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

% *Date of decision: 19<sup>th</sup> March, 2025*

I.A. 7131/2025

In

+ CS(COMM) 418/2024

APPLAUSE ENTERTAINMENT PRIVATE  
LIMITED

....Plaintiff

Through: Mr. Deepak Singhal and Mr. Gaurav  
Dhingra, Advocates.

versus

WWW.9XMOVIES.COM.TW & ORS.

....Defendants

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT BANSAL**

**AMIT BANSAL, J. (Oral)**

1. The present suit has been filed seeking relief of permanent injunction, restraining the defendants from infringing the copyright of the plaintiff along with other ancillary reliefs.

**CASE SETUP IN THE PLAINT**

2. The Plaintiff, Applause Entertainment Private Limited, is a company engaged in the business of creation, production, acquisition, exploitation, distribution and monetisation of various audio-visual contents such as web series, motion pictures, etc., on digital as well as non-digital platforms. The plaintiff is stated to be one of India's leading studios/producers of fictional as well as non-fictional shows/web series/ films and has a reputation for producing high-quality diversified content.

3. The Plaintiff has produced several acclaimed TV and web series,



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including *Scam 1992: The Harshad Mehta Story* (2020) and *Rudra: The Edge of Darkness* (2022), which have been highly rated and ranked among India's top shows by IMDb and other rating platforms. In recognition of its excellence in content creation, the plaintiff has received numerous awards.

4. Over the years, the plaintiff has established itself as a highly reputed name in the Media and Entertainment industry, particularly in the domain of OTT ('Over-the-Top') content. One such web series produced by the plaintiff is 'UNDEKHI', an Indian Hindi-language crime thriller, the first season of which premiered on the digital platform 'SonyLIV' in 2020. Following the success of its debut season, the plaintiff produced a second season, which was released in 2022. The present suit pertains to the rights of the plaintiff in the third season of the aforesaid show/ series which was released on the digital platform, SonyLIV, on 10<sup>th</sup> May 2024

5. It is stated that the plaintiff's series constitutes a work of visual recording accompanied by sound recordings, qualifying as a "cinematograph film" under Section 2(f) of the Copyright Act, 1957 (hereinafter the 'Copyright Act'). As the producer of the said series, the plaintiff is deemed to be the rightful owner and author of the copyright therein, in accordance with Section 2(d) read with Section 17 of the Copyright Act. Therefore, it is stated that the plaintiff holds the exclusive right to communicate the series to the public.

6. In furtherance of this right, the plaintiff entered into a license agreement dated 17<sup>th</sup> April 2020, with Culver Max Entertainment Private Limited (formerly known as *Sony Pictures Network India Private Limited*) (hereinafter the 'Licensee'), which owns the digital platform SonyLIV, whereby the plaintiff, as the licensor, granted the said licensee an exclusive



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license to exploit, *inter alia*, the first season of the said show/series for a term of seven years, with worldwide territorial rights. Subsequently, the plaintiff entered into amendment agreements, the latest being the Fourth Amendment Agreement dated 17<sup>th</sup> October 2023, whereby the licensee was granted an exclusive license to exploit the second and third seasons of the show/series. Accordingly, the said show/series is available exclusively on the platform owned and operated by the licensee under a valid license from the plaintiff, for which the plaintiff has received valuable consideration.

7. Defendants no. 1, 2, and 14 to 19 are websites/URLs engaged in the unauthorized broadcasting, relaying, and communication to the public of pirated and unlicensed content, including but not limited to the streaming of films, web series, and other audio-visual works.

8. Defendants no. 3 to 11 are Internet Service Providers and Telecom Service Providers ('ISPs'/'TSPs'), engaged in the business of providing Internet and telecommunication services to the public and serving as gateways for accessing the defendants' websites. These ISPs have been impleaded as parties to the present suit to block and disable the access of the defendants' websites.

9. Defendant no.12 [Department of Telecommunications] and defendant no.13 [Ministry of Electronics and Information Technology] are government bodies that have been impleaded for the limited purpose of issuing notices to the ISPs, directing them to block access to the defendants' websites.

10. After the release of the third season of the plaintiff's series on 10<sup>th</sup> May 2024, the plaintiff was surprised to discover a news article on the website [www.filmlybeat.com](http://www.filmlybeat.com), reporting that the plaintiff's show/ series 'UNDEKHI' had been illegally leaked on multiple websites for free



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download, within hours of its official release.

11. Subsequently, the plaintiff's anti-piracy team conducted an investigation, which revealed that defendants no.1 and 2 are operating websites that unlawfully provide the plaintiff's series for free download. These websites do not disclose any contact details or offer a formal takedown mechanism for infringing content, however, they indicate that infringing links may be removed upon notification *via* email.

12. To safeguard its copyright, the plaintiff issued a legal notice to the operators of defendants no.1 and 2, demanding that they cease and desist from engaging in infringing activities and immediately remove the plaintiff's series from their platforms. However, the defendants neither responded to the legal notices nor took any action to remove the infringing content.

13. Hence the present suit was filed.

### **PROCEEDINGS IN THE SUIT**

14. After filing the present suit, the plaintiff identified additional mirror, redirect, and alphanumeric variations of defendant no.2's website, along with other infringing websites that continue to exploit the plaintiff's series.

15. The present suit came before this court for the first time on 20<sup>th</sup> May 2024 wherein the Court allowed the application for the impleadment of defendants no.14 to 19 and granted an *ex-parte ad interim* injunction in favour of the plaintiff. Additionally, defendants no. 3 to 11 were directed to block the websites of defendants no. 1, 2, 14 to 19 and defendants no.12 and 13 were directed to issue necessary directions for blocking the said websites.

16. In the order passed by the Joint Registrar on 4<sup>th</sup> October 2024, it was noted that despite being served defendants no. 3, 4, 5, 7, 9, 12, and 13 did



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not enter an appearance and defendants no. 6, 8, 10, and 11 remained unserved. Further, the plaintiff was directed to file an affidavit of service in respect of defendants no. 1, 2, and 14 to 19.

17. Since none entered appearance on behalf of defendants no.3, 4, 5, 7, 9, 12 and 13, *vide* order dated 23<sup>rd</sup> October 2024, the aforesaid defendants were proceeded against *ex parte*.

18. On 28<sup>th</sup> November 2024, the Joint Registrar closed the rights of all the defendants to file their written statement.

19. On 17<sup>th</sup> March 2025, the present application was filed on behalf of the plaintiff seeking summary judgment in the present suit.

20. Counsel for the plaintiff submits that this is a fit case where a Summary Judgment in terms of Order XIII-A of the Code of Civil Procedure, 1908 ('CPC') as applicable to commercial disputes of a specified value, read with Rule 27 of the Delhi High Court Intellectual Property Rights Division Rules, 2022, deserves to be passed in favour of the plaintiff and against the defendant.

21. Since defendants no.3, 4, 5, 7, 9, 12 and 13 have already been proceeded against *ex parte* and the contesting defendants no. 1, 2, and 14 to 19 are infringing websites/URLs that did not enter an appearance, I do not find it necessary to issue fresh notices before deciding the present application under Order XIII-A, CPC seeking summary judgment.

### **ANALYSIS AND FINDINGS**

22. I have heard the submissions of the counsel for the plaintiff and perused the material on record.

23. The plaint has been duly verified and is also supported by the affidavit of the plaintiff's authorised signatory. In view of the fact that no written



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statement has been filed on their behalf, all the averments made in the plaint are deemed to have been admitted. Further, since no affidavit of admission/denial has been filed on behalf of the aforesaid defendants in respect of the documents filed with the plaint, the same are deemed to have been admitted in terms of Rule 3 of the Delhi High Court (Original Side) Rules, 2018. The documentary evidence, which is already on record, is *ex-facie* proof of the defendants' acts of infringement.

24. Therefore, I am of the opinion that no purpose would be served by directing the plaintiff to lead *ex-parte* evidence by filing an affidavit of examination-in-chief and the plaintiff is entitled to a summary judgment.

25. Based on the averments made in the plaint and material on record, the plaintiff has been able to show that the plaintiff is the rightful owner and author of the plaintiff's series/show 'UNDEKHI' and holds exclusive rights over its distribution.

26. In *UTV Software Communications Ltd. & Ors. v. 1337X.TO and Ors*<sup>1</sup>, a coordinate bench of this court laid down factors to categorise a website as a rogue website. The Court highlighted that while determining a website as a rogue website, key considerations shall include whether the primary purpose of the website is to commit or facilitate copyright infringement, along with the flagrancy of such infringement. Another significant factor is the anonymity of the registrant, whether the registrant's details are concealed and registrant details are untraceable. Further, the court has to consider factors such a website's silence or inaction in response to takedown notices, its role in providing directories or tools to facilitate

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<sup>1</sup> 2019 SCC OnLine Del 8002



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infringement, and a general disregard for copyright laws. The court has to also consider whether the website has been subject to disabling orders in other jurisdictions for copyright violations, whether the website contains guides to circumvent legal restrictions, and the volume of traffic or frequency of access. Additionally, the court can take any other relevant factor that points to systemic copyright abuse, while determining the rogue status of the website.

27. The plaintiff has also placed on record the summary judgment dated 10<sup>th</sup> October 2022 passed by a coordinate bench of this Court in CS (COMM) 369/2019 titled '*Warner Bros. Entertainment Inc v. <http://tamilrockers.ws> & Ors*' wherein the coordinate bench of this court had declared the websites run by the defendants herein as well as their alphanumeric versions as 'rogue websites' and ordered them to be blocked.

28. A perusal of the plaint would show that the defendants are websites that are making the plaintiff's series/show available to the public without procuring any valid license or authorization from the plaintiff. These defendants' websites unlawfully provide access to infringing content free of charge, without requiring users to register. The availability of such content is monetized through advertisements displayed on these platforms.

29. It is clear from the aforesaid analysis that the defendants are rogue websites that are actively and knowingly creating, developing, distributing and making available the plaintiff's show/series on their websites with the common object of exploiting the copyright-protected works of the plaintiff. Despite being blocked previously by this court, the defendants have again emerged and registered new domain names, which are mirror / alphanumeric versions of the erstwhile websites that were directed to be blocked and taken



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down, to facilitate copyright infringement.

30. The defendants' activities have caused irreparable harm to the plaintiffs, as these rogue websites not only violate and infringe the copyrights of the plaintiff in its series/show but also erode and dilute the value of the exclusive rights by taking away significant revenues from the plaintiff.

31. In *UTV Software* (supra), the court also recognized the challenge of website blocking due to the continuous emergence of mirror, redirect, and alphanumeric variations of infringing websites. Relying on the judgment of the Singapore High Court in *Disney Enterprise v. MI Ltd* [(2018) SGHC 206], this court upheld the concept of 'Dynamic Injunction', which allows the plaintiff to approach the court for the blocking of new domain names, URLs, or IP addresses that provide access to the same infringing content, without requiring the plaintiff to repeatedly approach the Court for each new variation.

32. Applying the principle in *Disney Enterprise* (supra), this court in *UTV Software* (supra), allowed the plaintiff to file an application for impleadment of new rogue/mirror websites as defendants and delegated the power of this Court to the Joint Registrar to pass blocking orders upon being satisfied that the newly impleaded websites are indeed mirrors or redirects of the original enjoined rogue websites.

33. As discussed above, in the present case, defendants no. 1, 2, and 14 to 19 are websites engaged in piracy by illegally making the plaintiff's copyrighted content available for free download and streaming. Following the directions given in *UTV Software* (supra), a dynamic injunction is necessary to be passed in the present case so as to prevent their continued





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infringement through new domain names.

34. Accordingly, the plaintiffs are entitled to reliefs claimed in the plaint.

**RELIEF**

35. In view of the foregoing analysis, the present suit is decreed in favour of the plaintiff and against the defendants no.1, 2, and 14 to 19 in terms of the prayer clause contained in paragraphs no.50 (a) and (b) of the plaint.

36. In respect of relief claimed in the prayer clauses contained in paragraphs no. 56 (c) and (d), the plaintiff is permitted to implead the mirror/redirect/alphanumeric websites which provide access to the websites of defendants no.1,2, and 14 to 19 by filing an appropriate application under Order I Rule 10 CPC, supported by affidavits and evidence as directed in *UTV Software* (supra). Any website(s) impleaded as a result of such application will be subject to the same decree.

37. In respect of relief claimed in prayer clauses contained in paragraphs no. 56 (f), a decree is passed in favour of the plaintiff and against defendants no.12 [DoT] and defendant no.13 [MEITY] directing the DoT and MEITY to issue a notification calling upon the various ISPs and TSPs to block access to the defendants' no.1,2, and 14 to 19 websites.

38. Counsel for the plaintiff does not press for remaining reliefs in the plaint.

39. Let the decree sheet be drawn up.

40. All pending applications stand disposed of.

41. The date of 05<sup>th</sup> August, 2025 stands cancelled.

**AMIT BANSAL, J**

**MARCH 19, 2025/Vivek/-**