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

Date of decision: 4th August, 2022

+ **CS (COMM) 588/2021 & I.A.15204-05/2021**

STAR INDIA PVT. LTD.

..... Plaintiff

Through: Mr. Angad S. Makkar and Mr.
Yatinder Garg, Advocates.
(M:9897896284)

versus

EXTRA MOVIES.CLICK & ORS.

..... Defendants

Through: Mr. Rarkesh Kumar, CGSC with Mr.
Sunil, Advocate for R-43 & 44.
(M:9811549455)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M.Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present suit has been filed on behalf of the Plaintiff - Star India Pvt. Ltd., seeking permanent injunction restraining the Defendant Nos. 1-32, from hosting, streaming or communicating, in any manner the Plaintiff's film 'Tadap'. The Plaintiff and its division, Fox Star Studios, is a leading film production and distribution company, claiming exclusive media rights in various Hindi films such as 'Sadak 2', 'Khuda Haafiz', 'Dil Bechara', 'Baaghi 3', 'Chhapaak', 'Housefull 4', 'Lootcase', 'Chhichhore', 'Mission Mangal', 'My Name is Khan', 'Neerja', 'Bang Bang', 'Prem Ratan Dhan Payo', 'A Gentlemen – Sundar', 'Susheel', 'Risky', 'Sanju', 'Kalank' etc.,
3. The suit relates to the cinematograph film 'Tadap', which was scheduled to be released theatrically on 3rd December, 2021. The Plaintiff

had at that time apprehended that there could be piracy and illegal streaming of the film, as also unlawful recordings of the said film, for the purpose of illegal distribution. Accordingly, the Plaintiff sought permanent injunction and damages against the following defendants:

- i. Defendant Nos.1 to 32 are rogue websites.
 - ii. Defendant No.33 - Nadiadwala Grandson Entertainment Pvt. Ltd. is the co-producer of the film 'Tadap'. The said Defendant has been impleaded as a pro-forma party to the suit in view of Section 61(1) of the Copyright Act, 1957.
 - iii. Defendant No.34 to 42 are Internet Service Providers (*hereinafter 'ISPs'*).
 - iv. Defendant No.43 is the Department of Telecommunications (*hereinafter 'DoT'*).
 - v. Defendant No.44 is the Ministry of Electronics and Information Technology (*hereinafter 'MEITY'*).
 - vi. Defendant No.45 are John Does.
4. Vide order dated 24th November 2021, this Court granted an *ex-parte* interim injunction against the Defendants in the following terms:

"8. In view of above, the plaintiff has made out a prima facie case and incase the defendants are not restrained ex parte, to use the trademark, theplaintiffs shall suffer irreparable loss and injury.

9. Accordingly, till the next date of hearing, the defendants are restrained in terms of prayers No.7(i) to 7(iii) of the injunction application."

5. In prayer Nos.7(i) to 7(iii) of the said injunction application **I.A.No.15204-/2021**, Plaintiff prayed for passing an order of temporary

injunction restraining Defendant Nos. 1 to 32 from hosting, streaming or communicating, in any manner the Plaintiff's film 'Tadap'. The same was sought for other websites discovered during the course of the proceedings to have been engaging in infringing the Plaintiff's exclusive rights and copyrights and disclosed on Affidavit before the Hon'ble Court. Plaintiff also prayed for an order directing Defendant Nos. 34 to 42, to block access to the various websites identified by it in the instant suit or any other websites that may subsequently be notified by it on Affidavits to be infringing its exclusive rights and copyrights. Lastly, Plaintiff prayed for directions to Defendant Nos. 43 and 44 for issuing notification calling upon the various internet and telecom service providers registered under it to block access to the various websites identified by the Plaintiff in the instant suit or such other websites that may subsequently be notified by it on Affidavits to be infringing its exclusive rights and copyrights.

6. Pursuant to the above order, blocking orders were issued by MEITY, for the rogue websites/URLs. DoT also directed the ISPs were directed by DoT to ensure that the injunction order is duly complied with. The status report of the same, filed on behalf of DoT, has been placed on record by Id. Counsel for DoT. The extract of the status report reads:

6. That, as per various request of Sai Krishna & Associates, Advocates on behalf of the Plaintiff and for compliance of order dated 24.11.2021 passed by the Hon'ble Court, DoT has issued letters dated 04.12.2021, 13.12.2021, 20.12.2021, 04.01.2022, 05.01.2022 & 14.01.2022 to all ISPs (sent through emails) after getting the approval of competent authority; with respect to Main list (32 websites/URLs), First list of additional 46 websites/ URLs, Second list (30 websites/URLs), Third list (110 websites/URLs), Fourth list (60 websites/URLs) and Fifth

list (26 websites/URLs) of additional websites/URLs. Copies of the letters dated 04.12.2021, 13.12.2021, 20.12.2021, 04.01.2022, 05.01.2022 & 14.01.2022 are being enclosed herewith as ANNEXURE-D43/1, ANNEXURE-D43/2, ANNEXURE-D43/3, ANNEXURE-D43/4, ANNEXURE-D43/5 and ANNEXURE-D43/6 respectively.

7. Further, with respect to role of DoT in blocking of websites/URLs it is humbly submitted as under. -

a. Department of Telecommunications (DoT) is not empowered to suo-moto issue directions for blocking of websites to Internet Services Providers(ISPs). However, role of Department of Telecommunications (DoT) is limited to issuance of the blocking instructions to Internet Service Providers, in the capacity of licensor, as per directions received from Ministry of Electronics & Information Technology under relevant section of IT Act, 2000 and for the compliance of directions of various Hon'ble Court orders.

b. Further, there are technical limitations in blocking of websites only by Internet Service Providers (ISP). Specific "https" webpages/URLs cannot be blocked by ISP Licensees due to encryption and technical limitation. However, only complete "https" websites can be blocked by ISP. The websites/URLs may also be accessible through private Domain Name Server (DNS) and Virtual Private Network (VPN) even after blocking in ISP network. Domain Name Server (DNS) and VPN service providers are not Licensees of DoT.

c. Therefore, to fully safeguard the plaintiffs claimed copyright, notices may be served to the infringing parties through Domain Name Registrar as they maintain the correspondence details of infringing parties and may also suspend the infringing domain as per order of Hon'ble Court.

7. Considering that the injunction granted, vide order dated 24th

November, 2021, was a dynamic injunction, the Plaintiff continued to implead, by way of further affidavits, various additional rogue websites/URLs, and continued to seek extension of injunction *qua* these URLs and websites. It is submitted by the Id. Counsel for the Plaintiff, that the blocking orders for the same have also been issued by the DoT and MEITY. The details of the said affidavits for blocking of additional websites, filed by the Plaintiff, are extracted below:

<i>S.No.</i>	<i>No. of Additional Websites</i>	<i>Date of Filing</i>	<i>Diary Number</i>
<i>1.</i>	<i>46 Websites</i>	<i>8 December 2021</i>	<i>E-1059194/2021</i>
<i>2.</i>	<i>30 Websites</i>	<i>15 December 2021</i>	<i>E-1112802/2021</i>
<i>3.</i>	<i>110 Websites</i>	<i>23 December 2021</i>	<i>E-1174513/2021</i>
<i>4.</i>	<i>60 Websites</i>	<i>29 December 2021</i>	<i>E-1188672/2021</i>
<i>5.</i>	<i>26 Websites</i>	<i>6 January 2022</i>	<i>E-27542/2022</i>
<i>6.</i>	<i>36 Websites</i>	<i>28 January 2022</i>	<i>E-109196/2022</i>
<i>7.</i>	<i>33 Websites</i>	<i>1 February 2022</i>	<i>E-120400/2022</i>
<i>8.</i>	<i>125 Websites</i>	<i>23 February 2022</i>	<i>E-230757/2022</i>
<i>9.</i>	<i>50 Websites</i>	<i>15 March 2022</i>	<i>E-365783/2022</i>
<i>10.</i>	<i>44 Websites</i>	<i>28 May 2022</i>	<i>E-987637/2022</i>
<i>11.</i>	<i>51 Websites</i>	<i>22 June 2022</i>	<i>E-1061073/2022</i>
<i>12.</i>	<i>70 Websites</i>	<i>6 July 2022</i>	<i>E-1105895/2022</i>
<i>13.</i>	<i>41 Websites</i>	<i>9 July 2022</i>	<i>E-1125332/2022</i>
<i>14.</i>	<i>35 Websites</i>	<i>18 July 2022</i>	<i>E-1180138/2022</i>
<i>15.</i>	<i>50 Websites</i>	<i>21 July 2022</i>	<i>E-1210622/2022</i>

16.	50 Websites	27 July 2022	E-1258459/2022
TOTAL = 857 Additional Websites			

8. It is submitted by Id. Counsel for the Plaintiff that considering that the theatrical release of the film was on 3rd December, 2021 and the film has run its course in the theatres, no further orders are being sought by the Plaintiff today, except the confirmation of the *ex-parte* injunction already granted, vide order dated 24th November, 2021. At present, none have appeared for the Defendant rogue websites. Only Id. Counsels for DoT and MEITY have entered appearance.

9. The theatrical release of the cinematograph film 'Tadap' having run its course, no useful purpose is served in keeping the suit pending. The rogue websites were directed to be blocked and illegal streaming and downloading was curtailed through the blocking orders issued by DoT and MeiTY. There is no defence on merits raised by any of the rogue websites or any other entity. The suit is accordingly decreed in terms of paragraphs 61 (i) to 61(iii) of the Plaint.

10. Decree sheet be drawn accordingly. All pending applications are disposed of.

PRATHIBA M. SINGH, J.

AUGUST 4, 2022/dk

(corrected and released on 16th August, 2022)