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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 234/2024, I.A. 6317/2024 & I.A. 6322/2024**
WARNER BROS. ENTERTAINMENT INC. & ORS. Plaintiffs

Through: Mr. Saikrishna Rajagopal, Ms. Suhasini Raina, Ms. R. Ramya, Mr. Raghav Goyal, Ms. Mehr Sidhu and Mr. Ayush Saxena, Advocates along with Mr. Nikhil Gakhar, Investigator.

versus

DOODSTREAM.COM & ORS. Defendants

Through: Mr. Venkatesh Mohanraj, Mr. K.S. Elangovan, and Mr. S. Gowthaman, Advocates.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
13.05.2024

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I.A. 6317/2024 (Under Order XXXIX Rules 1 & 2, CPC)

Summary of Proceedings before this Court

1. By previous order of this Court dated 18th March, 2024, notice was issued in the present application, the background facts and circumstances had been stated in paras 1-13 which are not being reproduced herein for the sake of brevity, and directions were passed in para 14 of the said order in these terms which are reproduced hereunder:



14. In view of the undertaking by counsel for defendant nos. 1 to 3 (and 5&6), following directions are passed in the interim:

- a. Defendant nos. 1 to 3, 5&6 shall take down, within 24 hours, all listings of plaintiffs' infringing contents which will be communicated to them in writing/email through counsel for plaintiffs. This communication will be *inter se* counsel, i.e. from plaintiffs' counsel to defendants' counsel so that it is responsibly received and promptly executed;
- b. Defendant 1 to 3, 5&6 shall disable all features which allow regeneration of links and reuploading of infringing content post takedown *inter alia* the following features - removal of the "*generate link*" and "*disable download link (protected option)*" tabs;
- c. Defendant 1 to 3, 5&6 shall file an affidavit disclosing revenues generated, **duly certified by Chartered Accountant**, from the time of launch of said websites till date; same shall be filed along with replies to present application;
- d. Defendant 1 to 3, 5&6 shall file an affidavit in a tabulated fashion – *firstly*, number of requests for de-listing which they have received from any entity whatsoever, **including plaintiffs herein**, indicating details of content that was requested to be de-listed; and *secondly*, whether said content was available on their platforms/websites at any point thereafter, i.e., post the takedown sought for.

2. Subsequent thereto, on 08th April, 2024, it was informed by counsel for plaintiffs that defendants were not complying with the directions in para



14 as extracted above. An affidavit was filed under the technical expert of the plaintiffs dated 05th April, 2024 showing that the infringing content is still available on the website and also the '**download link (protected)**' was still appearing. The defendants have placed the statement of compliance dated 07th April, 2024.

3. Considering that the technical aspects needed to be assessed for purposes of plaintiff's allegation of non-compliance and defendants' response of proper compliance, directions were passed in the order of 08th April, 2024 for the matter to be placed before the Joint Registrar, with the assistance of the Director and Joint Director of the Delhi High Court IT Cell. Directions passed in the above order are extracted hereunder for reference:

- (i) The matter be placed before the Joint Registrar, who will take assistance of Director and Joint Director of the Delhi High Court IT Cell, to consider the allegations of the plaintiff and the response of the defendants (as placed on record) regarding directions in the order dated 18th March, 2024, that are still not being complied with by the defendants. This may require the plaintiffs and the defendants to show the content on the platform to the Joint Registrar (and the IT Team). The matter be listed before the Joint Registrar on 22nd April, 2024. Joint Registrar may carry over the deliberation to a date proximate thereto, if it is required for proper analysis and report in this regard.
- (ii) Plaintiff's technical person Mr. Gakhar, who has signed the affidavit, will also be present and participate in the deliberations.
- (iii) Considering that Mr. Raja Durai, defendant No.5 and Mr. Sarvesh Chandran, defendant No.6 proprietors of the defendants' website



are technical persons who are aware of the matters of the defendants' platform (as informed by the counsel for the defendants), they shall be present before the Joint Registrar on 22nd April, 2024.

4. Subsequently, Joint Registrar further took up the matter on 22nd April, 2024 where the following aspects were noted:

- i) *Counsel for plaintiff had presented a list of 1512 links, which are still operative and carrying copyright content of the plaintiffs;*
- ii) *Links mentioned at Sr. Nos. 6, 29, 65, 268, 537, and 1367 were randomly picked up by the Joint Registrar and it was found out that except for link no. 29, all other randomly selected links were found to be working and accessible;*
- iii) *Counsel for defendants stated that the links were left out since more than 5 lakh links were shared and they were trying their level best to comply with the list.*
- iv) *To this, counsel for defendants stated that the infringing links, when communicated by plaintiffs, should be sent either in an Excel sheet or text format since they would find it difficult to comply with in case they were sent in PDF format.*

5. The matter was then listed for 25th April, 2024, when the respective submissions of the parties were heard, in presence of the IT Cell officials of the Delhi High Court and the Technical Experts of the parties. The Joint Registrar made the following observations:



1. That there was non-compliance on the part of the concerned defendant nos. 1 to 3, 5 & 6 as far as the blocking of the links illegally sharing the copyrighted content/titles of the plaintiff was concerned (*in reference*

to para 14(a) and (d) of the order dated 18.03.2024). It is already noted in my order dated 22.04.2024 that out of the list submitted to these defendants by the plaintiff for blocking of the content, some randomly selected links were found to be operative on 22.04.2024. Those observations are already recorded in the said order dated 22.04.2024.

Today it is being submitted on behalf of both the parties that all the previous impugned links have now been blocked. Moreover it has been submitted by both the parties that the further links which are being shared by the plaintiff from 22.04.2024 onwards are also being blocked by the defendant nos. 1 to 3, 5 & 6 within 24 hours.

2. It is admitted on behalf of both the parties that as far as the removal of the feature of “*generate link*” has been disabled w.e.f. 05.04.2024 and, it remains disabled till date.
3. As far as the feature of “*disable download link (protected option)*” is concerned, it is admitted on behalf of the parties that it is disabled as on date. However the parties are at variance with regard to the date when it was disabled. The plaintiff claims that it was disabled w.e.f. 11.04.2024, not before that and in support of that, it states and in support it shall file documentary evidence of the same. The defendant nos. 1 to 3, 5 & 6 on the other hand claims that this feature was disabled w.e.f. 07.04.2024. These defendants further states that this feature could not be disabled earlier due to the logistic and technical aspects, particularly the cache memory and cloudflare



CDN.

4. The defendant nos. 1 to 3, 5 & 6 through counsel fairly admits that they are yet to file the affidavit (*in reference to 14(c) of the order dated 18.03.2024*), duly certified by the CA disclosing the revenues generated from the date of the launch of their websites till date. They undertake that they would file the same before the Hon'ble Court's hearing.
5. The counsel for the plaintiff suggested the disabling of few more features, so as to bar the regeneration of the links dealing with and the re-uploading of the infringing content. She states that the websites of the defendant nos. 1 to 3, 5 & 6 can be modified by adding the necessary details of the uploaders so that he/she can be identified pursuant to the illegal uploading of the copyrighted content. The technical expert of the plaintiff had demonstrated the working of the "global search" feature within the website of the defendant nos. 1 to 3, 5 & 6 and that of another website "pirate-bay". The global search feature of "pirate-bay" reveals the details of the uploader and the URL location of its file, which are missing on the websites of the defendant nos. 1 to 3, 5 & 6. The counsel for these defendants states that he would discuss the feasibility of this feature with his technical team, which otherwise has not been possible up till date due to lack of infrastructure. This Court shall be apprised in this regard on the next hearing.
6. The demonstration of the website of the defendant nos. 1 to 3, 5 & 6 further showed that the global search of a particular link leads to the availability of few other



options including the download link, embed link and embed code regarding the shared content. The counsel for the plaintiff states that these features facilitates the dissemination of the shared/copied content by the user as its own content to other users through his own premium account and also the re-uploading of the same content by the other users having access to that link becomes easier since the file is not deleted permanently from the server and is available in cache. She suggests that the disabling of this feature would put a plug on the illegal sharing of the copyrighted content from within the website of the defendant nos. 1 to 3, 5 & 6. The counsel for the defendant nos. 1 to 3, 5 & 6 states that the flagged content takes 24 hours to get deleted permanently from the servers and before that there is a possibility that the content might remain available in the cache memory making its re-upload faster. The counsel for these defendants states that he would discuss the feasibility qua these suggestions with his technical team. This Court shall be apprised in this regard on the next hearing.

7. The IT team of Delhi High Court in consultation has also put forth the example of "YouTube" and the mechanism employed by it for identifying and stopping the circulation of the copyrighted content. They have stated that the "YouTube" usually reviews the entire uploaded content in the background with the help of both the manual as well as the technical intervention whereby once the copyrighted content is identified, the uploader is informed to either take down the content immediately or



its account would be blocked forever. The counsel for the defendant nos. 1 to 3, 5 & 6 states that the business model of "YouTube" is different, which otherwise is also a public platform unlike ours which only facilitates the private sharing via cloud. He is thus implying that it is not possible for them to replicate the "YouTube" model in its entirety. The IT Cell of Delhi High Court as well me are of the opinion that the "YouTube" model is a perfect model to be replicated in the present circumstances.

In view of the aforesaid discussion, the defendant nos. 1 to 3, 5 & 6 are directed to apprise this Court with regard to the point no. 5 & 6 as part of today's order, if the suggestions noted therein are feasible or not. List the matter for the aforesaid limited purpose on 01.05.2024 at 12:30 PM.

The counsel for the defendant nos. 1 to 3, 5 & 6 at this stage states that the list furnished by the plaintiff on 22.04.2024 referred to a few links which were never furnished earlier in any of the inter-se communications. The counsel for the plaintiff objects to the same on the ground that the list only contained the links which were the part of the earlier communications.

6. Subsequently, the matter was listed before the Joint Registrar again on 01st May, 2024, where Joint Registrar noted his observations as under:



- a. As far as point no. 5 of the order dated 25.04.2024 relating to “*Global Search*” feature is concerned, the counsel for the defendant nos. 1 to 3, 5 & 6 states that they would remove this feature altogether from their website and the needful shall be done before 06.05.2024. The counsel for the plaintiff states that she would seek instructions in that regard and would apprise the Hon’ble Court accordingly.
- b. As far as point no. 6 of the order dated 25.04.2024 relating to “*Download Link, embed link, embed code*” features is concerned, the counsel for the defendant nos. 1 to 3, 5 & 6 states that they would not be removing these features since as per their understanding, none of those encourages re-uploading. The counsel for the plaintiff counters this submission by stating that these features do results in the dissemination of their copyrighted content. Be that as it may, the defendant nos. 1 to 3, 5 & 6 have expressed their inability to remove these features.
- c. The technical experts of the plaintiff have stated that the uploader details with regard to the URL link of the copyrighted content can be provided on the website of the defendant nos. 1 to 3, 5 & 6 whereby the infringer(s) can be identified and prosecuted. The counsel for the defendant nos. 1 to 3, 5 & 6 states that such details cannot be provided, due to the lack of infrastructure and technical feasibility.

7. On 09th May, 2024, the matter was adjourned at the request of counsel for defendants who sought accommodation on the ground of bereavement in his family. Counsel were now heard on the issue of compliance of order dated 18th March, 2024.



Submissions by Plaintiffs

8. Counsel for plaintiffs, essentially submitted the following points:
- a) As evident from the orders of the Joint Registrar, there is serious non-compliance of the orders of this Court by the defendants;
 - b) There is refusal of the defendants to disable links such as “**download link**”, “**embed link**”, and “**embed code**” which facilitate access of infringing content by user;
 - c) About 10 lakh links of infringing content had been communicated to the defendants so far since the injunction order was passed;
 - d) The architecture of the site consciously supports the preservation of the infringing content on *Doodstream* despite takedowns;
 - e) The website *Doodstream* itself and its help center states a list of *supported remote hosts* which includes websites of pornographic content. A screenshot of the same is attached as part of the plaintiffs’ documents; extracted as under for ease of reference:



11/9/23, 12:55 PM

Supported Remote Hosts! | DoodStream Helpdesk

2904

DoodStream Helpdesk

[Go to website](#)

Search our help center...

General

Related articles

[How does this website work?](#)

[How can i earn money here?](#)

[How to remote upload from netu.tv](#)

Articles on: **General**

Supported Remote Hosts!

List of Supported Remote Hosts

[1fichier.com](#) (*inactive*)

[Dropbox.com](#)

[Google Drive](#) (*Improved*)

[Fembed.com](#)

[Mixdrop.co](#)

[Mega.nz](#) (*Improved*)

[Netu.tv](#) (*how to ?*)

[Ok.ru](#)

[Streamtape.com](#)

[Streamsb.com](#)

[Videobin.co](#)

[Vidoza.net](#)

[Vidlox.me](#)

[Uploaded.to](#)

[Uptobox.com](#)

[Uptostream.com](#)

[Upstream.to](#)

[Vivc.sx](#)

[Youtube.com](#)

[Zippyshare.com](#)

Adult hosts

[Xvideos.com](#)

[Youporn.com](#)

Steps to remote from Netu.tv

<https://help.doodstream.com/en/article/supported-remote-hosts-1fy5vnn/>

True copy

- f) This allows the user to access remote hosts and content, copy the link from the remote hosts to *Doodstream*; *Doodstream* then pulls the content



from the remote hosts and creates a *Doodstream* link through which the said content can be accessed;

- g) The *Doodstream* website, therefore, is essentially a library of infringing content or, at best, unfiltered content which perpetuates the access, despite takedowns;
- h) Defendants have a mechanism of payment to such users/uploaders who are pasting content on *Doodstream* website on a “pay-per-view” basis;
- i) Discussion threads on *wjunction.com* involving *Doodstream* shows that *Doodstream* tells operators to “never delete files due to DMCA”. This is a part of response to a question relating to deletion of user file because of the Digital Millennium Copyright Act, 1998 [‘DMCA’]. It was stated in another response that “No we never delete files due to DMCA...”. Yet another response stated “Protected link are designed to you evade from DMCA agents, as the links keep changing you will never get any DMCA issue. We recommend all the website owners to use our protected link to embed on your website.”
- j) It has also been noted in the injunction order of this Court dated 18th March, 2024 that there was a previous order by the Judicial Tribunal in Paris in ***National Federation of Film Publishers & Ors. v. S.A. Societe Francaise Du Radiotelephone – SFR***, No. RG 23/06569, Portalis no. 352J-W-B7H-CZ3Z2, decision dated 6th July, 2023 which directed internet service providers to block access to website of the defendants in the territory of France.

Submissions by Defendants

9. Counsel for the defendants, however, refuted the above assertions and instead submitted as under:



- a) Defendants were compliant even prior to the injunction being passed, in that, whenever they received communication from agents acting for copyright owners under the DMCA, they would delete/takedown the same;
- b) Post the injunction, they have been inundated with hosts of links sent to them by the plaintiffs which are, according to them, amounting to about 5 lakh or so, which takes time to take down;
- c) The links were sent by the plaintiff in PDF format, which immediately could not be complied with, and their request for sending it in Excel sheets was placed before the Joint Registrar;
- d) They have taken steps to introduce a filter in the system in order to restrict the uploading of infringing content of various copyright owners;
- e) While the defendants are based in Coimbatore, the hosting platform is in United States of America and therefore, the plaintiff have no reason to approach this Court in the first place;
- f) Removing the tabs of “**download link**”, “**embed link**”, and “**embed code**” by the defendants would end up in the website being completely bare and inept.

10. This Court has considered the submissions of the parties and the documents on record. It is quite clear from facts and circumstances noted above that the amount of infringing content which is *prima facie* available on the defendants’ website *Doodstream* is of a very high proportion. Notably, even the defendants admit that they received request for 5 lakhs links to be taken down since the injunction order, whereas the plaintiffs state that it was in the range of 10 lakhs.



11. Be that as it may, this goes to show that the quantity of infringing content that *Doodstream* allows its users to upload, is vast and numerous. Further, not only does the site, in its current architecture, allows the user/uploader to either simply upload content, create a link and disseminate a link to that content, but also allows users to access infringing content on remote hosts and secure access to the same through the *Doodstream* website.

12. Effectively, the site in its current architecture, is an aggregator or a library of unfiltered content, therefore, allowing users/uploaders to inevitably use the platform for disseminating infringing content. The “**download link (protected)**” which were directed to be taken down by this Court’s injunction order, even though was disabled much later as noted in the order of the Joint Registrar, other links still allow continued dissemination of content on the *Doodstream* website.

13. Further, it is also apparent from the documents on record, that the nature of the content which is sought to be funneled through *Doodstream* includes adult pornographic content as well.

14. Not only is the site allowing the funneling and dissemination of content but also incentivizing the uploaders to place content which can be watched and seen by other users, and get money on a pay-per-view basis. For this, naturally, the response to the queries of concerned uploaders (as is evident from what has been recorded above), when their link was disabled, was that *Doodstream* had features on the website that allowed the generation of another link, or avoiding the DMCA radar.

15. The DMCA compliance, as adverted to by the defendants, may not come to their assistance for the reason that while DMCA is a regulation which is applicable in the United States of America. In India, we are



governed by the **Information Technology Act, 2000** [**‘IT Act’**] and the Rules made thereunder. Section 79 of the IT Act gives exemption from liability to intermediary in certain circumstances. Notably, the exemption operates *inter alia* if there is due diligence by the intermediary in observing the rules and guidelines under the Act, and the insulation does not apply if the intermediary has conspired, abetted, aided, or induced the commission of the unlawful act, or in the event that they fail to expeditiously remove or disable access to the material that is vitiating. In this regard, the **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021** [**‘2021 Rules’**] are also applicable. Elements of ‘*what is due diligence*’ is mandated under Rule 3 of the 2021 Rules.

16. Notably, Rule 3(1)(b) of the 2021 Rules mandates that intermediaries shall observe rules and regulations and shall not transmit, store, share information that belongs to another person to which he does not have right, is obscene pornographic, infringes any intellectual property right, etc. Rule (3)(2) of the 2021 Rules entails that a grievance redressal mechanism should be put in place by the intermediary.

17. There is nothing on the record on behalf of the defendants confirming that a grievance redressal officer has been appointed. Moreover, the nature of the content seems to include pornographic content and is also *prima facie* infringing of plaintiffs’ intellectual property rights. *Prima facie* therefore, defense of due diligence will not come to the rescue of the defendants under Section 79(2)(c) of the IT Act. Moreover, the insulation, if any, is prone to be punctured due to their acts of inducement or abetment for users/uploaders to use *Doodstream* for uploading and disseminating infringing content.



18. Further, as noted above, the defendants could not, due to practical inability, expeditiously remove infringing content despite notification by the plaintiffs, post the injunction order of this Court. The defendants cannot have an excuse that large amount of infringing content links made it practically impossible for them to fully comply with the orders of this Court.

19. The very fact that there are such large number of links of infringing content brings it within the scope and purview of what had been decided by this court in ***Universal City Studios LLC & Ors. vs. Mixdrop. Co., CS(COMM) 663/2022, 2023:DHC:3929***. The said decision concerned Cyberlocker websites whose primary objective was to facilitate infringement of copyright protected material, which is made out from their features, functionality, and incentives scheme. Relevant portions of the said decision are extracted under, for ease of reference:

9. Mixdrop Cyberlocker websites' primary objective is to infringe and facilitate infringement of copyright protected material, which is made out from their features, functionalities and incentives scheme. They allow users to upload/ download content free of cost, and without the need of signing-up/ providing personal details. Registration is optional but provides users access to features such as an affiliate program, [hereinafter "Affiliate Program"], which generates pay-outs for uploaders of content, every time someone watches or downloads their content. The pay-outs are divided across five tiers of countries¹ with earning rates ranging from USD 4 to USD 40. For example, when an uploader's content crosses 10,000 views/ downloads from India, which falls in Tier 5 of "All Others", the uploader earns USD 4.

10. Further, registered users are provided an Application Programming Interface (API) which can be used for easy generation of duplicate links by allowing immediate re-upload of content removed or taken down pursuant to a take-down notice. They offer large storage limits and delete uploaded content after 60 days of



inactivity i.e., content which is not downloaded or streamed, often without notice to the uploader. Copies of screenshots of the Mixdrop Cyberlocker websites indicating its working, along with the terms and conditions including the details of the Affiliate Program have been filed along with the plaint.

...

18. The term “Cyberlocker” is a fusion of the words “cyber” and “locker” and, as the name suggests, refers to online data storage or “locker” services. It is important to note that the mere term “Cyberlocker” should not automatically imply a negative connotation, as argued by Ms. Raina. To determine whether a Cyberlocker website should be classified as illegitimate or a “Rogue Website”, it is essential to examine its functionalities and operations. Merely labelling a website as a Cyberlocker does not inherently taint its legitimacy without considering its specific functionalities and operations in relation to copyright infringement.

20. It was stated in para 24 of the said decision that *“The significant number of links removed from Mixdrop Cyberlocker websites serves as evidence of the extensive presence of objectionable activities and the availability of copyright-protected content on these platforms.”* As noted in the said discussion, the number of links removed were in range of 6 to 8 lakhs. It is to be noted that this suit was filed in June, 2022 and the date of decision was May, 2023 [*in this case there are 5-10 lakh infringing content links in 2 months*]. In **Universal City Studios** (*supra*), the suit was decreed in favour of plaintiffs permanently injunctioning the defendants from uploading, posting, screening, distributing the plaintiffs’ copyrighted content available to the public. It is noted that the aforesaid decision passed *ex-parte* the defendants.

21. In view of the above facts and circumstances, and considering that this Court is conscious and alert to the issue of piracy through rogue



websites of infringing content, till the next date of hearing, directions are being passed in the following terms:

- a) Defendants nos. 5 and 6, and all those acting for/on their behalf, are restrained from directly or indirectly operating the website *Doodstream.com*, and domains which are listed as defendants nos. 1, 2, and 3 in the memo of parties, and reproduced hereunder:

Doodstream.com

dood.la

dood.pm

dood.re

dood.sh

dood.so

dood.to

dood.watch

dood.wf

dood.ws

dood.li

dood.tech

dood.work

doods.pro

dood.club

dood.yt

dooods.bar

doood.co

dooods.pro

doood.com

ds2play.com

dods.bar

dodz.pro

doodstream.sbs

doodstream.co

dood.stream



b) Defendant no.5 and 6 and all those acting for/on their behalf are also restrained from using any other similar platform to make accessible content which is infringing of the plaintiffs' proprietary rights and uploading, posting, screening, distributing, or making available to the public through/in any manner whatsoever, the cinematographic work/ content/ programme/ shows in relation to which the plaintiffs have copyright;

22. In the event the content, rights, or access to the same from the *Doodstream* portfolio of websites is transferred to any third party and/or subsequently operated through a mirror/ redirected/alphanumerically varying website(s), the plaintiffs shall have a right to approach this Court for suitable directions along with documents to substantiate its claim.

23. Counsel for the defendants state that they are taking steps to change the architecture of their website, in order that it is legally sound and does not infringe the rights of other parties. Needless to state that they will be at liberty to approach this Court for modification of the order as and when such changes take place and are acceptable to this Court.

24. List on 18th September, 2024.

ANISH DAYAL, J

MAY 13, 2024

mk/sc