



2023:DHC:7112



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 27th September, 2023

+ **CS(COMM) 688/2023 & I.As. 19115/2023, 19116/2023, 19117/2023,
19118/2023, 19119/2023**

STAR INDIA PRIVATE LIMITED & ANR. Plaintiffs

Through: Mr. Sidharth Chopra, Advocate with
Ms. Sneha Jain, Mr. Yatinder Garg,
Mr. Raunak Das Sharma, and Ms.
Rimjhim Tiwari, Advocates (M:
8100566300).

versus

JIOLIVE.TV & ORS. Defendants

Through: Mr Harish Vaidyanathan Shankar
CGSC with Mr Srish Kumar Mishra
Mr Sagar Mehlawat and Mr
Alexander Mathai Paikaday,
Advocate for D- 27 and 28.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done hybrid mode.

I.A. 19116/2023 (for exemption)

2. This is an application seeking exemption from filing originals/certified/cleared/typed or translated copies of documents, electronic documents, *etc.* Exemption is granted subject to the condition that original documents shall be produced/filed at the time of Admission/Denial, if sought, strictly as per the provisions of the Commercial Courts Act and the DHC (Original Side) Rules, 2018.



3. the application is disposed of.

I.A. 19118/2023 (for additional documents)

4. This is an application 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 Plaintiffs, if they wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act and the DHC (Original Side) Rules, 2018.

5. Application is disposed of.

I.A.19119/2023 (exemption from advance service to the Defendants)

6. In view of the fact that the Plaintiffs have sought *ex parte ad-interim* injunction, exemption from advance service to the Defendants is granted.

7. Application is disposed of.

I.A.19117/2023 (u/S 80 of CPC)

8. This is an application filed by the Plaintiffs, seeking exemption from serving notice to Defendant No. 27 - Department of Telecommunications (DoT) and Defendant No. 28 - the Ministry of Electronics and Information Technology (MeitY) under Section 80 CPC.

9. In view of the reasons stated in the application exemption is allowed. However, Mr. Harish V. Shankar, Id. CGSC has been requested to accept notice.

10. Accordingly, this application is allowed and disposed of.

CS (COMM) 688/2023

11. Let the plaint be registered as a suit.

12. Issue summons to the Defendants through email upon process fee being



filed.

13. The summons to the Defendants shall indicate that the respective written statements to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statements, the Defendants 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.

14. Liberty is given to the Plaintiffs to file the 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 Defendants, be filed by the Plaintiffs, 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.

15. List before the Joint Registrar for marking of exhibits on 16th November, 2023. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

16. List before Court on 18th October, 2023.

I.A.19115/2023 (u/O XXXIX Rules 1 & 2 CPC)

17. Issue notice in the application.

18. The **ICC Men's Cricket World Cup 2023** (*hereinafter 'World Cup'*) is the subject matter of the present suit. The Plaintiffs- Star India Private Limited and Novi Digital Entertainment Pvt. Ltd. seek an injunction restraining illegal and unauthorised dissemination, and broadcast of matches or parts thereof in the said World Cup event.

19. The Plaintiffs' case is that there are 77 TV Channels in eight languages, including general entertainment and sporting channels which are being



2023:DHC:7112



telecasted by Plaintiff No.1. The Plaintiffs own media rights in respect of events relating to cricket, football, badminton, tennis, hockey, domestic and international cricket matches organized by the Board of Control for Cricket in India (BCCI) and the International Cricket Council (ICC), *etc.*

20. Plaintiff No.2 is an affiliate company of Plaintiff No.1. Plaintiff No.2 owns and operates the online video streaming platform/ website ‘www.hotstar.com’, and the mobile application ‘Disney+ Hotstar’, over which all the events for which rights are enjoyed by Plaintiff No.1, are also streamed by Plaintiff No.2.

21. The period of World Cup 2023 is from 5th October, 2023 to 19th November, 2023. The matches are being held in India and include a total of 48 one-day matches. The Plaintiffs’ claim to have acquired exclusive global media rights including the television rights, digital rights (Internet and Mobile) for various ICC events including the ICC World Cup 2023 for a period of eight years from 2015 to 2023 vide agreement dated 20th November, 2014. The existence of these rights in favour of the Plaintiffs has been confirmed by ICC Business Corporation FZ LLC vide letter dated 16th May, 2019. A copy of the said letter has been placed on record by the Plaintiffs.

22. In the present suit, the Plaintiffs apprehend that once the cricket matches relating to the World Cup commence, a large number of websites are likely to indulge in unauthorised disseminations and communications of cricket matches and parts thereof. The said event being one of the most popular sporting events in the world, it is apprehended that there would be a large number of rogue websites which would not merely communicate and telecast matches through online platforms, but upon being blocked or taken



down may also create further mirror websites continuing the illegal transmission/ communication/broadcast.

23. Defendant Nos.1 to 9 are various rogue websites which are stated to be primarily hosting illegal and pirated content. Defendant Nos.10 to 17 are DNRs of the domain names where the said rogue websites are being hosted. Defendant Nos. 18 to 26 are various internet service providers and Defendant Nos.27 and 28 are DoT and MeitY.

24. The case of the Plaintiffs is that in view of the exclusive rights which the Plaintiffs have acquired from ICC, they enjoy broadcast reproduction rights which are contemplated and confirmed in terms of Section 37 of the Copyright Act, 1957.

25. It is the case of the Plaintiffs that they have, in the past, come across almost all major sporting events being illegally communicated and disseminated on the internet. Thus, it is submitted by Mr. Chopra, Id. Counsel for the Plaintiffs that the same apprehension continues even in respect of the World Cup cricket matches. Id. Counsel for the Plaintiffs, accordingly prays for an injunction restraining the Defendant websites as also any new website which come up during the currency of the World Cup to be blocked and taken down so that they are not able to transmit/communicate the unauthorised signals of the cricket matches.

26. It is also submitted that considering that in the past it has been noticed that whenever such sporting events have been enjoined by the courts, while the initial injunction may be applicable to a few websites which are identified in the plaint, during the course of the events itself a large number of websites are uncovered which continue to disseminate unlawfully the said sporting



events.

27. It is pointed out that in previous events since 2021, while the number of websites which were identified as Defendants were few in number, the rogue websites which were identified subsequently were substantial in nature. Such websites were injuncted and were taken down due to the operation of dynamic injunction which was granted by this Court. By way of illustration, the following chart has been placed on record:

	<i>Suit and Event</i>	<i>No. of websites impleaded in the Suit</i>	<i>No. of additional affidavits filed pursuant to Court Order</i>	<i>No. of Rogue Websites identified subsequently discovered during the event</i>
1.	<i>Star India Pvt. Ltd. & Anr. Vs. Yl. mylivecricket.biz & Ors [CS (Comm) 151 of 2021] Order dated 26.03.2021 Event: IPL 2021</i>	16	14	165
2.	<i>Star India Pvt. Ltd. & Anr. v. filmyclub.wapkiz.com & Ors. [CS (Comm) 518 of 2021] Order dated 12.10.2021 Event: ICC Men's T20 World Cup, 2021</i>	7	6	122
3.	<i>Star India Pvt. Ltd. & Anr. Vs. live.flixhub.net & Ors. [CS(Comm.) 157 of 2022]</i>	8	11	120



2023:DHC:7112



	<i>Order dated 11.03.2022 Event: IPL 2022</i>			
4.	<i>Star India Pvt. Ltd. & Anr. V. t1.mylivecricket.club. [CS (Comm) 699 of 2022] Order dated: 11.10.2022 Event: ICC Men's T20 World Cup, 2022</i>	8	15	164
5.	<i>Star India Pvt. Ltd. & Anr. v. mhdtv.world & Ors. [CS (Comm) 567 of 2022] Order dated 22.08.2022 Event: Asia Cup 2022</i>	11	12	127
6.	<i>Star India Pvt. Ltd. & Anr. Vs Live4wap.click & Ors. [CS (Comm) 11 of 2023] Order Dated: 11.01.2023 Event: BCCI Events</i>	11	11	87
7.	<i>Star India Private Limited & Anr. vs. Crichd SC & Ors. [CS(COMM) 518 of 2023] Order dated: 02.08.2023 Event: Asia Cup 2023</i>	22	10	158

28. It is further urged by Id. Counsel that there is an urgent need to ensure that while the matches are going on, any websites which suddenly start illegally disseminating/telecasting matches are also enjoined without waiting for the affidavit to be filed before the Court as the lag in the filing of the affidavit results in the website being successful in illegally disseminating/



telecasting the entire match itself which is played only on one day. Thus, it is submitted that there is a need for finding a solution for blocking of these websites while the match is going, on a real time basis.

29. Mr. Chopra, Id. Counsel for the Plaintiffs has relied upon the recent decision of this Court in *Universal City Studios LLC v. Dotmovies.baby 2023:DHC:5842* wherein the Court had granted a ‘Dynamic +’ injunction granting protection to works generated during the course of the pendency of the suit as also future works that will be created in the future so that while the content is generated, the same is not infringed upon in violation of Section 37 of the Act, till the time courts come to the rescue of the right holder.

30. Id. Counsel has also placed on record a communication dated 23rd August, 2023 from M/s UFC which is another organization owning rights in content in various martial arts which was submitted to the USPTO. As per the said communication, traditional laws need to adapt for the purpose of ensuring that unauthorised streaming of sporting events is not permitted.

31. Reliance is also placed upon *European Commission Recommendation dated 4th May, 2023 on Combating Online Piracy of Sports And Other Live Events* where a great need has been felt for the purpose of taking some urgent action to block illegal dissemination of copyrighted content.

32. The Court has heard Id. Counsel for the Plaintiff.

33. The Court called upon Mr. Harish V. Id. CGSC to accept notice for DoT and MeitY. The Id. CGSC was requested to seek instructions as to whether any Authority exists under the Information Technology Act, 2000 or the Rules made thereunder, which can direct immediate blocking on a real time basis. Id. CGSC submits that he has made inquiries and that he is yet to



receive instructions in the matter.

34. There can be no doubt in the mind of the Court that World Cup cricket matches are extremely popular, especially in the Indian subcontinent. The said sporting event is telecasted on the Plaintiffs' Star Sports bouquet of Channels as also on the OTT platform 'Disney+ Hotstar'. The said channels and OTT platform are also accessible on PCs, smart phones, tablets and other electronic devices. The rights of these events have been procured by the Plaintiffs after substantial monetary investment and the illegal dissemination, telecast or broadcast of these sporting events on any websites or platforms would create a severe dent in the revenues of the Plaintiffs. Moreover, there are rights in the footage, commentary and various other elements which are put together to create the broadcast itself which is fully protectable under the Copyright Act, 1957.

35. Rogue websites, which in the past have indulged in piracy of copyrighted content, are very likely to continue communicating copyrighted works to the public during the currency of World Cup 2023. Thus, there is a need to restrain any rogue websites from disseminating and communicating to the public any part of the cricket match events without authorisation or license from the Plaintiffs.

36. Recently, this Court in *Universal City Studios (supra)* highlighted the need to pass orders that are effective in remedying the wrong being done to the right holder. The rights of IP holders cannot be rendered redundant in the virtual world and the enforcement of rights on the internet has to be real and effective. The natural sequitur of this would be to mould remedies in a manner that rights of IP holders are protected and the law is given effect to in an



effective manner. The relevant portion of the order reads as under:

17. Any injunction granted by a Court of law ought to be effective in nature. *The injunction ought to also not merely extend to content which is past content created prior to the filing of the suit but also to content which may be generated on a day-to-day basis by the Plaintiffs. In a usual case for copyright infringement, the Court firstly identifies the work, determines the Copyright of the Plaintiff in the said work, and thereafter grants an injunction. **However, owing to the nature of the illegalities that rogue websites indulge in, there is a need to pass injunctions which are also dynamic qua the Plaintiffs as well, as it is seen that upon any film or series being released, they may be immediately uploaded on the rogue websites, causing severe and instant monetary loss.** Copyright in future works comes into existence immediately upon the work being created, and Plaintiffs may not be able to approach the Court for each and every film or series that is produced in the future, to secure an injunction against piracy.*

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19. As innovation in technology continues, remedies to be granted also ought to be calibrated by Courts. *This is not to say that in every case, an injunction qua future works can be granted. Such grant of an injunction would depend on the fact situation that arises and is placed before the Court.*

20. In the facts and circumstances as set out above, an ex parte ad interim injunction is granted restraining the Defendants, who are all rogue websites, from in any manner streaming, reproducing, distributing, making available to the public and/or communicating to the public any copyrighted content of the Plaintiffs including future works of the Plaintiffs, in which ownership of copyright is undisputed, through their websites identified in the suit or any mirror/redirect websites or alphanumeric variations thereof including



*those websites which are associated with the Defendants' websites either based on the name, branding, identity or even source of content. **To keep pace with the dynamic nature of the infringement that is undertaken by hydra-headed websites, this Court has deemed it appropriate to issue this 'Dynamic+ injunction' to protect copyrighted works as soon as they are created, to ensure that no irreparable loss is caused to the authors and owners of copyrighted works, as there is an imminent possibility of works being uploaded on rogue websites or their newer versions immediately upon the films/shows/series etc.***

The Plaintiffs are permitted to implead any mirror/redirect/alphanumeric variations of the websites identified in the suit as Defendants Nos.1 to 16 including those websites which are associated with the Defendants Nos.1 to 16, either based on the name, branding, identity or even source of content, by filing an application for impleadment under Order I Rule 10 CPC in the event such websites merely provide new means of accessing the same primary infringing websites that have been enjoined. The Plaintiffs are at liberty to also file an appropriate application seeking protection qua their copyrighted works, including future works, if the need so arises. Upon filing such applications before the Registrar along with an affidavit with sufficient supporting evidence seeking extension of the injunction to such websites, to protect the content of the Plaintiffs, including future works, the injunction shall become operational against the said websites and qua such works. If there is any work in respect of which there is any dispute as to ownership of copyright, an application may be moved by the affected party before the Court, to seek clarification.

37. The World Cup matches form an important and integral part of the events over which the ICC exercises rights which have been licensed to the



Plaintiffs. The Plaintiffs' rights are not in doubt and have also been recognised in several earlier orders passed by this Court.

38. In view of the aforesaid, the Court is of the view that the Plaintiffs have made out a *prima facie* case for grant of an injunction. If an injunction is not granted at this stage, irreparable harm would be caused to the Plaintiffs. Balance of conveniences lies in the favour of the Plaintiffs. Accordingly, Defendant Nos.1 to 9 are restrained by an *ad-interim* order from communicating, screening, making available or disseminating any part of the ICC World Cup Cricket matches on any electronic or digital platform in any manner whatsoever.

39. Defendant Nos. 10 to 17 i.e., the Domain Name Registrars are directed to lock and suspend the said websites within 72 hours after being communicated a copy of this order by the Id. Counsel for the Plaintiffs. Defendant Nos. 18 to 26, who are ISPs/Telephone Service Providers are also directed to block the rogue websites immediately upon receiving copies of the orders by the Id. Counsel for the Plaintiffs. Defendant Nos. 27 and 28 are directed to issue blocking orders in respect of these websites.

40. During the currency of the world cup matches, if any further websites are discovered which are illegally streaming and communicating content over which the Plaintiffs have rights, the Plaintiffs are given liberty to communicate the details of these websites to both DoT and MeitY for issuance of blocking orders and simultaneously to the ISPs for blocking the said websites so as to ensure that these websites can be blocked on a real time basis there is no considerable delay. Upon receiving the said intimation from the Plaintiffs, the ISPs shall take steps to immediately block the rogue websites



in question.

41. The DoT and MeitY shall also issue blocking orders immediately upon the Plaintiffs communicating the details of the websites which are illegally streaming the ICC World Cup Cricket matches.

42. After communicating the details of the rogue websites, Plaintiffs shall continue to file affidavits with the Court in order to ensure that the Court is fully informed of the websites in respect of which blocking orders are sought.

43. If any website, which is not primarily an infringing website, is blocked in pursuance of the present order, it is permitted to approach the Court by giving an undertaking that it does not intend to do any illegal dissemination of the ICC World Cup of the content over which the Plaintiffs have rights and the Court would consider modifying the injunction accordingly.

44. Such a relief is called for in the present matter, especially, in view of the fact that these are one day international matches. Any delay in blocking the rogue websites would, in fact, result in considerable pecuniary loss to the Plaintiffs and result in irreparable violation of the Broadcast reproduction rights of the Plaintiffs.

45. The DNRs shall also give the details of the Domain Name Registrants of these domain names as may be available with them including e-mails, mobile number, contact details and KYC details upon being requested by the Id. Counsel for the Plaintiffs.

46. In the unique facts of this case, service is permitted through email to all the Defendants.

47. Compliance order XXXIX Rule 3 CPC is also permitted by email.

48. Reply to the application be filed within four weeks from the service of



2023:DHC:7112



the present order along with the paper book.

49. List on 18th October, 2023.

**PRATHIBA M. SINGH
JUDGE**

SEPTEMBER 27, 2023

mr/sk