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

+ CS(COMM) 490/2024

STAR INDIA PRIVATE LIMITED..... Plaintiff

Through: Ms. Sneha Jain, Mr. Sidharth Chopra,
Mr. Yatinder Garg, Mr. Akshay
Malod and Ms. Rimjhim Tiwari,
Advocates.

versus

MAGICWIN.GAMES & ORS..... Defendants

Through: Mr. Mrinal Ojha, Mr. Debarshi Dutta,
Mr. Anand Raja and Mr. Arjun
Mookerjee Advocates for D-10.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **30.05.2024**

I.A. 31120/2024(seeking exemption)

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

I.A. 31121/2024(seeking exemption from advance service to Defendants No. 13, 16, 21 and 22)

4. Issue notice to Defendants No. 13, 16, 21 and 22, by all permissible modes, upon filing of process fee, returnable on 5th November, 2024.

I.A. 31122/2024(seeking leave to file additional documents)

5. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.

6. If Plaintiff wishes to file additional documents at a later stage, they shall do so strictly as per the provisions of the said Act.

7. Disposed of.

I.A. 31123/2024(seeking exemption from pre-litigation mediation)

8. As the present suit contemplates urgent interim relief, in light of the judgment of Supreme Court in *Yamini Manohar v. T.K.D. Krithi*,¹ exemption from attempting pre-institution mediation is granted.

9. Disposed of.

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10. Let the plaint be registered as a suit.

11. Issue summons. Mr. Mrinal Ojha, Advocate, accepts summons on behalf of Defendant No. 10. He confirms the receipt of the suit paperbook and waives the right of formal service of summons. Written statement shall be filed within thirty days commencing from today. Upon filing of process fee, issue summons to the remaining Defendants by all permissible modes. Summons shall state that the written statement(s) shall be filed by the Defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the Defendants shall also file affidavit(s) of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.

¹ 2023 SCC OnLine SC 1382.

12. 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 the Plaintiff, affidavit(s) of admission/denial of documents of the 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.

13. List before the Joint Registrar for marking of exhibits on 03rd September, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

14. List before Court for framing of issues thereafter.

I.A. 31119/2024(u/O XXXIX Rules 1 and 2 of CPC)

15. Issue notice. Mr. Mrinal Ojha, Advocate, accepts notice on behalf of Defendant No. 10. Issue notice to remaining Defendants, by all permissible modes, upon filing of process fee, returnable on the next date of hearing.

16. Counsel for Plaintiff has presented the following facts and contentions:

16.1. The subject matter of the present suit pertains to the “ICC Men’s T20 World Cup 2024” [***T20 World Cup***], which is a Twenty20 (T20) cricket tournament operated by the International Cricket Council (ICC). The T20 World Cup is scheduled to run from 2nd June, 2024 till 29th June, 2024. The matches are being held in the West Indies and United States of America, and include a total of 55 T20 matches [collectively, ***ICC Events***].

16.2. The Plaintiff, Star India Private Limited, owns media rights in respect of various sporting events relating to, *inter alia*, football, badminton, hockey, as well as domestic and international cricket matches organized by

the ICC and Board of Control for Cricket in India (BCCI). Plaintiff also owns and operates several general entertainment channels and regional channels including but not limited to Star Plus, Star Sports 1 Hindi, Star Sports HD1, etc. Additionally, Plaintiff owns and operates the online video streaming platform/ website 'www.hotstar.com' and the mobile application 'Disney+ Hotstar'.

16.3. Plaintiff No. 1 entered into the Media Rights Agreement dated 27th August, 2022 [**"Agreement"**] with the ICC for exclusive digital media rights and television rights for India in relation to various ICC events, including the T20 World Cup, for a period of four years from 2024 to 2027. The existence of these rights in favour of the Plaintiffs, details whereof have been delineated at Paragraph No. 8 of the plaint, has been confirmed by the ICC *vide* letter dated 22nd May, 2024. A copy of the said letter has been placed on record by the Plaintiffs. Consequently, Plaintiffs enjoy broadcast reproduction rights which are contemplated and conferred in terms of Section 37 of the Copyright Act, 1957 [**"Copyright Act"**].

16.4. Defendants No. 1 to 9 are various rogue betting websites which are stated to be illegally offering online betting and gambling services, in contravention to the Public Gambling Act, 1867, and for this purpose they are also indulging in illegal streaming of live sporting events. Defendants No. 10 and 11 are Domain Name Registrars (DNRs) of the domain names where the said rogue betting websites are being hosted. Defendants No. 12 to 20 are various internet service providers (ISPs) and telecom service providers. Defendants No. 21 and 22 are the Department of Telecommunications (DoT) and Ministry of Electronics and Information Technology (MeitY) respectively.

16.5. Based on past instances of illegal dissemination of major sporting events, the Plaintiff strongly apprehends that once the ICC 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. 1 to 9, are likely to indulge in unauthorised disseminations and communications of the cricket matches and parts thereof on online platforms. The strong apprehension and eminent threat is borne by the fact the rouge betting websites are already promoting the T20 World Cup on their platform. Additionally, Plaintiff believes that a large number of rogue betting websites, upon being blocked/ taken down, may also create further mirror websites to continue the illegal transmission/ communication/ broadcast of the ICC Events. In fact, a mirror website of Defendant No. 1, i.e. 'magicwin.biz', was already blocked pursuant to this Court's order dated 02nd April, 2024, in CS(COMM) 254/2024, in the context of the TATA Indian Premier League, 2024. Accordingly, it is apprehended that a similar *modus operandi* will be employed in the present case, especially since Defendants No. 1, 4, 5 and 6 have already announced betting on the upcoming T20 World Cup.

16.6. In prior instances, when initial injunctions were issued against a limited number of websites as specified in the plaint, it is frequently found that many more rogue websites subsequently emerge. These sites persist in unlawfully broadcasting sporting events. In response to these ongoing violations, such rogue websites have been effectively enjoined and taken down through the dynamic injunctions granted by this Court. This proactive judicial approach ensures that as new infringing sites emerge, they are swiftly addressed, thereby protecting the rights of content owners. This not

only deters future infringements but also reinforces the commitment to enforce copyright laws diligently. To substantiate this averment, reliance is placed on the following illustrative chart:

	<i>Suit and Event</i>	<i>No. of websites implemented 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.	<i>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</i>	9	8 (54 list)	392
2.	<i>Star India Pvt. Ltd. & Anr. v. Yl.mylivecricket.biz & Ors [CS (Comm) 151 of 2021] Order dated 26.03.2021 Event: IPL 2021</i>	16	14	165
3.	<i>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</i>	7	6	122
4.	<i>Star India Pvt. Ltd. & Anr. Vs. live.flixhub.net & Ors. [CS (Comm) 157 of 2022] Order dated: 11.03.2022 Event: IPL 2022</i>	8	11	120
5.	<i>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</i>	8	15	120
6.	<i>Star India Pvt. Ltd. & Anr. v. mhdtv.world & Ors. [CS (Comm) 567 of 2022] Order Dated: 22.08.2022</i>	11	12	127

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

16.7. Thus, there is an urgent need to restrain such betting 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*,² 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.

16.8. 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 ICC

² DHC Neutral Citation No. – 2023:DHC:5842

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. 1 to 9 in the instant suit, but also anticipates and includes any new websites that may emerge during the ICC 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.

17. Having considered the submissions and prayers outlined in the application, the Court recognizes the widespread appeal and significance of the ICC Events, particularly in the Indian subcontinent. These events are broadcasted through the Plaintiff's Star channels and the OTT platform 'Disney+ Hotstar', which is accessible across a variety of digital devices including computers, smartphones, tablets, and other electronic gadgets. The Plaintiff has secured the digital and television 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. 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.

18. The issue of rogue websites engaging in the piracy of copyrighted content presents a recurring threat, especially with the imminent ICC Events. These sites have demonstrated a propensity to illegally broadcast copyrighted works, underscoring the urgency to pre-emptively 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/ ICC Events without proper authorization or licensing from the Plaintiff.

19. 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 indulge 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 enjoined. 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.”

20. In view of the above, given the fact that the Plaintiff's digital rights and television rights as acquired from the ICC 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 T20 World Cup, 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.

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

21.1. Defendants No. 1 to 9, 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 ICC Events, specifically the ICC Men's T20 World Cup 2024, on any electronic or digital platform in any manner whatsoever.

21.2. Defendants No. 10 and 11 i.e., the Domain Name Registrars shall disclose the complete details of Defendants No. 1 to 9, as available with them, including e-mail addresses, mobile numbers, contact details and KYC details, by filing an affidavit in sealed cover with this Court within a period of two weeks from date of communication of this order. A copy thereof shall also be provided to the Plaintiff, who shall use such information solely for the purposes of impleadment and investigation.

21.3. Defendants No. 12 to 20, i.e. Internet Service Providers and Telecom Service Providers, are also directed to block access to the websites of Defendants No. 1 to 9 in India, immediately upon receiving copies of this order from the Plaintiff. Defendants No. 21 (DoT) and 22 (MeitY) are directed to issue necessary directions for blocking these websites.

21.4. During the currency of the ICC 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 Plaintiff, 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 Plaintiff communicating the details of the websites which are

illegally streaming the ICC Events.

21.5. 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.

21.6. 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 ICC 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.

22. 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.

23. 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.

24. List on 5th November, 2024.

SANJEEV NARULA, J

MAY 30, 2024

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