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

+ **CS(COMM) 650/2022**

**ZEE ENTERTAINMENT ENTERPRISES
LIMITED**

..... Plaintiff

Through: Mr. Sidharth Chopra, Mr. Yatinder
Garg, Ms. Ramya Aggarwal and Mr. Sanidhya
Rao, Advocates.

versus

IBOMMA.BAR & ORS.

..... Defendants

Through: None.

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

ORDER

% **19.09.2022**

I.A. 15354/2022 (Exemption)

1. Subject to the Plaintiff filing originals, clearer, translated copies of the documents with proper margins, which it may seek to place reliance on, within four weeks from today, exemption is granted.
2. Application is allowed and disposed of.

I.A. 15353/2022(seeking leave to file additional documents)

3. Present application has been preferred on behalf of the Plaintiff seeking leave to file additional documents under Order 11 Rule 1(4) CPC.
4. 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.
5. Application is allowed and disposed of.



I.A. 15352/2022(exemption from advance service to Defendant No. 16)

6. Since there is an urgency in the matter and the same is being heard today, Plaintiff is exempted from serving advance notice on Defendant No. 16.

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

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8. Let plaint be registered as a suit.

9. Upon filing of process fee, issue summons to the Defendants, through all permissible modes, returnable on 01.12.2022, before the learned Joint Registrar.

10. Summons shall state that the written statement be filed by the Defendants within 30 days from the receipt of summons. Along with the written statement, Defendants shall also file an affidavit of admission/denial of the documents filed by the Plaintiff.

11. Replication be filed by the Plaintiff within 15 days of the receipt of the written statement. Along with the replication, an affidavit of admission/denial of documents filed by the Defendants, shall be filed by the Plaintiff.

12. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

I.A. 15351/2022 (under Order 39 Rules 1 and 2 CPC, by Plaintiff)

13. Present application has been preferred by the Plaintiff under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 for grant of ex-parte ad-interim injunction.



14. Issue notice to the Defendants through all prescribed modes, returnable on 25.01.2023, before the Court.

15. It is averred in the plaint that Plaintiff is a reputed broadcaster, production house and films studio involved in the business of production, acquisition, promotion, marketing and distribution of various cinematographic films and audio/visual content in various Indian languages, in multiple formats worldwide such as theatrical, digital and internet connected platforms. It owns and operates over 48 channels across 11 languages and a digital entertainment platform/streaming service called 'Zee 5'. Contents on Zee 5 and Zee channels form the subject matter of the instant suit.

16. It is averred that Plaintiff produces various TV shows, films, web series on these channels and has the exclusive distribution rights to publicly exhibit and communicate the content. Plaintiff's Works are protected as 'cinematograph film' under Section 2(f) read with Section 1(3) of the Copyright Act, 1957 ('the Act'). Consequently, Plaintiff has the exclusive rights in the content on Zee 5 and Zee channels produced by the Plaintiff, as enumerated under Section 14(d) of the Act and any person who interferes with or exploits any of the said rights, without Plaintiff's permission, would be deemed to infringe the copyright in terms of Section 51 of the Act.

17. It is averred that Defendants No. 1 to 3 are 'rogue' websites in terms of judgment of this Court in *UTV Software Communication Ltd. v. 1337X.to, 2019 SCC OnLine Del 8002*, which are engaged in displaying pirated content in order to obtain financial gains. These websites primarily engage in *inter alia* communicating to the public, hosting, streaming and/or making available to the public Plaintiff's Works without authorization and



are vehicles of infringement whose whole business model is designed to provide members of the public access to copyright content, unauthorizedly through the medium of internet and mobile transmissions.

18. It is further stated that after due diligence and investigation Plaintiff has gathered evidence of the infringing conduct of the Defendant websites and it is found that vast volume of the content of Plaintiff's Works is available on their platforms and is regularly and consistently uploaded and updated by them in numerous languages across various genres.

19. Learned counsel for the Plaintiff submits that Defendants No. 1 to 3 are clearly liable for infringement of copyright for displaying the infringing copies of Plaintiff's Works in various TV shows, films and web series. The acts of infringement will not only cost the Plaintiff irrevocable loss of substantial sums of money but will also take away the legitimate revenues of the Government earned through taxes etc. and this would also go counter to the objective of the Government acknowledged in its National Intellectual Property Rights Policy issued by the Ministry of Commerce and Industry, whose key objective is to build respect for IPR amongst general public.

20. Learned counsel further submits that the Defendant websites are anonymous in nature and operate behind a veil of secrecy and therefore there is no other remedy available to the Plaintiff but to protect its valuable right by seeking to block access to such websites in India apart from their entire domain. Plaintiff also seeks to impede the unnamed Defendants which are found violating its exclusive rights in terms of the judgment of this Court in ***Taj Television v. Rajan Mandal, [2003] FSR 22***, recognizing that Courts have the power to pass orders against such unknown 'John Doe' Defendants. Plaintiff has furnished the following table indicating the domain name



registrars for each of the rogue Defendant websites:

S. No.	Websites	Registrar
1.	Ibomma.bar (Defendant No. 1)	Tucows Inc. (Defendant No. 4)
2.	Zee5.org (Defendant No. 2)	IONOS Inc. (Defendant No. 5)
3.	Onlinemovieshindi.com (Defendant No. 3)	Name.com, Inc. (Defendant No. 6)

21. I have heard learned counsel for the Plaintiff and examined the contentions.

22. The legal position with regard to grant of dynamic injunctions is settled, as rightly pointed by learned counsel for Plaintiff, in UTV Software Communication Limited (supra) and several orders have been passed by this Court restraining the rogue websites. I also find *prima facie* merit in the contention that the exclusive right of a copyright owner in its 'Work' must be protected, respected and enforced against infringers by restraining them from carrying on with the unauthorized use of the copyright work. There is no gainsaying that every endeavour should be made to curb piracy and therefore, in my view, injunction deserves to be granted in favour of the Plaintiff against infringement of its exclusive rights in its original content/work, films, TV shows, web series etc. which are protected under the Act, as enumerated in the plaint.

23. Accordingly, Defendants No. 1 to 3 their owners, partners, and all others acting on their behalf are hereby restrained from in any manner



communicating, hosting, streaming and/or making available for viewing and downloading, without authorization on their websites or other platforms, through the internet in any manner whatsoever, Plaintiff's Works and contents related thereto, being the subject matter of the present suit, thereby infringing Plaintiff's copyright.

24. Defendant No. 4, its directors, partners and all others acting on its behalf are directed to revoke/cancel the domain name registrations of Defendant No. 1 as per the details mentioned above in para 20.

25. Defendant No. 5 is directed to revoke or cancel the domain name registrations of Defendant No. 2 (zee 5.org) and Defendant No. 6 shall revoke or cancel the domain name registration of Defendant No. 3 (Onlinemovieshindi.com).

26. It is further directed that Defendants No. 4 to 6 will disclose the complete details such as name, address, email address, IP address, phone number etc. of Defendants No. 1 to 3 and details of other websites registered by Defendants No. 1 to 3 using similar details, credit cards, payment gateway etc.

27. Defendants No. 7 to 15 are directed to block access to various websites identified by the Plaintiff in the present suit and Defendants No. 16 and 17 shall issue notifications calling upon various internet and telecom service providers registered under it to block access to various websites identified by the Plaintiff in the present suit.

28. In case the Plaintiff come across any other domain names or websites carrying out the infringing activities, they shall file an affidavit before this Court and on such affidavit being filed the matter will be placed before the learned Joint Registrar for consideration of the matter and passing



appropriate directions. Plaintiff is also given liberty to file an appropriate application to array other rogue websites as and when the same are discovered in future.

29. Plaintiff shall comply with the provisions of Order 39 Rule 3 CPC within a period of one week from today.

JYOTI SINGH, J

SEPTEMBER 19, 2022/rk/shivam