

HIGH COURT OF DELHI

Date of Decision: 22nd March 2024

CORAM: HON'BLE MR. JUSTICE SANJEEV NARULA

CS(COMM) 254/2024

VIACOM 18 MEDIA PRIVATE LIMITED ...PLAINTIFF

VERSUS

JOHN DOE & ORS. ...DEFENDANTS

Legislation and Rules:

Sections 37 of the Copyright Act, 1957

Order XXXIX Rules 1 and 2, Order I Rule 10 of the Code of Civil Procedure, 1908

Commercial Courts Act, 2015.

Subject: Infringement of exclusive media rights of IPL Events by rogue websites and related parties.

Headnotes:

Intellectual Property Law – Copyright Infringement – Dynamic Injunctions – The High Court deliberated on the application of dynamic injunctions against rogue websites engaged in unauthorized streaming of IPL Events. The Court examined the sufficiency of existing legal tools in addressing the challenges of digital piracy in rapidly evolving online environments. [Para 15-20]

Dynamic Injunctions and Digital Piracy – Held – Recognized the need for dynamic injunctions to combat the persistent issue of digital piracy, especially in the case of live sporting events like the IPL. The Court affirmed the necessity of evolving legal responses to effectively counter the unauthorized dissemination of copyrighted content on digital platforms. [Para 17-18, 20]

Broadcasting Rights – Analysis – Examined the Plaintiff's exclusive broadcasting rights for IPL Events, emphasizing the significance of these rights in the context of digital and television media. The Court assessed the implications of unauthorized streaming on the Plaintiff's investment and the overall value of broadcasting rights. [Para 15.3, 16]

Decision – Granting of Interim Dynamic Injunction – The Court granted an interim dynamic injunction against Defendants No. 2 to 7 and additional unidentified rogue websites. This injunction was extended to include immediate blocking measures by ISPs, DoT, and MeitY, and emphasized real-time responsiveness to emerging pirated content. [Para 20]

Referred Cases:

- Universal City Studios LLC v. Dotmovies baby DHC Neutral Citation No. – 2023:DHC:5842

Representing Advocates:

For Plaintiff: Mr. Sidharth Chopra, Mr. Yatinder Garg, Ms. Suhasini Raina, Mr. Sanidhya Maheshwari, and Mr. Priyansh Kohli.

ORDER

22.03.2024

I.A. 6788/2024(seeking exemption from service)

1. Plaintiff has approached the Court seeking urgent interim reliefs. Therefore, given the peculiar facts and circumstances of this case, exemption is granted from effecting advance service upon the Defendants mentioned in the prayer clause.
2. The application is allowed and disposed of.

I.A. 6787/2024(seeking exemption)

3. Exemption is granted, subject to all just exceptions.
4. Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
5. Disposed of.

I.A. 6789/2024(seeking leave to file additional documents)

6. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.
7. If Plaintiff wishes to file additional documents at a later stage, they shall do so strictly as per the provisions of the said Act.
8. Disposed of.

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9. Let the plaint be registered as a suit.

10. Upon filing of process fee, issue summons to Defendants by all permissible modes. Summons shall state that the written statement(s) shall be filed by Defendants within 30 days from the date of receipt of summons. Along with the written statement(s), Defendants shall also file affidavit(s) of admission/denial of the documents of Plaintiff, without which the written statement(s) shall not be taken on record.
11. Liberty is given to the Plaintiff to file replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by Plaintiff, affidavit(s) of admission/denial of documents of Defendants, be filed by the Plaintiff, without which the replication(s) 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.
12. List before the Joint Registrar for marking of exhibits on 22nd May, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.
13. List before Court for framing of issues thereafter.

I.A. 6786/2024 (u/O XXXIX Rules 1 and 2 of CPC)

14. Issue notice to Defendants, by all permissible modes, upon filing of process fee, returnable on the next date of hearing.
15. Counsel for Plaintiff has presented the following facts and contentions:
 - 15.1. The subject matter of the present suit pertains to the Indian Premier League (IPL), which is a Twenty20 (T20) cricket franchise league in India owned and operated by the Board of Control for Cricket in India (BCCI). The TATA IPL 2024 is scheduled to run from 22nd March, 2024 till the end of May 2024. The matches are being held in India and include a total of 74 T20 matches [*collectively, "IPL Events"*].
 - 15.2. The Plaintiff– Viacom 18 Media Private Limited owns media rights in respect of various sporting events relating to, *inter alia*, football, badminton, hockey, MotoGP as well as domestic and international cricket matches organized by the BCCI. Plaintiff also owns and operates several general entertainment channels and regional channels including but not limited to Colors, Sports 18 1 SD, Sports 18 1 HD, Sports 18 Khel, MTV, MTV Beats, Nick etc. Additionally, Plaintiff owns and operates the online video streaming platform/ website 'www.jiocinema.com' and the mobile application 'JioCinema'.
 - 15.3. Plaintiff entered into the Media Rights Agreement dated 27th June, 2022 [*"Agreement"*] with the BCCI for exclusive digital media rights (for Indian sub-continent) and Television rights (for overseas) in relation to the IPL Events for a period of five years from 2023 to 2027. The existence of these

rights in favour of the Plaintiff, details whereof have been delineated at Paragraph No. 10 of the plaint, has been confirmed by the BCCI *vide* letter dated 15th December, 2022. A copy of the said letter has been placed on record by the Plaintiff. Consequently, Plaintiff enjoys broadcast reproduction rights which are contemplated and confirmed in terms of Section 37 of the Copyright Act, 1957.

15.4. Defendants No. 2 to 7 are various rogue websites which are stated to be primarily hosting illegal and pirated content. Defendants No. 8 to 13 are Domain Name Registrars (DNRs) of the domain names where the said rogue websites are being hosted. Defendants No. 14 to 20 are various internet service providers (ISPs) and telecom service providers. Defendants No. 21 and 22 are, respectively, the Department of Telecommunications (DoT) and Ministry of Electronics and Information Technology (MeitY).

15.5. Based on past instances of illegal dissemination of major sporting events, the Plaintiff strongly apprehends that once the IPL Events commence, given their status as one of the most popular sporting events in the world, a large number of websites, including but not limited to Defendants No. 2 to 7, are likely to indulge in unauthorised disseminations and communications of the cricket matches and parts thereof on online platforms. Additionally, Plaintiff believes that a large number of rogue websites, upon being blocked/ taken down, may also create further mirror websites to continue the illegal transmission/ communication/ broadcast of the IPL Events.

15.6. In fact, on previous occasions, while an initial injunction has typically been granted in respect of the few websites identified in the plaint, a substantial number of rogue websites tend to be subsequently uncovered which continue to unlawfully disseminate the sporting events. Accordingly, such rogue websites have been injuncted and taken down by virtue of the dynamic injunctions granted by this Court. To substantiate this averment, reliance is placed on the following illustrative chart:

	<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	Star India Pvt. Ltd. & Anr. Vs. Jiolive.tv & Ors. [CS (Comm) 688 of 2023] Order dated 27.09.2023 Events: ICC Men's World Cup 2023	9	8 (54 list)	392
2	Star India Pvt. Ltd. & Anr. v. Yl.mylivecricket.biz & Ors [CS (Comm) 151 of 2021] Order dated 26.03.2021 Event: IPL 2021	16	14	165
3	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	7	6	122
4	Star India Pvt. Ltd. & Anr. Vs. live.flixhub.net & Ors. [CS (Comm) 157 of 2022] Order dated: 11.03.2022 Event: IPL 2022	8	11	120
5	Star India Pvt. Ltd. & Anr. tl.mylivecricket.club. [CS (Comm) 699 of 2022] Order dated 11.10.2022 Event: ICC Men's T20 World Cup, 2022	8	15	120
6	Star India Pvt. Ltd. & Anr. v. mhdtv.world & Ors. [CS	11	12	127

	(Comm) 567 of 2022] Order Dated: 22.08.2022			
	Event: Asia Cup 2022			
7	Star India Private Limited & Anr. Vs. Live4wap.click & Ors. [CS(COMM) 11 of 2023] Order dated: 11.01.2023 Event: BCCI Events	11	11	87
8	Star India Private Limited & Anr. Vs. Crichd SC & Ors. [CS(COMM) 518 of 2023] Order dated: 02.08.2023 Event: Asia Cup 2023	22	10	158

15.7. Thus, there is an urgent need to restrain such rogue websites on a real time basis, without requiring parties to first approach the Court by filing affidavits in respect of each such website which starts unauthorizedly disseminating/telecasting matches. Such a lag would result in the website being successful in their illegal activities and the Plaintiff's rights would be infringed before it is possible for any action to be taken. Accordingly, drawing from the approach taken by this Court in **Universal City Studios LLC v. Dotmovies.baby**, Plaintiff seeks a 'Dynamic +' injunction to ensure protection of the Plaintiff's rights over works mentioned in the plaint as well as any other protected content generated during the pendency of the suit proceedings. In this regard, reliance is also placed on the '*European Commission Recommendation dated 4th May, 2023 on Combating Online Piracy of Sports And Other Live Events*', which also highlights the need for urgent action to block illegal dissemination of copyrighted content.

15.8. In such circumstances, in order to protect their exclusive broadcast rights, Plaintiff seeks an injunction restraining illegal and unauthorised dissemination and broadcast of matches and/or parts thereof in the IPL Events. The Plaintiff prays for a specifically designed injunction that not only targets the websites currently engaging in infringing activities, which have

been identified as Defendants No. 2 to 7 in the instant suit, but also anticipates and includes any new websites that may emerge during the IPL Events. The reason for seeking such an injunction is to ensure that such sites are promptly blocked and removed, thereby preventing them from transmitting or communicating unauthorized signals of the cricket matches.

16. Having considered the submissions and prayers outlined in the application, the Court recognizes the widespread appeal and significance of the IPL Events, particularly in the Indian subcontinent. These events are broadcasted through the Plaintiff's OTT platform 'JioCinema', which is accessible across a variety of digital devices including computers, smartphones, tablets, and other electronic gadgets. The Plaintiff has secured the digital broadcasting rights for these events, as specified in the Agreement, through substantial financial investment. Unauthorized dissemination, telecasting, or broadcasting of these events on various websites and digital platforms poses a significant threat to the Plaintiff's revenue streams. Such illicit activities undermine the value of the considerable investment made by the Plaintiff in acquiring these rights. Additionally, the broadcast content, including footage, commentary, and other composite elements, is fully safeguarded under the Copyright Act of 1957. Thus, the unauthorized use of these elements not only affects the financial returns but also infringes upon the copyright protections accorded to the broadcast content. It is thus imperative to recognize the legal rights associated with the creation and dissemination of this content, emphasizing the need for stringent measures to prevent unauthorized broadcasts and safeguard the Plaintiff's interests.

17. The issue of rogue websites engaging in the piracy of copyrighted content presents a recurring threat, especially with the imminent IPL Events. These sites have demonstrated a propensity to illegally broadcast copyrighted works, underscoring the urgency to preemptively block their access to such content. Consequently, there's a critical need for judicial intervention to prohibit these rogue websites from disseminating or communicating any portions of the cricket matches/ IPL Events without proper authorization or licensing from the Plaintiff.

18. The dynamic and ever-evolving nature of the digital landscape necessitates that court orders are not static, but evolve in tandem with the technological advancements and challenges posed by the virtual domain. The legal remedies must remain robust and effective in

curtailing copyright infringement, particularly in the fast-paced environment of the internet. Courts must, therefore, be proactive in updating, adapting, and modifying their directions to address these challenges effectively. In the absence of such adaptive legal measures, the rights of intellectual property holders stand at risk of being undermined, rendering their intellectual property rights ineffectual. It is thus essential for the legal framework to remain vigilant and responsive to the challenges presented by digital piracy, ensuring that the protections afforded to copyright and intellectual property are not only theoretical but also enforceable and practical in safeguarding the rights and interests of the rightful owners. In *Universal City Studios (supra)*, this Court has elucidated on this issue, relevant portion whereof is extracted hereinbelow:

“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 indulged 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 injuncted. 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.”

19. In view of the above, given the fact that the Plaintiff’s digital rights as acquired from the BCCI are not in question, the Court is of the view that the Plaintiff has made out a *prima facie* case for grant of an interim injunction. If an injunction is not granted at this stage, irreparable harm would be caused to the Plaintiff. Balance of convenience also lies in the favour of the Plaintiff. The need for immediate relief is particularly pressing in this case, considering the T20 format of the IPL matches, which are characterized by their brief duration. The short duration of these matches means that any delay in blocking access to rogue websites could lead to significant financial losses for the Plaintiff and an irreparable breach of their broadcast reproduction rights. Therefore, swift action to prevent such infringements is crucial to preserving the Plaintiff’s investment in the broadcasting rights and maintaining their copyright protections.

20. Accordingly, till the next date of hearing, the following directions are issued:

20.1. Defendants No. 2 to 7, and/or any person acting on their behalf, are restrained from communicating, hosting, streaming, screening, disseminating or making available for viewing/ downloading, without authorization, any part of the IPL Events on any electronic or digital platform in any manner whatsoever.

- 20.2. Defendants No. 8 to 13 i.e., the Domain Name Registrars are directed to lock and suspend the websites of Defendants No. 1 to 7 within 72 hours of being communicated a copy of this order by the Plaintiff. Further, they shall disclose on affidavit the complete details of Defendants No. 2 to 7, as available with them, including e-mail addresses, mobile numbers, contact details and KYC details, within a period of two weeks from date of communication of this order.
- 20.3. Defendants No. 14 to 20, i.e. ISPs/ Telecom Service Providers, are also directed to block the websites of Defendants No. 2 to 7, immediately upon receiving copies of this order from the Plaintiff. Defendants No. 21 and 22 are directed to issue necessary directions for blocking these websites.
- 20.4. During the currency of the IPL Events, if any further websites are discovered which are illegally streaming and communicating content over which the Plaintiff has rights, the Plaintiff is given liberty to communicate the details of such websites to the 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. Likewise, the DoT and MeitY shall also issue blocking orders immediately upon the Plaintiffs communicating the details of the websites which are illegally streaming the IPL Events.
- 20.5. After communicating details of the rogue websites to the concerned authorities, Plaintiff 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.
- 20.6. If any website, which is not primarily an infringing website, is blocked pursuant to the present order, they shall be permitted to approach the Court by giving an undertaking that it does not intend to engage in any unauthorised or illegal dissemination of the IPL Events or any other content over which the Plaintiff has rights. In such a situation the Court would consider modifying the injunction as the facts and circumstances so warrant. 21. In the unique facts of this case, Plaintiff is permitted to ensure compliance of Order XXXIX Rule 3 of Code of Civil Procedure, 1908 through email, within a period of one week from today.
22. Reply be filed within four weeks from the date of service.
Rejoinder(s) thereto, if any, be filed within a period of two weeks thereafter.

23. List on 22nd August, 2024.

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