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

+ **CS(COMM) 401/2021**

UNIVERSAL CITY STUDIOS LLC AND ORS. Plaintiffs

Through Mr.Saikrishna Rajagopal, Mr.Sidharth
Chopra, Ms.Suhasini Raina,
Ms.Snehima Jauhari and Mr.Sanidhya
Rao, Advs.

versus

MYFLIXER.TO AND ORS.

..... Defendants

Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **31.08.2021**

This hearing is conducted through video conferencing.

IA No.10899/2021(exemption)

Allowed subject to all just exceptions.

IA No.10900/2021

This is an application seeking exemption from issuing notices to defendants No.47 and 48 under section 80 CPC. For the reasons stated in the application, the same is allowed. The application stands disposed of.

CS(COMM) 401/2021

Let the plaint be registered as a suit.

Issue summons to the defendants via e-mail, returnable for 15.11.2021.

IA No.10898/2021

1. This is an application under Order 39 Rules 1 and 2 CPC seeking the following reliefs:



“i. Pass an order of temporary injunction restraining the Defendant Nos. 1-37 (and such other mirror/redirect/alphanumeric websites discovered to provide additional means of accessing the Defendant Websites, and other domains/domain owners/web site operators/entities which are discovered to have been engaging in infringing the Plaintiffs' exclusive rights), its 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 hosting, streaming, reproducing, distributing, making available to the public and/or communicating to the public, or facilitating the same, on their websites, through the internet in any manner whatsoever, any cinematograph work/content/programme/ show in relation to which Plaintiffs have copyright;

ii. Pass an order directing the Defendant Nos.38-46, 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 Defendant Nos. 1-37 websites identified by the Plaintiffs in the instant suit (and such other mirror/redirect/alphanumeric websites discovered to provide additional means of accessing the Defendant Website, and other domains/domain owners/web site operators/entities which are discovered to have been engaging in infringing the Plaintiffs' exclusive rights);

iii. Pass an order directing the Defendant Nos.47 and 48, to issue a notification calling upon the various internet and telecom service providers registered under it to block access to the Defendant Nos.1-37 websites identified by the Plaintiffs in the instant suit (and such other mirror/redirect/alphanumeric websites discovered to provide additional means of accessing the Defendant Websites, and other domains/domain owners/web site operators/entities which are discovered to have been engaging in infringing the Plaintiffs' exclusive rights).”



2. It is the case of the plaintiffs that plaintiffs No.1 to 6 are leading entertainment companies globally well-known for producing Films and TV Series etc. The plaintiffs have exclusive rights to communicate to the public their content. No other entity can without authorisation from the plaintiffs upload, stream or make available for download or communicate to the public the plaintiffs' content in any manner whatsoever.

3. It is pointed out that defendants No.1 to 37 are rogue websites and substantially indulge in online piracy by making available for download and otherwise providing access to infringing and illegal content. Defendants No.38 to 46 are Internet service providers who are being arrayed for the limited purpose of restricting or blocking access to the rogue websites. Defendants No.47 and 48 are Department of Telecommunications and Ministry of Electronics and Information Technology respective, which are Government Departments and are being arrayed for the purpose to issue notification calling upon the ISPs to block access to the rogue websites identified in the present suit and also such other websites which are subsequently discovered to be infringing the rights of the plaintiffs.

4. It is further stated that plaintiffs No.1, 3, 5 and 6 in collaboration with 6 studios had instituted 8 suits for copyright infringement against 30 infringing domains that were communicating to the public plaintiffs' copyright works which are unauthorised before this court being CS(COMM) 724/2017, title '*UTV Software Communication Ltd. & Anr. v. 1337x.to & Ors.*'. This court in the said judgment recognized the factors to be considered while determining rogue websites. Relying upon the said criteria, it is pleaded that the defendant websites have primary purpose or effect of infringing or facilitating or indulging in infringement and are also



liable for the acts of infringement by third parties by way of inducement.

5. It is further stated that the defendant websites are anonymous in nature and the information provided in the public domain regarding the owners of the websites is either incomplete, incorrect and/or protected behind a veil of secrecy.

6. Clearly, the plaintiffs have made out a *prima facie* case. An interim injunction is passed in favour of the plaintiffs and against defendants No.1 to 37 in terms of the prayer para 5(i) of the present application; an interim injunction is passed in favour of the plaintiffs and against defendants No.38 to 46 in terms of the prayer para 5(ii) of the present application; and an interim injunction is also passed in favour of the plaintiffs and against defendants No.47 and 48 in terms of the prayer para 5(iii) of the present application till further orders.

7. Issue notice to the defendants via e-mail, returnable for 15.11.2021.

8. The plaintiffs to comply with the provisions of Order 39 Rule 3 CPC within seven days via e-mail.

JAYANT NATH, J.

AUGUST 31, 2021/v