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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(COMM) 518/2021

STAR INDIA PVT. LTD. AND ANR. Plaintiffs

Through: Mr. Amit Sibal, Senior Advocate with
Ms. Sneha Jain, Mr. Yatinder Garg,
Ms. Snehima Jauhari, Mr. Kuber
Mahajan, Mr. Saksham Dhingra and
Mr. Rishabh Sharma, Advocates.

versus

FILMYCLUB.WAPKIZ.COM AND ORS. Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **12.10.2021**

I.A. 13529/2021 (under Section 80 r/w Section 151 CPC, 1908)

1. For the grounds and reasons stated therein, the application is allowed.

**I.A. 13528/2021 (exempt the Plaintiffs from filing certified/ clearer/
proper/ translated copies of documents with proper margins)**

2. Exemption is granted, subject to just exceptions.

3. The Plaintiffs shall file certified copies of documents, which are in its possession, within two weeks from today.

4. The Plaintiffs shall file legible copies of any document which is dim/ illegible has proper margins, which they may seek to place reliance, at least one week prior to the next date of hearing.

5. The application stands disposed of.

**I.A. 13530/2021 (u/O. XI R.1(4) of the Commercial Courts Act, 2015 r/w
Section 151 CPC seeking leave to file additional documents)**

6. This is an application seeking leave to file additional documents under

Commercial Courts Act, 2015.

7. The 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.

8. Accordingly, the application stands disposed of.

I.A. 13531/2021 (exemption from filing pre-suit mediation in the present suit under Section 12A of the Commercial Court Act, 2015)

9. Allowed, subject to all just exceptions.

10. Accordingly, the application stands disposed of.

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11. Let the plaint be registered as a suit.

12. Upon filing of process fee, issue summons to the Defendant by all permissible modes. Summons shall state that the written statement shall be filed by the Defendant within 30 days from the date of receipt of summons. Along with the written statement, the Defendant shall also file an affidavit of admission/ denial of the documents of the Plaintiffs, without which the written statement shall not be taken on record.

13. Liberty is given to the Plaintiffs to file a replication within 15 days of the receipt of the written statement. Along with the replication, if any, filed by the Plaintiffs, an affidavit of admission/ denial of documents of the Defendant, be filed by the Plaintiff, without which the replication 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.

14. List before the Joint Registrar for marking of exhibits on 20th December, 2021. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

15. List before Court for framing of issues thereafter.

I.A. 13527/2021 (under Order 39 Rules 1 and 2 seeking restraint on infringement of broadcasting rights of the Plaintiffs)

16. The present suit is being filed by the Plaintiffs on account of the infringement of the Plaintiffs' broadcasting reproduction rights arising from the ICC Men's T20 World Cup 2021 of which the Plaintiffs have exclusive rights. The suit seeks permanent injunction restraining the Defendants from infringing the Plaintiffs' exclusive rights and broadcasting reproduction rights, rendition of accounts, damages etc.

17. This is an interim application seeking restraint of infringement of broadcasting reproduction rights of the Plaintiffs. The Plaintiffs has acquired exclusive global media rights – including television rights, digital rights (internet as well as mobile) and certain ancillary rights for various ICC events *inter alia* the ICC Men's T20 World Cup from the International Cricket Council for a duration of eight years i.e., from 2015–2023 for a substantial consideration *vide* a 'Media Rights Agreement' dated 20th November 2014. In exercise of the rights granted *vide* the said agreement, the Plaintiffs are exploiting the exclusive rights directly and through its affiliated companies.

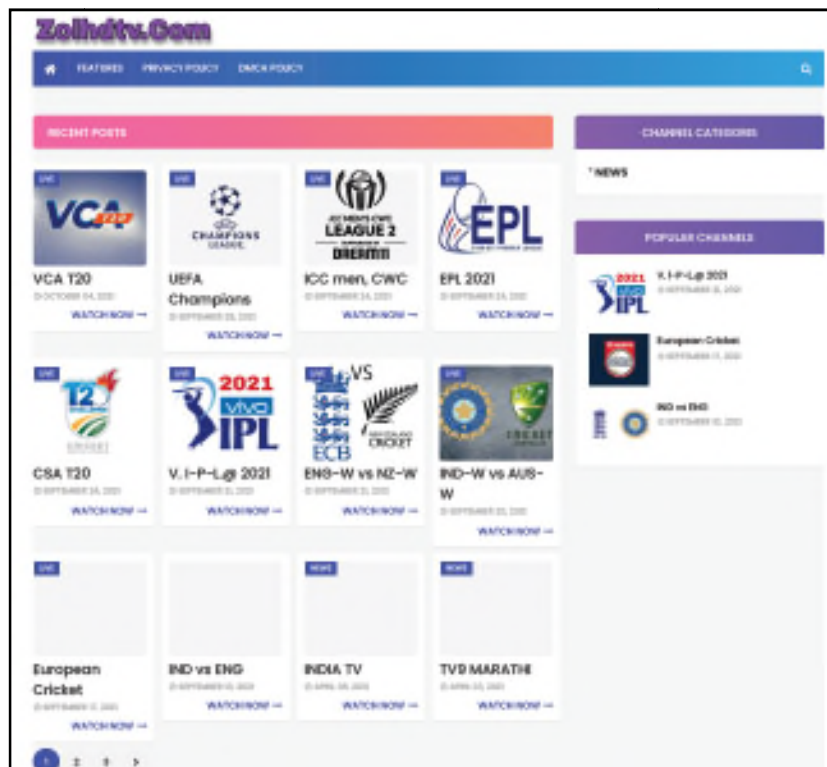
18. Mr. Amit Sibal, Senior Counsel for the Plaintiffs, submits that the Plaintiffs have observed that the exclusive rights in the sporting events *inter-alia* ‘Vivo IPL 2021’ – have also been earlier infringed by Defendants Nos. 1 to 17. These rights include the live, delayed, highlights, clips and repeat exhibition of various sporting events, over which the Plaintiffs have digital rights, through various digital transmission platforms for viewing on various devices such as televisions, computers, laptops, mobile phones, tablets, etc. The Plaintiffs have observed that Defendants Nos. 1 to 7 are “rogue websites” – which continue to infringe Plaintiffs’ rights – including its exclusive rights with respect to Vivo IPL 2021. The list of “rogue websites” *viz.* Defendants Nos. 1 to 7 is as follows:

Defendant No. 1. filmyclub.wapkiz.com
Defendant No. 2. ipl.hitcric.tv
Defendant No. 3. doratv-ipl.wapkiz.com
Defendant No. 4. tamilblasters.win
Defendant No. 5. thdtvworld.xyz
Defendant No. 6. uptomovie.xyz
Defendant No. 7. zolphdtv.com

19. The Plaintiffs apprehend that the said Defendants will continue infringing the Plaintiffs’ exclusive rights with respect to the ICC Men's T20 World Cup 2021 – scheduled to commence from 17th October, 2021. These rights also include the exclusive right to use the ICC Men's T20 World Cup 2021 logos, the logos of the Star Channels and any other marks associated with the Men’s T20 World Cup event or the Plaintiffs’ abovementioned rights – which are being confirmed by the ICC *vide* letter dated 16th May, 2019.

20. Defendant Nos. 8 to 16 are Internet Service Providers. Defendant Nos. 17 and 18 are the Department of Telecommunications [*hereinafter, referred to as “DoT”*] and Ministry of Electronics and Information Technology, respectively.

21. Further, screenshots of the “rogue websites” have also been annexed with the plaint to demonstrate that the Plaintiffs’ apprehension is a genuine one. By way of illustration, Mr. Sibal has drawn the attention of this Court to the screenshots of website of Defendant No. 7 – which mentions various sporting events to be held/ streamed on their website, including ICC Men’s CWC, and is extracted as under:



22. Mr. Sibal submits that the information pertaining to these websites is completely masked – as is evident from the information publicly available on the ‘WhoIs Database’. The Plaintiffs are not aware of the owners of these websites as they are either anonymous or have incorrect addresses.

23. Mr. Sibal drew the attention of the Court to the orders passed by other co-ordinate benches, wherein this Court had granted injunctions against “rogue websites”,¹ not only immediately known to the Plaintiff, but also to other websites of a similar nature – which the Plaintiffs apprehend would “spring up at the time of the telecasting/ broadcasting of the events” and would continue to infringe the Plaintiffs’ rights. In these orders, the Court had subsequently, appreciated the apprehensions of the Plaintiff(s) and extending the injunctions by permitting the Plaintiff(s) therein to approach the DoT in the event, the existence of similar websites (likely to infringe their broadcasting reproduction rights) come to their knowledge.

24. Mr. Sibal submits that the said directions did not serve the purpose of protecting their rights; since ‘take-down’ requests made to the DoT would ordinarily take three to seven days to be given effect to. He submits that considering the brief duration of the sporting events *viz.* the T20 World Cup matches, the Court may consider passing an omnibus direction *in futuro* – even before any websites are identified or affidavits are filed, thereby protecting the interests of the Plaintiff.

¹ CS (COMM) 394/2020 dated 23rd March, 2020 and CS (COMM) 181/2021 dated 16th April, 2021.

25. Having considered the submissions of Mr. Sibal, and considering the nature of violations by the Defendant Nos. 1 to 7 for which, *prima facie*, sufficient material has been placed on record by the Plaintiffs, this Court finds a *prima facie* case in favour of the Plaintiffs. The balance of convenience also lies in favour of the Plaintiffs and in case an *ex-parte ad-interim* injunction is not granted, an irreparable loss will be inflicted upon the Plaintiffs. Consequently, till the next date of hearing before this Court, *interim* injunction is granted in favour of the Plaintiffs and against the Defendants in terms of the following:

- i. Defendants Nos. 1 to 7 (and such other websites and entities which are discovered during the course of the proceedings to have been engaging in infringing the Plaintiffs' exclusive rights and disclosed on affidavit before this Court) are restrained from, in any manner, communicating to the public, hosting, reproducing, streaming, broadcasting, re-broadcasting, retransmitting, exhibiting, and/ or making available for viewing and downloading, providing access to and/ or communicating to the public, displaying, uploading, modifying, publishing, updating and/ or sharing (including to its subscribers and users) through the internet, or any other manner whatsoever, the ICC Men's T20 World Cup 2021, and the content related thereto, so as to not infringe the Plaintiff's broadcasting reproduction rights as broadcast/ contained in Star Channels and Disney+ Hotstar in relation to the same;
- ii. Defendant Nos. 8 to 16, their Directors, Proprietors, Officers, Affiliates are directed to block access to the websites impleaded as Defendant Nos. 1 to 7, or such other websites as may be notified by

- the Plaintiffs on affidavit, within 72 hours of receipt of this order;
- iii. Defendant Nos. 17 and 18 are directed to issue notification calling upon the internet and telecom service providers registered under them, to block access to websites impleaded as Defendant Nos. 1 to 7;
 - iv. In the event, the Plaintiffs come across any such infringing activity in relation to the cause of action pleaded in the present suit, the Plaintiffs would file an affidavit before this Court enclosing therewith screenshots to indicate that the infringing content is being broadcasted on such websites, and on the affidavit so filed, the directions as issued from Serial Nos. (i) to (iii) of the order above, would apply to the said website(s) as well, and in the event the Plaintiffs' affidavit is found to be false, the consequence in law will follow.

26. Compliance under Order XXXIX, Rule 3 CPC, be done in one week.

27. List before the Court on 28th February, 2022.

OCTOBER 12, 2021

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SANJEEV NARULA, J