NOVEMBER 14, 2022

dj/sk

