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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 13/2023**
SONY MUSIC ENTERTAINMENT INDIA PRIVATE LIMITED &
ORS. Plaintiffs

Through: Mr. Mohit Bangwal and Mr Kunal
Gupta, Advocates.

versus

YT1S.COM, YT1S.PRO, YT1S.DE & ORS. Defendants

Through: Mr. K.D. Sharma, SPC for D-28.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
28.05.2024

I.A. 30731/2024 (Seeking summary judgment)

1. This application has been filed under Order XIII A of Code of Civil Procedure, 1908 (“CPC”) on behalf of plaintiffs seeking summary judgment in their favour.
2. Counsel for plaintiff has pointed out that the *ex parte ad interim* injunction in favour of plaintiff was granted on 12th January, 2023.
3. On 14th March, 2023, the Joint Registrar recorded that defendant nos. 1-18 stood served through email on 15th February, 2023 and the defendant nos. 19, 21, 22, 23, 25 & 27 were served through speed-post on 14th February, 2023. Defendant nos. 20, 24, 28 and 29 were already served but had not filed their written statements. Subsequently, it was recorded on 11th September, 2023 by



the Joint Registrar that defendant nos. 1-27 and 29 had not filed any written statement and the opportunity stood closed.

4. In this view of the matter, defendants are proceeded *ex parte*, and the interim order dated 12th January, 2023, is made absolute.

5. Counsel appears on behalf of defendant no. 28 (*Department of Telecommunications*) which is a proforma party and no relief is sought specifically at this stage, except for compliance of orders of this Court.

6. Aside from the decree in terms of prayers in the plaint, counsel for the plaintiff also seeks a dynamic injunction in terms of the decision of this Court in ***UTV Software Communication & Ors. v. 1337X & Ors.*** CS(COMM) 724/2017, dated 10th April 2019, 2019:DHC:2047

7. The background facts and circumstances in this matter have already been narrated in order dated 12th January, 2023 and the relevant paras are extracted as under: -

1. This plaint at the instance of Plaintiffs 1 to 3 is essentially directed against Defendants 1 to 18 as enlisted at pages 19 and 20 of the documents filed with the plaint. The said defendants have been arrayed on the basis of their domain IDs, as their identity is masked and attempt to ascertain their WHOIS particulars have been futile.

2. The case of the plaintiffs is that they are holders of copyright in various sound recordings and, consequently, under agreements executed with the original copyright holders of the said recordings, which have been placed on records. By virtue of the said agreements and the provisions of the Copyright Act, 1957, therefore, the plaintiffs assert that the transmission, broadcasting or reproduction of any of the said recordings in which the plaintiffs hold copyright, would amount



to infringement of copyright within the meaning of Section 51(a)(i),(a)(ii) and (b)¹ of the Copyright Act.

3. Mr. Harsh Kaushik, learned Counsel for the plaintiffs, submits that Defendants 1 to 18 are rogue websites within the meaning of expression as defined by this Court in its judgment in *UTV Software Communication Ltd. v. 1337X.TO*². Mr. Kaushik has invited my attention to the relevant passages of the said decision, which enumerate the criteria, requiring satisfaction in order for the website to be designated as a "rogue website". He submits that the website forming subject matter of *UTV*², like Defendants 1 to 18, also provide services whereby copyrighted content on various platforms, primarily YouTube, could be downloaded in MP3 or MP4 format by copying the YouTube link in the space provided in the website. This phenomenon, he submits, is known as "stream ripping". The WHOIS details of the websites being masked, he submits that it would be impossible for the plaintiffs to pursue the websites by separate proceedings qua individual copyrighted content.

4. In this situation, he submits that the situation that exists in the present case is similar to that which emerges in *UTV*² and, following the said decision, prays for interdicting the websites and also for a direction to block the access of the websites in India.

5. He submits that several similar orders have been passed by this Court in the past.

6. In the circumstances, the plaint seeks a decree of permanent injunction restraining Defendants 1 to 18 or any other mirror/redirect/alphanumeric websites or any other iteration thereof, associated with the websites of Defendants 1 to 18, and all others who are acting on their behalf, from hosting, reproducing or otherwise making available to the public or facilitating the downloading of the content in which the plaintiffs own copyright.



8. Accordingly, Court had passed interim directions in order dated 12th January, 2023, which are extracted as under:

25. For the reasons stated hereinabove, till the next date of hearing the following interlocutory orders are issued:

(i) Defendants 1 to 18, and also any mirror/redirect/alphanumeric websites enumerating therefrom, are restrained from hosting, reproducing, distributing, facilitating or making available to the public, works in which the plaintiffs hold copyright, or facilitating the downloading and dissemination of such works in any manner whatsoever.

(ii) Defendants 19 to 27 are directed to block access to the Defendants 1 to 18 websites in India.

(iii) Defendants 28 and 29 are directed to issue a notification calling upon the various Internet Service Providers (ISPs) registered under Defendants 28 and 29 to block access to the aforesaid websites Defendants 1 to 18 in India or any other mirror/redirect/alphanumeric websites.

27 Mr. Kaushik also seeks interlocutory relief in terms of para 101 of the *UTV*², which reads thus:

“101. Consequently, along with the Order I Rule 10 application

for impleadment, the plaintiffs shall file an affidavit confirming that the newly impleaded website is a mirror/redirect/alphanumeric website with sufficient supporting evidence. On being satisfied that the impugned website is indeed a mirror/redirect/alphanumeric website of injuncted Rogue Website(s) and merely provides new means of accessing the same primary infringing website, the Joint Registrar shall issue directions to ISPs to disable access in India to such mirror/redirect/alphanumeric websites in terms of the orders passed.”



28 Inasmuch as the exercise that has been delegated to the learned Joint Registrar by para 101 of the decision in *UTV*² would not involve any exercise of an adjudicatory functions regarding the aspect of infringement and merely requires the learned Joint Registrar to facilitate the implementation of the order passed by this Court by satisfying himself that the website of which blocking is being sought, is indeed a mirror/redirect/alphanumeric *avatar* of the websites which already stand enjoined by the previous order passed by this Court, I see no impediment in passing a similar order.

29. Accordingly, in the event of coming into existence of any mirror/redirect/alphanumeric of the websites of the rogue websites and Defendants 1 to 18, the plaintiffs shall be entitled to file an affidavit before the learned Joint Registrar who, on being satisfied that the website is indeed a mirror/redirect/alphanumeric of the website of one or more of the Defendants 1 to 18 websites impleaded in this suit, may issue directions to the ISPs to disable such mirror/redirect/alphanumeric of the websites in terms of the orders already passed hereinabove.

9. In view of the facts and circumstances noted above, decree be passed in terms of prayer in plaint in para 84 (a) to (e) and in terms of prayer in para 51 (ii) of application being I.A. 30731/2024, which are extracted as under:



- a. Pass an order and decree of permanent injunction restraining the Defendant Websites i.e. Defendant No. 1 to 18 and any such other mirror/redirect/alphanumeric websites and/or any iterations thereof, which appears to be associated with any of the Defendant Websites and/or their owners, 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 them, from Stream Ripping, hosting, reproducing, distributing, facilitating, making available to the public, facilitating downloading and /or communicating to the public, Plaintiffs' copyrighted works and/or facilitating such activity on their websites and/or through the internet in any manner whatsoever;
- b. Pass a decree and order directing the Defendant Nos. 1 to 18 to render statement of accounts/revenues earned on account of the exploitation of the Plaintiffs' Works through the respective Defendant Websites and/or any of their mirror/alphanumeric websites and/or any iterations thereof for the entire period when such exploitation commenced and until they continue to provide access to the Plaintiffs' copyrighted works;

[Handwritten signature]



- c. Pass an order and decree directing Defendant Nos. 19 to 27, their owners, 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 Defendant Nos. 1 to 18 through internet or otherwise, identified in the instant suit and any such other mirror/redirect/alphanumeric website which appears to be associated with any of the Defendant Websites;
 - d. Pass an order and decree directing Defendant Nos. 28 and 29 to issue a notification calling upon various ISPs registered under it to block access to the websites of Defendant No.1 to 18 and any such other mirror/redirect/alphanumeric website which appears to be associated with any of the Defendant Websites through internet or otherwise;
 - e. Pass an order directing the Domain Name Registrars of the Defendant Websites as mentioned in the Plaint, to disclose the contact details and other details about the owner of the said websites, and other such relief as this Hon'ble Court may deem fit and proper;
- ii. Pass a direction granting liberty to the Plaintiffs to implead any mirror/ redirect/ alphanumeric websites which provide access to the Defendant No. 1 to 18 websites by filing an appropriate application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 supported by affidavit and evidence as directed in UTV Case, before the Joint Registrar of this Hon'ble



Court, who on being satisfied that the website is indeed a mirror/ redirect/ alphanumeric of the website of one or more of Defendant No. 1 to 18, may issue directions to ISPs to disable such mirror/ redirect/ alphanumeric websites;

10. Decree sheet be drawn up accordingly.
11. Application is accordingly disposed of. Suit is disposed of with the aforesaid directions. Pending applications, if any, are rendered infructuous.
12. The date already fixed in the suit stands cancelled.
13. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 28, 2024/RK/na