

BY EMAIL/DoT WEBSITE

**Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi - 110 001
(Data Services Cell)**

No. 813-07/LM-13/2022-DS-II

Dated:28-04-2022

To,

All Internet Service Licensees'

**Subject: CS Comm 214 of 2022, Star India Pvt. Ltd. & Anr. V/s Ashar Nisar & Ors.
Before Hon'ble Delhi High Court**

In continuation to Department of Telecommunications even no. letter dated 12.04.2022, 21.04.2022 & 26.04.2022; kindly find the enclosed Hon'ble Delhi High Court order dated 06th April, 2022 in the subject matter court case C.S. (Comm) No. 214 of 2022 along with **Fourth** list of additional **1 website/URL**, as provided by advocate for the plaintiff in the case for compliance. DoT is defendant No. 32 in the case.

2. Hon'ble Court in order dated 06th April, 2022 has, inter alia, directed that:

m. *Defendants No. 23 to 31, their directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to block access to the various UI domains/websites identified by the Plaintiffs in the instant suit at S.No. 1 of the Documents or such other UI domains/websites that may subsequently be notified on Affidavit by the Plaintiffs to be infringing/authorising infringement of its exclusive rights; and*

n. *Defendants No. 32 and 33 are directed to issue a Notification calling upon the various internet and telecom service providers registered under it to block access to the various domains/websites identified by the Plaintiffs in the instant suit at S.No. 1 of the Documents or such other domains/websites that may subsequently be notified on Affidavit by the Plaintiffs to be infringing/authorising infringement of its exclusive rights.*

3. Accordingly, in view of the above, all the Internet Service licensees are hereby notified to take immediate necessary action for compliance of the court order dated 06th April, 2022 with respect to **Fourth** list of additional **1 website/URL** at the earliest.

Encl: A/A

Director (DS-II)
Tel: 011-2303 6860
Email: dirds2-dot@nic.in

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

+ CS(COMM) 214/2022

STAR INDIA PVT. LTD. & ANR. Plaintiffs

Through: Mr. Saikrishna Rajagopal, Mr. Yatinder Garg, Ms. Shehima Jauhari, Mr. Angad Singh Makkar and Ms. Sneha Jain, Advocates

versus

ASHAR NISAR & ORS. Defendants

Through: Mr. Mohammad Kamran and Mr. Brijesh Ujjainwal, Advocates for D-13

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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06.04.2022

IA No.5336/2022 (exemption)

1. Allowed subject to all just exceptions.
2. Application stands disposed of.

IA No.5337/2022 (u/O. XI Rule 1(4) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 r/w S. 151 CPC seeking leave to file additional documents)

3. Present application has been preferred on behalf of the Plaintiffs seeking leave to file additional documents under Order 11 Rule 1(4) CPC.
4. Plaintiffs, if they wish 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. 5335/2022 (under Section 80 read with Section 151 CPC)

6. Since there is an urgency in the matter and the matter is being heard today, Plaintiffs are exempted from serving Defendants No.24, 27, 32 and 33 with advance notice.

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

CS(COMM) 214/2022

8. Let the plaint be registered as a suit.

9. Issue summons.

10. Mr. Mohammad Kamran, learned counsel enters appearance on behalf of Defendant No.13.

11. Written statement be filed by Defendant No.13 within 30 days from today alongwith affidavit of admission/denial of the documents of the Plaintiffs.

12. Replication thereto, be filed by the Plaintiffs within 15 days of the receipt of the written statement alongwith an affidavit of admission/denial of the documents filed by Defendant No.13.

13. Upon filing of process fee, issue summons to the remaining Defendants, through all permissible modes, returnable on 13.07.2022. Summons shall state that the written statement shall be filed by the Defendants within 30 days from the receipt of summons. Along with the written statement, Defendants shall also file affidavits of admission/denial of the documents of the Plaintiffs.

14. Replication be filed by the Plaintiffs within 15 days of receipt of the written statement. Along with the replication, an affidavit shall be filed by

the Plaintiffs of admission/denial of the documents filed by the Defendants.

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

16. List before the Joint Registrar on 13.07.2022.

17. List before the Court on 25.08.2022.

I.A. 5334/2022 (U/O 39 Rules 1 and 2 read with Section 151 CPC)

18. Issue notice to the Defendants.

19. Mr. Mohammad Kamran, learned counsel accepts notice on behalf of Defendant No.13.

20. On steps being taken, notice be issued to the remaining Defendants, through all permissible modes, returnable on 25.08.2022.

21. It is averred in the plaint that Plaintiff No. 1 is a leading entertainment and media company in India engaged, *inter alia*, in the production of popular content broadcast on its STAR Channels (such as Star Plus, Star Sports 1, Star Gold, Star Jalsa, etc.) and is an exclusive licensee of media rights to various sporting events which are also broadcast on its Star channels such as the ongoing TATA Indian Premier League 2022. Plaintiff No.1 also claims to be a leading film production and distribution company. Plaintiff No. 2, it is averred, owns and operates the online audio-visual streaming platform and website, 'www.hotstar.com' and the mobile application, 'Disney+ Hotstar' which enables viewers to watch content such as serials (including content of STAR Channels) and programs, films, sports content including live sporting events, trailers of upcoming films and serials, international content through the medium of the internet.

22. Plaintiffs claim to have exclusive rights in the aforesaid works by

virtue of provisions of Section 14(d) of the Copyright Act, 1957, including *inter alia* the rights to publicly exhibit and communicate the said content through any medium or mode, including on STAR Channels or Disney+ Hotstar. It is pleaded that by virtue of the exclusive media rights granted to the Plaintiffs, they broadcast and communicate to the public, live, delayed, highlights, clips and/or repeat telecast of numerous sporting events *inter alia* the ongoing TATA Indian Premier League 2022 in India through Disney+ Hotstar and also through their STAR Channels. Plaintiffs claim to be the sole and exclusive owner of the Broadcast Reproduction Rights in relation to the aforesaid broadcasts of sporting events, communicated through the STAR Channels and Disney+ Hotstar, in accordance with Section 37 of the Copyright Act, 1957.

23. Learned counsel appearing on behalf of the Plaintiffs submits that it has come to the notice of the Plaintiffs that their exclusive rights in the aforementioned content, i.e. movies, general entertainment content (television shows, web-series, etc.) and sporting events *inter alia* the ongoing TATA Indian Premier League 2022, were and are continuing to be infringed by Defendants No.1-12 herein. It is specifically averred that Defendants No. 1-12 are infringing and/or facilitating/enabling/authorising infringement of the Plaintiffs' exclusive rights under Sections 14(d) and 37 of the Copyright Act, 1957, by reproducing, storing, transmitting, communicating, making available for viewing or providing access to the Plaintiffs' aforesaid contents/works.

24. It is further contended that Defendants No. 1-6 (hereinafter referred to as 'Rogue Apps') are third-party Android-based mobile applications that communicate, make available for viewing and provide access to content,

free of cost (or at minimal subscription) and without any authorisation from various right owners, including the aforesaid content of the Plaintiffs. It is also contended that the download, distribution and use of these Android-based mobile Apps, such as the Rogue Apps, occurs through a .APK(Android Package Kit) file format. These Rogue Apps are completely illegal apps and have no permission or authorization to reproduce, store, transmit, communicate or make available for viewing and provide access to any of the Plaintiffs' content. The intent and purpose of these Rogue Apps is clearly to exploit copyright-protected works of the Plaintiffs' content and to provide an alternative to legitimate sources to the user such that the user does not have to pay for enjoying the content.

25. It is averred in the plaint and argued by the learned counsel that Defendants No. 7 to 12 (hereinafter referred to as 'Rogue Websites') are third-party websites which serve as a repository of .APK files, that provide access to users of Android based mobile Apps such as the Rogue Apps. Differently put, the user who is looking for a specific Android based App that will provide access to infringing content, would typically be in a position to download such an App from the .APK file provided by the Rogue Websites. Hundreds of Android-based mobile Apps including most of the Rogue Apps are available for download on these Rogue Websites. It is further contended that the Rogue Websites, used to distribute numerous rogue Android-based mobile Apps, have been developed only to enable the download of the application file for such Apps, such as "RTS TV", "Stream India", etc. and are solely instruments/vehicles of infringement which are indulging in the illicit business of communicating/making available infringing content. Thus, according to the learned counsel, Plaintiffs have

reason to believe that the owners of the Rogue Websites, which are distributing the aforesaid Apps, are the owners of/affiliates of the owners of said Apps.

26. It is next contended that Defendants No. 1-12 continue to infringe the Plaintiffs' exclusive rights with respect to films, general entertainment content and sporting events, including but not limited to the TATA IPL 2022, which has commenced on 26.03.2022 and shall conclude on 29.05.2022.

27. It is brought out by the learned counsel that Defendants No. 13-22 are the domain name registrars of websites/UI domains of Defendants No.1-12, as captured in paragraph 81 of the Plaint and have been arrayed for the limited purpose of revoking/cancelling the domains of Defendants No. 1 to 12 as also to seek disclosure of the registrant details and billing details of these Rogue Websites/UI domains, so that the exact identity and location of the owner of these domains can be confirmed and discerned.

28. Learned counsel submits that Defendants No. 23-31 are Internet Service Providers which have been arrayed for the limited purpose of disabling access into India of the Rogue Websites/domains/UI along with the creators/developers of the Rogue Apps identified in the present suit or any other website/UI/App identified by the Plaintiffs on Affidavit. Defendants No. 32 and 33 are the Department of Telecommunications ('DOT') and Ministry of Electronics and Information Technology ('MEITY'), which are Government departments and have been arrayed for the limited purpose of issuing notifications calling upon the internet and telecom service providers to block access to the Rogue Apps and the Rogue Websites, identified in the present suit as also such other websites which are

subsequently discovered to be infringing the rights of the Plaintiffs. No formal relief has been sought against the Defendant No. 13-33.

29. It is further contended that Defendants No. 1-12 are anonymous entities/websites and the details of their owners are hidden or forged/inaccurate and that these entities/websites are vehicles of infringement that engage in flagrant violation of the intellectual property rights of the Plaintiffs. It is claimed that due to the nature of internet, which offers anonymity, these entities/websites systematically engage in violation of intellectual property rights of the Plaintiffs. Thus, the contention is that Defendants No. 1-12, i.e. Rogue Apps and Rogue Websites, are predominantly engaged in violating third party rights.

30. Having heard learned counsel for the Plaintiffs, this Court is of the view that Plaintiffs have made out a *prima facie* case for grant of *ex parte ad-interim* injunction. Balance of convenience lies in favour of the Plaintiffs and they are likely to suffer irreparable harm in case the injunction, as prayed for, is not granted.

31. Accordingly, the following directions are passed:

a. Defendants No. 1 to 6 (and such other Rogue Apps which are discovered during the course of the proceedings and notified on Affidavit by the Plaintiffs to have been infringing/authorising the infringement of the Plaintiffs' exclusive rights, copyrights and broadcast reproduction rights), their owners, partners, proprietors, officers, servants, affiliates, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are restrained from in any manner communicating to the public, hosting, storing, reproducing, streaming, broadcasting, re-broadcasting, causing to be seen or heard by

public on payment of charge and/or making available for viewing, the Plaintiffs' Works/Content through their Rogue Apps (*viz*, Ninja TV, RTS TV, Kyte TV, Picaso TV, Stream India and Hotstar Mod App) or any other App, including ones whose names/branding/trademark recall is deceptively or substantially similar to the Rogue Apps identified hereinabove, amounting to infringement of the Plaintiffs' copyright and Broadcast Reproduction Rights, till the next date of hearing;

b. Defendants No. 7 to 12, on both 'http' and 'https' (and such other websites/entities which are discovered during the course of the proceedings and notified on Affidavit by the Plaintiffs to have been infringing/authorising the infringement of the Plaintiffs' exclusive rights, copyrights and broadcast reproduction rights), their owners, partners, proprietors, officers, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are restrained from in any manner infringing and/or authorising the infringement by *inter alia* facilitating and materially contributing to the 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, the Plaintiffs' content, so as to infringe the Plaintiffs' exclusive rights, copyrights and Broadcast Reproduction Rights, till the next date of hearing;

c. Defendant No. 13, its directors, partners, proprietors, officers, affiliates, servants, employees and all others in the capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to de-activate/suspend the domain name registration of Defendant No. 3 (kyte-tv.com), Defendant No. 4 (picasotv.com), Defendant

No. 9 (apkmoles.com) and Defendant No. 11 (downloadapks.net);

d. Defendant No. 14, its directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to de-activate/suspend the domain name registration of the Defendant No. 2 (rtstvapk.xyz and rtstv-app.com);

e. Defendant No. 15, its directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to de-activate/suspend the domain name registration of the Defendant No. 1 (ninjatv.app), Defendant No. 2 (xtsaiful.xyz), Defendant No. 5 (globalnewsgeeks.xyz), Defendant No. 7 (apkdevil.com) and Defendant No. 10 (apkpot.com);

f. Defendant No. 16, its directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to de-activate/suspend the domain name registration of the Defendant No. 12 (techbigs.com);

g. Defendant No. 17, its directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to de-activate / suspend the domain name registration of the Defendant No. 8 (apkfileok.com);

h. Defendant No. 18, its directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it,

are directed to de-activate/suspend the domain name registration of the Defendant No. 5 (www-streamindianew.xyz);

i. Defendant No. 19, its directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to de-activate/suspend the domain name registration of the Defendant No. 4 (jfskkfsjfsksdey.najfilmy.eu and adhkjgfyufsf.najfilmy.eu);

j. Defendant No. 20, its directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to de-activate/suspend the domain name registration of the Defendant No. 1 (powerex.pk and ninjatv.pk);

k. Defendant No. 21, its directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to de-activate/suspend the domain name registration of the Defendant No. 3 (api-kytetv.lalalalalori.workers.dev);

l. Defendant No. 22, its directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to de-activate/suspend the domain name registration of the Defendant No. 3 (kytetv.site);

m. Defendants No. 23 to 31, their directors, partners, proprietors, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through,

by or under it, are directed to block access to the various UI domains/websites identified by the Plaintiffs in the instant suit at S.No. 1 of the Documents or such other UI domains/websites that may subsequently be notified on Affidavit by the Plaintiffs to be infringing/authorising infringement of its exclusive rights; and

n. Defendants No. 32 and 33 are directed to issue a Notification calling upon the various internet and telecom service providers registered under it to block access to the various domains/websites identified by the Plaintiffs in the instant suit at S.No. 1 of the Documents or such other domains/websites that may subsequently be notified on Affidavit by the Plaintiffs to be infringing/authorising infringement of its exclusive rights.

32. Order be given *dasti* to learned counsel for the Plaintiffs.

33. Provisions of Order 39 Rule 3 CPC shall be complied with by the Plaintiffs, within a period of two weeks from today.

JYOTI SINGH, J

APRIL 06, 2022/yg

LIST OF ADDITIONAL DOMAINS / URLs / IP ADDRESSES



S. NO.	DOMAINS / WEBSITES
1.	https://xembnckkkksghd.xyz