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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 676/2023 & I.As. 18922/2023, 18923/2023, 18924/2023,**
18925/2023, 18926/2023, 18927/2023, 18928/2023
JAINEMO PRIVATE LIMITED Plaintiff

Through: Mr. Karan Bajaj, Mr. Rupin Bahl and
Ms. Pooja Arora, Advocates (M-
9891098822)

versus

RAHUL SHAH AND OTHERSDefendants

Through: Ms. Anushka Sharda, Mr. Madhav
Khosla, Ms. Moha Paranjpe,
Advocates for D-16/Telegram (M-
8369757825).

Mr. Tejas Karia, Ms. Swati Agarwal,
Mr. Mohit Singh, Mr. Vaarish Sawlani
& Ms. Ritika Bansal, Advocates for D-
19/WhatsApp (M- 9399156218).

Mr. Aditya Gupta, Mr. Raunaq
Kamath, Ms. Aishwarya Kane and Mr.
Sauhard Alung, Advocates for D-20/
Google LLC (M- 9425341404)

Mr. Mrinal Ojha, Mr. Debarshi Dutta,
Mr. Anand Raja, Ms. Tanya
Chaudhry, Mr. Samyak Bilala, Mr.
Shivam Tiwari, Advocates for D-
28/GoDaddy LLC (M- 9990952258)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER

% **27.09.2023**

1. This hearing has been done through hybrid mode.

I.A. 18924/2023 (for exemption)

2. This is an application filed by the Plaintiff seeking exemption from



filing originals/cleared/certified/translated copies of documents with proper margins, etc. Original documents shall be produced/filed at the time of Admission/Denial, if sought, strictly as per the provisions of the Commercial Courts Act, 2015 and the DHC (Original Side) Rules, 2018.

3. Exemption is allowed, subject to all just exceptions. Accordingly, the application is disposed of.

I.A. 18923/2023 (for additional documents)

4. This is an application filed by the Plaintiff seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter, '*Commercial Courts Act*'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015 and the DHC (Original Side) Rules, 2018.

5. Accordingly, application is disposed of.

I.A. 18925/2023 (exemption from advance service to the Defendants)

6. In view of the fact that the Plaintiff has sought an urgent *ex parte ad-interim* injunction along with the appointment of the Local Commissioner, the exemption from advance service to the Defendant is granted.

7. Accordingly, application is disposed of.

I.A. 18926/2023 (u/S 12A of the Commercial Courts Act)

8. This is an application filed by the Plaintiff seeking exemption instituting pre-litigation mediation. Since the Plaintiff seeks an urgent *ex parte* injunction, in view of the orders passed in *Chandra Kishore Chaurasia v. R A Perfumery Works Private Ltd, 2022/DHC/004454*, the application is allowed and disposed of.

I.A. 18927/2023 (for court fee)



9. This is an application seeking extension of time for filing the court fee. The court fee is stated to have been deposited with the treasury. Let the same be filed within two weeks. Application is disposed of.

I.A. 18928/2023 (permission to file documents on a pen drive)

10. This is an application seeking permission to file course material on a pen drive and in a sealed cover. The course material on pen-drive be filed on record and annexed with the electronic record of the Court. The said material be filed in a sealed cover and be retained on record without scanning. Application is disposed of.

CS(COMM) 676/2023

11. Let the plaint be registered as a suit.

12. Issue summons to the Defendants through all modes upon filing of Process Fee.

13. Ld. Counsels for Defendant Nos.16, 19, 20 and 28 accepts summons.

14. The summons to the Defendants shall indicate that the written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

15. Liberty is given to the Plaintiff to file the replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiff, 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.

16. List before the Joint Registrar for marking of exhibits on 22nd



November, 2023. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

17. List before Court on 22nd March, 2024.

I.A. 18922/2023 (u/O XXXIX Rules 1 & 2 CPC)

18. Issue notice.

19. Ld. Counsels for Defendant Nos.16, 19, 20 and 28 accept notice.

20. The Plaintiff in this suit is M/s Jainemo Private Limited, a company engaged in preparation and sale of educational material and vocational courses including courses on coding, computer programming, website development, etc. The Plaintiff's website is www.apnacollege.in, operated and accessed by a large number of persons who wish to avail courses disseminated and taught by the Plaintiff.

21. The Plaintiff's case is that its courses train candidates in various skills, and enable them to obtain placements in a large number of established companies and businesses. The course material offered by the Plaintiff are under the name ALPHA, DELTA and ALPHA PLUS (hereinafter, '*Plaintiff's courses*'). The study material is in the form of recorded videos, live sessions, recording of live sessions, assignment questions, reading material, question banks, etc. The access to the Plaintiff's courses is provided through the website www.apnacollege.in, wherein a dashboard is created, and upon a student or a candidate paying the requisite fee, the course material is made available on the dashboard.

22. It is submitted by Mr. Karan Bajaj Id. Counsel for the Plaintiff that the Plaintiff's course material is actually not downloadable, and it is only by using circumvention tools or any other software to de-encrypt or access the course material, that the Plaintiff's videos of course material become downloadable.



Thus, unless a party deliberately attempts to download the Plaintiff's course material, it is not possible to download the said videos.

23. The Plaintiff's courses subject matter of the present suit, are as under:
- 1) ALPHA course for a duration of 3.5 months on the JAVA language;
 - 2) DELTA course for a duration of 4.5 months on Frontend Development, Backend Development and Database - SQL & MongoDB;
 - 3) ALPHA PLUS course for a duration of 4 months on Java Language, Data Structures & Algorithms, Live Resume & Interview Preparation.

The said courses are claimed to be extremely popular among candidates and students, leading the Plaintiff to run various batches of these courses. Thousands of students are enrolled in these courses and enabling them to obtain placements. The Plaintiff's ALPHA course is highly popular, having already completed or currently running five batches. Each batch consists of a substantial number of students, ranging from 21,000 to 24,000. Similarly, the inaugural batch of DELTA commenced on 7th June 2023, and admissions are now available for DELTA 2.0, with similar student enrolment figures.

24. The Plaintiff claims to hold literary rights for the study material associated with the videos, and the videos itself are protected as a cinematographic film under Copyright Act, 1957. The Plaintiff avers that the creation, editing, and uploading of each video involve extensive creativity, time, effort, and dedication. The Plaintiff's employees meticulously curate the material. As a result, it is claimed that the course material for ALPHA and DELTA qualifies as the Plaintiff's original copyrighted work in terms of



Section 13 and 14 of the Copyright Act, 1957.

25. The Plaintiff realized in early September 2023 that a large number of known and unknown individuals/entities have started disseminating Plaintiff's courses, including the printed course materials, videos, etc. on platforms such as WhatsApp, Telegram and YouTube. The said Defendants are using digital platforms to seek enrolment of students into batches. The Defendants are also collecting fees ranging from Rs.500/- to Rs.1000/- to include them on the said groups, and to make available the Plaintiff's courses to such candidates. In addition, students are enrolled through a Google Form. The Plaintiff's course material is also made available by uploading it on Google Drive and Mega.

26. Ld. Counsel for the Plaintiff that the challenge of backup channels on Telegram in copyright infringement lies in the fact that infringers create duplicate or alternative channels to continue disseminating the Plaintiff's copyrighted material even after original channels are taken down. This allows them to maintain their unauthorized distribution efforts, making it more difficult for the Plaintiff to effectively protect their work. It is further submitted that creation of such backup channels requires constant vigilance and timely action from copyright holders and platforms to identify and address these backup channels to prevent further infringement.

27. In the present suit, persons who are indulging in this infringing conduct are Defendant Nos. 1 to 14, 25, 29, 30. They are described as under:

| <i>Defendant Nos.</i> | <i>Defendant's Name</i> |
|------------------------------|--------------------------------|
| <i>1.</i> | <i>Rahul Shah</i> |



| | |
|-----|--|
| 2. | <i>Danish</i> |
| 3. | <i>GlitchVitch – Handle</i> |
| 4. | <i>Show Time – YouTube channel</i> |
| 5. | <i>Apna College Alpha Batch 5 – Telegram channel</i> |
| 6. | <i>AlphaPacementCourse41 – Telegram handle</i> |
| 7. | <i>AlphaBatchFreeApnaCollege – Telegram handle</i> |
| 8. | <i>AlphaBatch500 – Telegram Handle</i> |
| 9. | <i>Apnaalphaplus – Telegram Handle</i> |
| 10. | <i>Apna_college_delta_batch_free – Telegram Handle</i> |
| 11. | <i>Deltabatch_apna – Telegram Handle</i> |
| 12. | <i>Violet_Dimension_delta_batch – Telegram Handle</i> |
| 13. | <i>Class Central</i> |
| 14. | <i>FreeCourseUniverse</i> |
| 25. | <i>Crax.pro</i> |
| 29. | <i>Go Daddy LLC</i> |
| 30. | <i>Alpha plus Apna College Free – Telegram Handle</i> |

28. The Plaintiff has provided details of the alleged infringing activity carried on by the said Defendants in the plaint. Paragraphs 41 to 67 detail the manner in which the Plaintiff's course material is being infringed upon. The



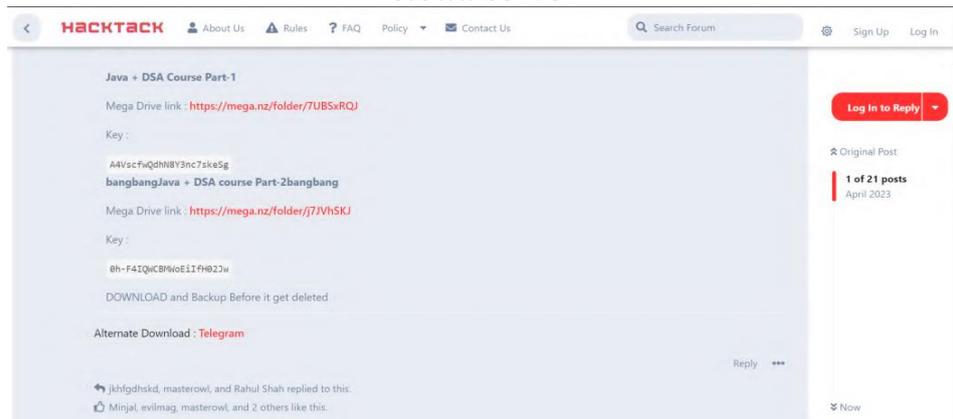
Plaintiff has also placed on record screenshots of the infringing activity. Some of the examples are as follows:

Screenshot of the Plaintiff’s ALPHA course on Defendant No. 1’s website

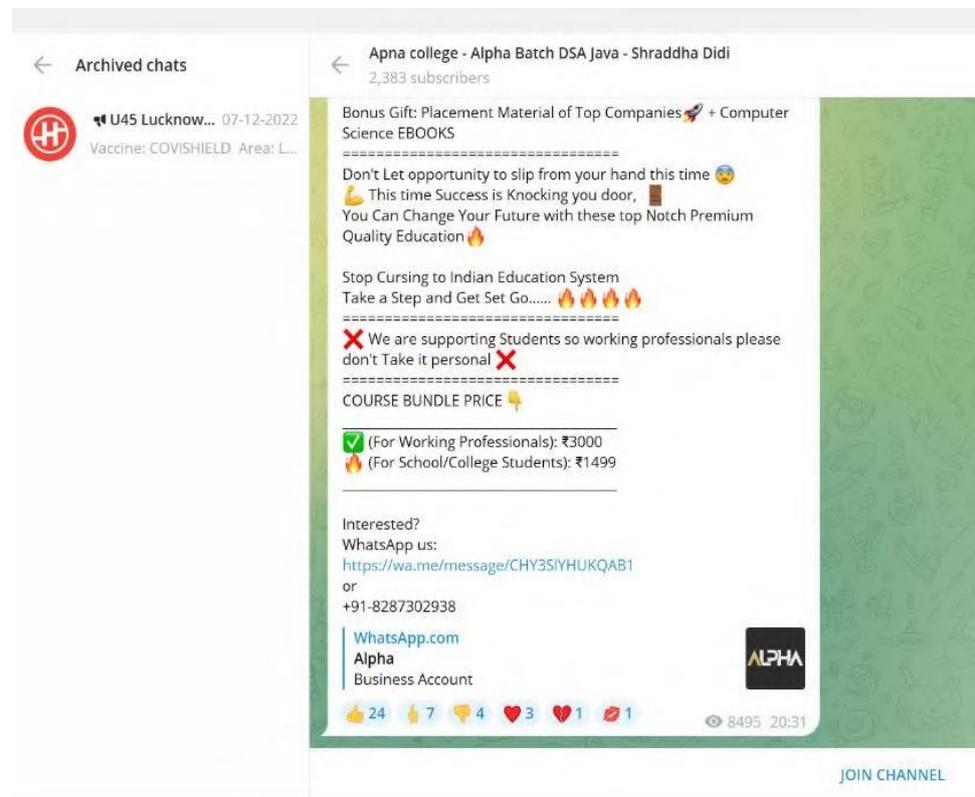
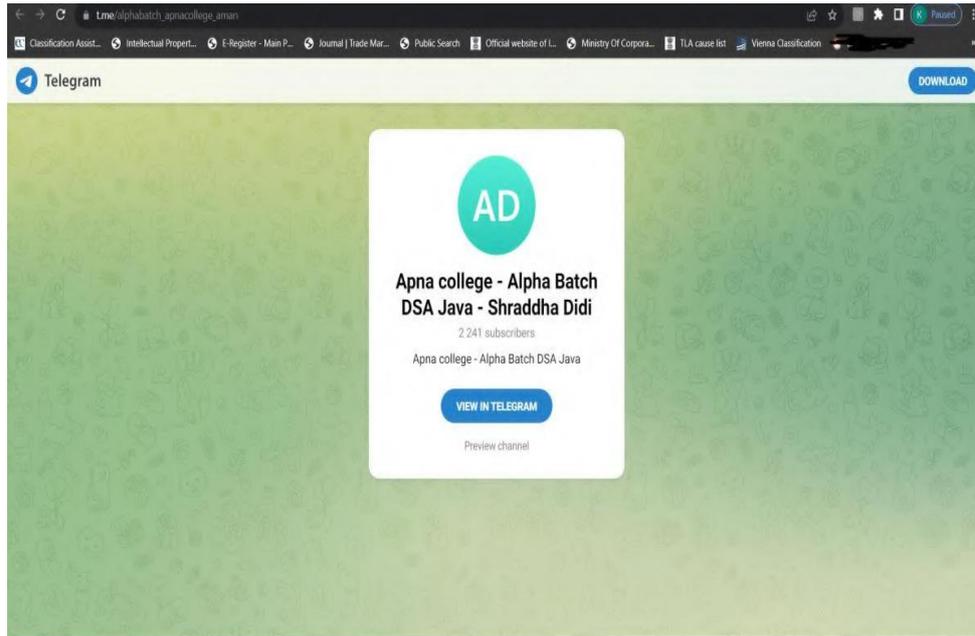
<http://www.hacktack.com/>



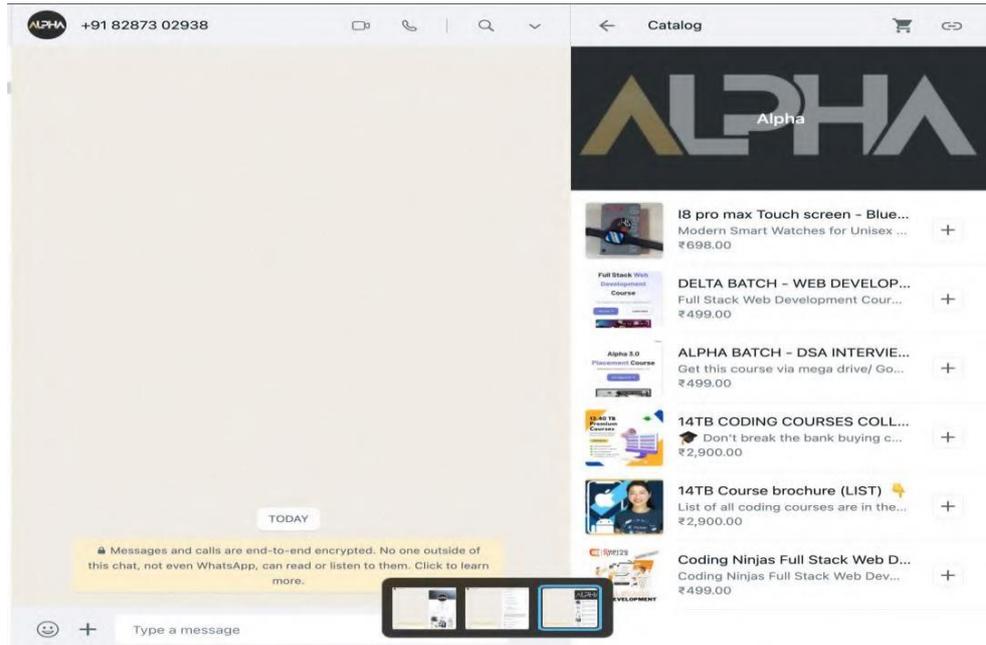
Defendant No. 22-MEGA allows a user, in this case, Defendant No. 1, to generate a link for sharing the files stored by Defendant No. 1 on the cloud server



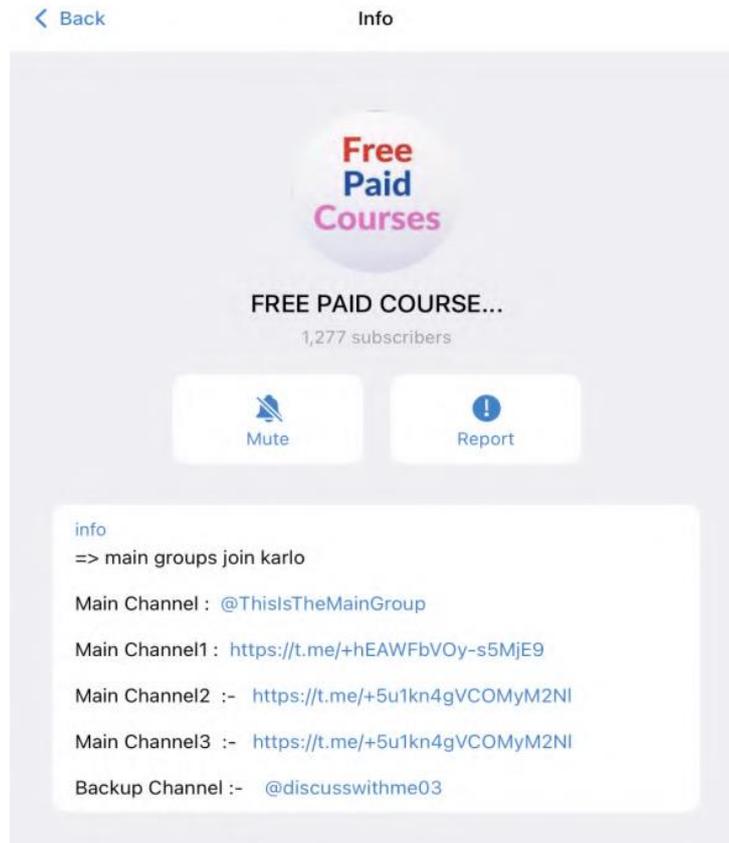
Screenshots of Telegram channel “Apna College – Alpha Batch DSA Java – Shraddha Didi”



Screenshots of WhatsApp business account by the name of ‘Alpha’



Screenshot of the telegram backup channels





Screenshots of the Whatsapp group created by Defendant No. 29



Screenshots of the Google form and the payment details being shared

College *

Your answer

Branch *

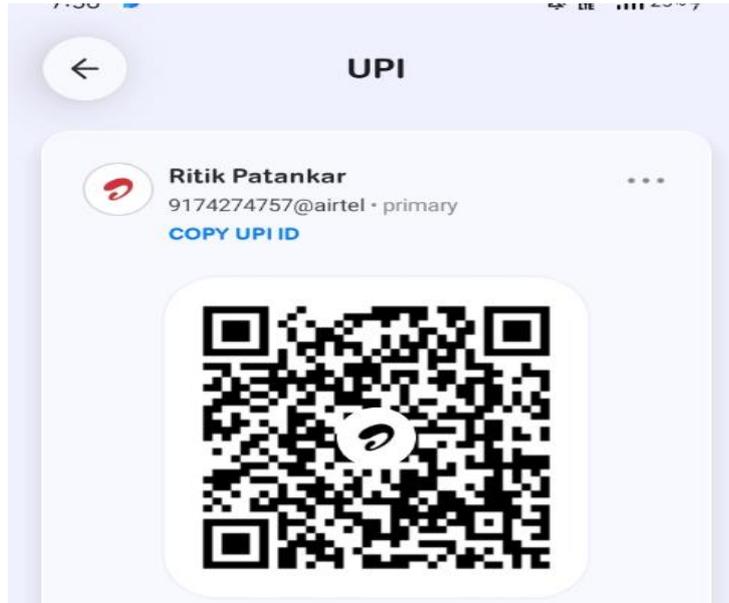
Your answer

Year (example 2nd year) *

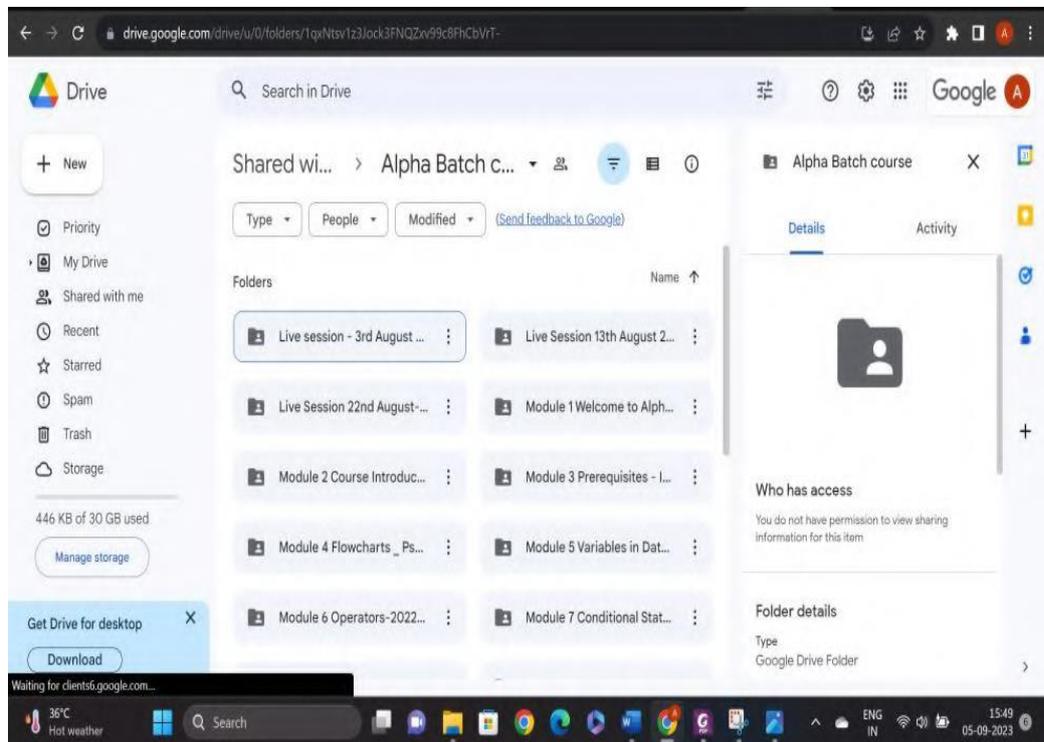
Your answer

Interested in which course *

- Cybersecurity
- Web Development
- App Development
- Other: _____



Screenshots of Google Drive folders containing Plaintiff's courses



29. The Plaintiff obviously does not have the details of all these Defendants who are running these clandestine infringing activities. Thus, the Plaintiff has impleaded the platforms as Defendants as under:



| <i>Defendant Nos.</i> | <i>Defendant's Name</i> |
|------------------------------|-----------------------------------|
| 16. | <i>Telegram</i> |
| 17. | <i>YouTube</i> |
| 18. | <i>YouTube India</i> |
| 20. | <i>Google LLC</i> |
| 21. | <i>Google India Pvt. Ltd.</i> |
| 19. | <i>WhatsApp</i> |
| 22. | <i>Mega Limited, New Zealand.</i> |

30. Defendant No. 15-MediaFire, is a company offering file hosting, synchronization, and cloud storage services. Some anonymous party is utilizing this Defendant's services to store and distribute infringing course material through links generated by the Defendant. The domain name registrars of the infringing domains (*hereinafter 'DNRs'*) who have been impleaded are Defendant No. 23 - Name Cheap Inc. and Defendant No. 28-GoDaddy LLC. The details of the domain names registered by Defendant no.23 are:

| <i>DNR</i> | <i>Infringing domain names registered</i> |
|------------------------------------|---|
| Defendant No. 23- Name Cheap, Inc. | www.hacktack.com. www.classcentral.com www.freecourseuniverse.com |

31. Defendant No. 24, www.freesoff.com. seems to be an online community forum which allows users to create their account and share files.



The domain name Defendant No. 24-Freesoff.com has been registered by Defendant No. 28-GoDaddy. Defendant No. 25- Crax.pro seems to be a website that is being operated only with purposes of sharing pirated and infringing material. software, details of OTT platform accounts, etc. Defendant No. 29- Ritik Patankar and Defendant No. 30- Alpha plus Apna College Free – Telegram Handle are running a WhatsApp group and a Telegram handle respectively.

32. On behalf of some of the platforms, submissions have been made to the effect that they would provide the details of the registrants/operators of these channels/groups to the Plaintiff.

33. Mr. Aditya Gupta, Id. Counsel appearing for YouTube/Google LLC, submits that Google LLC would be responsible for implementing the orders passed by this Court. Accordingly, he submits that, as far as Google LLC is concerned, the Google Form, Google Drive and YouTube channel fall within Google LLC's domain.

34. Regarding the YouTube channel, he submits that individual videos ought to be blocked rather than the entire YouTube channel. As for Google Drive, the file URLs are required for bringing down the corresponding URLs/files, as at the present there is no mechanism for removing entire folders from Google drive or to bring down the entire Google Drive.

35. Id. Counsel appearing for Telegram submits that upon receiving the suit papers, it has already blocked some of the Telegram channels, as detailed in paragraphs 44, 48 and 51 of the plaint. If there are any other Telegram channels which are being operated or run by the Defendants, the same shall be intimated to the Id. Counsel for the Plaintiff and subsequently taken down.

36. Telegram has agreed to provide the details of the individuals/entities,



as available with it, who are operating/running these channels, as long as this information is used exclusively for the purposes of the present legal proceedings, and in compliance with or upon Court orders.

37. On behalf of WhatsApp, it is submitted by Mr. Tejas Karia Id. Counsel that the WhatsApp group itself can be blocked. However, insofar as the deactivation of the number of the person who is shown as the creator/admin of the WhatsApp group is concerned, it is submitted that the said person may be heard before he is blocked off on WhatsApp, inasmuch as the same may also result in blocking his other private communications as well on the WhatsApp platform.

38. On behalf of GoDaddy.com, it is submitted that the DNR would block/suspend domain names upon orders of the Court, and details would be submitted to the Id. Counsel for the Plaintiff.

39. Heard. A perusal of this suit shows that the digital platforms on which the infringement is occurring are far and wide spread. In *Neetu Singh v. Telegram FZ LLC [CS (Comm) 282/2020, decision dated 30th August 2022]* this Court addressed some of the challenges arising from unauthorised use and sharing of video lectures, books and other educational materials on the Telegram platform. In the present case as well, the Defendants have used various techniques in order to communicate and disseminate the Plaintiff's courses, videos and course material.

40. The challenge on digital platforms is that the copying and reproduction of these course material is made quite easy. The Court has perused the record and it is seen that each of the groups/channels on the platforms have hundreds of subscribers. The Defendants are also collecting large sums of money to freely distribute the copyrighted material of the Plaintiff. In fact, some of the



documents on record would show that these Defendants are enticing students and candidates to subscribe to their channels, if they do not wish to pay the fee of the Plaintiff. One such poster being circulated by Defendant No.1 is extracted herein below:

IMPORTANT INFORMATION

MUST READ IT CAREFULLY

We are Trying to help some student thought providing This Premium course of JAVA and DSA Free of Cost . If you afford this Course You can buy it From Official site of APNA COLLAGE.

You Can also Join our JAVA + DSA Group. Where we can Do group Study . and you need to tell daily Progress in that group so that we can motivate each other to study and we can also ask doubts in that group and we will be trying to solve problem according to the course as well as new problem also. We will try to provide every content in that group through drives and PDF.

😊 JOIN Our Discussion Group of Java + DSA 😊

LINK : <https://t.me/+UxNhsphu85kMmJl>

41. In *Neetu Singh (supra)*, the Plaintiffs contacted Telegram upon being aggrieved with the unauthorized use and distribution of their educational content, including video lectures and books, on the Telegram platform. The Plaintiffs requested the removal of the channels responsible for this dissemination. While some channels were indeed taken down, the issue persisted, with certain Telegram Channels remaining active and new ones being created. Consequently, the Plaintiffs filed a suit seeking a permanent



injunction against the Defendants, restraining them from unlawfully sharing copyrighted materials. This Court finally directed Telegram to disclose all the details including mobile numbers, IP addresses, email addresses, etc. of the channels/devices which were involved in spread of the infringing content to the court in a sealed cover. The relevant extracts of the said decision are as follows:

“41. Plaintiff No.1 is a teacher who has invested enormous effort in preparing books and course material for students, who intend to give competitive examinations. She is a renowned author with various books covering a variety of subjects. She delivers lectures and coaching to students through online platforms, as also through her company KD Campus Pvt. Ltd. – Plaintiff No.2. [...]

42. The infringers have unabashedly made infringing copies of the Plaintiffs’ works. [...]

43. These screenshots which have been incorporated in the plaint and the other infringing material disclosed on record, clearly leave no modicum of doubt that the channels, which are running on the Telegram platform, illegally and unauthorizably are disseminating and communicating the Plaintiffs’ works, that too for monetary gains and infringing the Plaintiffs’ rights. The infringing channels are also so brazen that they use the names of the Plaintiffs, such as KD Publications, Neetu Singh, etc., in the channel titles, without any hesitation.

*44. As discussed above, as per the provisions of the Copyright Act, the copies of the Plaintiffs’ works, which are circulated on Telegram channels, constitute infringing copies of the Plaintiffs’ works as defined under Section 2(m). **In this background of clear infringement by the impugned channels, relying upon Sections 55 and 58 of the Copyright***



Act, as discussed above, the Court may direct seizure of the “infringing copies” in case of infringement, as also of the “plates” used for creating such copies. Therefore, such plates, including mobile devices and servers, can be directed to be recovered. In the present case, the only party that is in possession of the information relating to the devices used, IP addresses used, channels created, number of users, identity of the devices through mobile numbers etc., is Defendant No.1 – Telegram.

46. In view of the above factual and legal position, in the opinion of this Court, merely because Telegram chooses to locate its server in Singapore, the same cannot result in the Plaintiffs’ – who are copyright owners of course materials – being left completely remediless against the actual infringers, especially in order to claim damages and avail of other legal remedies in accordance with law. If such an argument is accepted, in the current world where most dissemination happens through online messaging services and platforms, IP violations would go completely unchecked. This cannot be the intention of law. **The provisions of the IT Act and the Rules made therein have to be construed harmoniously with the rights and remedies provided to the copyright owners under the Copyright Act. Indian Courts are competent to decide issues relating to infringement of copyright and the mere fact that Telegram is operating a messaging service in India which chooses not to locate its servers in India cannot divest the Indian Courts from dealing with copyright disputes or divest copyright owners from availing their remedies in Indian Courts.** In the present age of cloud computing and diminishing national boundaries in data storage, conventional concepts of territoriality cannot be strictly applied. The dynamic evolution of law is essential to ensure appropriate remedies in case of violation of copyright



and other IP laws.

47. In the facts and circumstances of the present case, Telegram-Defendant No.1 is directed to disclose the details of the channels/devices used in disseminating the infringing content, mobile numbers, IP addresses, email addresses, etc., used to upload the infringing material and communicate the same, as per the list of channels filed along with the present application. If there are any further list of infringing channels, the same be also submitted to Telegram within one week. The data relating to the infringing channels and the details as to the devices/servers/networks on which they are created, their creators, operators including any phone numbers, IP addresses, email addresses, used for this purpose shall be disclosed by Telegram within a period of two weeks thereafter. The said information shall at this stage be filed in a sealed cover with the Court. Upon perusing the said information, directions, if any, shall be passed after hearing the parties.”

42. In the present case, the Plaintiff holds ownership over the course material, falling within the category of “literary works” as defined by Section 2(o) of the Copyright Act, 1957. The videos of the Plaintiff on various subjects also qualify as "cinematographic films" under Section 2(f) of the Copyright Act, 1957. Consequently, both "literary works" and "cinematographic films" receive protection under Sections 2(o) and 2(f) of the Copyright Act, 1957. Moreover, Section 14 of the Copyright Act acknowledges exclusive rights that belong to the copyright holder. Given that the Plaintiffs' works are safeguarded by the Copyright Act, 1957, any unauthorized distribution or communication, whether in print or electronic form, would amount to copyright infringement.



43. The Court is convinced that the Plaintiff has made out a *prima facie* case. Consequently, balance of convenience also lies in favour of the Plaintiff, and irreparable harm would be caused if the infringing activity is allowed to continue. If the Defendants are not blocked from disseminating the copyrighted material of the Plaintiff, the Plaintiff would suffer enormous monetary loss apart from loss of subscribers and of goodwill. A case has been established for grant of an injunction to prevent further dissemination of the Plaintiff's copyrighted material.

44. Accordingly, Defendant Nos. 1 to 14, 24, 25, 29 and 30 are restrained from downloading, uploading, storing, sharing, transmitting, selling, offering for sale, storing or utilizing any of the course material of the Plaintiff in the ALPHA, DELTA and ALPHA PLUS courses on any electronic platforms, digital platforms including Telegram channels, WhatsApp groups, YouTube, Google Drive, Mega or any other multimedia messaging or social media platforms or file sharing websites or cloud storage platforms so as to result in infringement of copyright in the Plaintiff's courses.

45. Insofar as Telegram is concerned, the specific channel/handle details mentioned in the plaint be provided to Telegram within three days so that Telegram can block these channels within 72 hours. Telegram shall also disclose the details of individuals/entity or any other details available with it such as email addresses, phone numbers etc. of the persons/entities running/operating these channels. Upon receiving such details, the said Defendants shall be impleaded in the present suit. These details shall only be used for the purposes of the present suit, and no other purposes.

46. If any new Telegram channels or other backup channels surface in future, the details of the said new channels shall be provided to Telegram



which shall take action accordingly.

47. Insofar as YouTube is concerned, Id. Counsel for the Plaintiff shall communicate to Id. Counsel for Google LLC the details of the YouTube channel - '*Show Time*' [@sudippaul2214] with the following logo:



The Id. Counsel for the Plaintiff submits that the entire channel contains only infringing copyrighted works of the Plaintiff. The same shall be taken down by Google LLC. Additionally, the details of the person running this channel shall also be provided to the Plaintiff within one week.

48. Insofar as the DNR - GoDaddy.com is concerned, it shall lock and suspend the domain name 'www.Freesoff.com' and provide details of the registrant of the said domain name within one week.

49. In addition, Defendant No. 23 - Name Cheap Inc. shall give the details of the domain name registrant of Defendant Nos. 1, 13 and 14 i.e. www.hacktack.com, www.classcentral.com, www.freecourseuniverse.com. The said domain names shall also be locked and suspended.

50. Defendant No. 15- Mediafire shall take down file sharing link which contains the infringing content. The Plaintiff shall communicate the said links to the Defendant no. 15 within three days of this order, upon which URLs containing the Plaintiff's infringing content shall be taken down.

51. The mobile number of Defendant No.2 -Danish i.e. '**9546021406**' shall be deactivated on WhatsApp due to evidence of infringement, as this Defendant is sharing all the lectures and pdf questions on WhatsApp. The mobile number of Defendant No.1- Mr. Rahul Shah i.e. '**8287302938**' shall



also be deactivated.

52. Insofar as Defendant No.29- Mr. Ritik Patankar is concerned, the group '*JAVA Alpha Placement Batch*' created by Defendant No. 29, shall be disbanded by WhatsApp upon the URL of the group being communicated to Id. Counsel for WhatsApp.

53. Insofar as the Defendant No.29- Mr. Ritik Patankar whose mobile number is '*9174274757*' is concerned, let summons be issued to the said person. An intimation through WhatsApp be given to him of today's order, so that the injunction order can be given effect to.

54. Insofar as any further infringement is concerned, Id. Counsel for the Plaintiff shall file an appropriate application before the Court.

55. Compliance of Order XXXIX Rule 3 CPC be made by the Plaintiff within one week through the available platforms, e-mail, WhatsApp and Telegram.

56. List before the Court on 22nd March, 2024.

PRATHIBA M. SINGH, J

SEPTEMBER 27, 2023

Rahul/dn