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

+ CS(COMM) 364/2022

AMAZON SELLER SERVICES

PRIVATE LIMITED & ANR.

..... Plaintiffs

Through: Mr. Sidharth Chopra and Mr. Vivek
Ayyagari, Advocates

versus

AMAZONBUYS.IN & ORS.

..... Defendants

Through: Mr. Rishab Raj Jain, Advocate for
D-5

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

02.06.2022

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I.A. 9337/2022 (Exemption from advance service to Defendant No.1 to 3)

1. Since there is an urgency in the matter and the application is being heard today, Plaintiffs are exempted from serving advance notice on Defendants No.1 to 3.

2. For the reasons stated in the application, the same is allowed and disposed of.

I.A. 9336/2022 (under Order 1 Rule 10 CPC, seeking impleadment, by Plaintiffs)

3. Present application has been preferred on behalf of the Plaintiffs seeking impleadment of another rogue website being 'storeamazon.co.in' as proposed Defendant No. 21 in the present suit. It is the case of the Plaintiffs that the said website is associated/connected with or is an alternate website of the existing rogue Defendants and this apprehension stems from various



similarities between Defendants No. 1 and 3 websites and website of proposed Defendant No. 21. The similarities are enumerated in para 5 of the application.

4. Learned counsel appearing on behalf of the Plaintiffs submits that the Rogue Defendants have multiple/alternate websites with domain names that are identical/deceptively similar to Plaintiff No.1's domain name www.amazon.in and they multiply and resurface in the event of websites being blocked/disabled, pursuant to directions of the Court. He submits that proposed Defendant No. 21 website is a 'Rogue website' as the entire purpose of the website is to perpetrate illegal and fraudulent activities.

5. It is further submitted that this Court *vide* order dated 26.05.2022 has passed an *ex-parte ad interim* injunction restraining Defendants No. 1 to 3 from infringing the Plaintiffs' trademark rights in the 'AMAZON' trademarks (word and device) and copyright in the 'AMAZON' logos, as well as from infringing Plaintiff No.1's copyright in the layout, look and feel and graphic user interface of its website 'www.amazon.in'. Subsequent to passing of the said order, Plaintiffs have come across proposed Defendant No. 21's website, i.e. storeamazon.co.in, which is infringing the proprietary rights of the Plaintiffs and thus an injunction order ought to be passed after impleading the said Defendant.

6. In this regard, learned counsel appearing on behalf of the Plaintiffs places reliance on the order dated 11.04.2019 passed by the Court in ***UTV Software Communication Ltd. & Anr. v. 1337x.to and Ors., CS(COMM) 724/2017 ("UTV")***, wherein it was held as follows:-

"99. Though the dynamic injunction was issued by the Singapore High Court under the provisions of Section 193



DDA of the Singapore Copyright Act and no similar procedure exists in India, yet in order to meet the ends of justice and to address the menace of piracy, this Court in exercise of its inherent power under section 151 CPC permits the plaintiffs to implead the mirror/redirect/alphanumeric websites under Order I Rule 10 CPC as these websites merely provide access to the same websites which are the subject of the main injunction.

100. It is desirable that the Court is freed from constantly monitoring and adjudicating the issue of mirror/redirect/alphanumeric websites and also that the plaintiffs are not burdened with filing fresh suits. However, it is not disputed that given the wide ramifications of site-wide blocking orders, there has to be judicial scrutiny of such directions and that ISPs ought not to be tasked with the role of arbiters, contrary to their strictly passive and neutral role as intermediaries.

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.”

7. I have heard learned counsel appearing on behalf of the Plaintiffs and perused the application. In light of the averments made in the application and the order of the Court in *UTV (supra)*, it is deemed appropriate to allow the Plaintiffs to implead proposed Defendant No. 21 in the present suit. Amended memo of parties filed with the application is taken on record.



8. By way of the present application, Plaintiffs also seek an *ex-parte ad interim* injunction *qua* Defendant No. 21. Having heard the learned counsel for the Plaintiffs, this Court is of the view that Plaintiffs have made out a *prima facie* case and balance of convenience also lies in their favour. Plaintiffs shall suffer irreparable harm if an *ex-parte ad interim* injunction is not granted.

9. Accordingly, *ex-parte ad interim* injunction granted *qua* Defendant Nos. 1 to 3 in terms of prayers (a) to (d) of the Plaintiffs interim injunction application being I.A. No. 8518 of 2022, stands extended *qua* Defendant No. 21 and Defendant No. 21 is restrained in terms thereof.

10. It is further directed that Defendant No. 8 shall block access to the domain name 'storeamazon.co.in' and disclose the registrant details in respect thereof as may be available with it. Defendants No. 9 to 17 are also directed to block access to Defendant No. 21 website 'storeamazon.co.in'. Defendants No. 18 and 19 shall issue a notification calling upon various internet and telecom service providers registered under them to block access to Defendant No. 21 website 'storeamazon.co.in'.

11. The present application is disposed of in the above terms.

JYOTISINGH, J

JUNE 02, 2022/rk