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

+ **CS(COMM) 443/2024**

UNISYS INFOSOLUTIONS PVT LTD & ANR. Plaintiffs

Through: Mr. Chander M. Lall, Senior Advocate with Mr. Nikhil Chawla, Mr. Om Ram and Mr. Abhinav Bhalla, Advocates.

versus

TRANSSNET MUSIC LIMITED & ORS. Defendants

Through: Mr. Aditya Gupta and Ms. Aishwarya Kane, Advocates for D-2.
Ms. Riddima Sharma and Mohd. Umar, Advocates for D-3.
Mr. Harish Vaidyanathan Shankar, CGSC with Mr. Srish Kumar Mishra and Mr. Alexander Mathai Paikaday, Advocates for D-4 and 5.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **27.05.2024**

I.A. 30478/2024(seeking leave to file additional documents)

1. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.
2. If Plaintiffs wish to file additional documents at a later stage, they shall do so strictly as per the provisions of the said Act.
3. Disposed of.

I.A. 30479/2024(seeking exemption)

4. Exemption is granted, subject to all just exceptions.
5. Plaintiffs shall file legible and clearer copies of exempted documents,



compliant with practice rules, before the next date of hearing.

6. Disposed of.

I.A. 30480/2024(seeking leave to file requisite court fee)

7. For the grounds and reasons stated therein, the application is allowed. Plaintiff is granted one week's time from today to file deficient court fees.

8. Disposed of.

I.A. 30481/2024(seeking leave to file certain documents in a pen drive)

9. Plaintiffs seek the leave of the Court to place on record certain documents pertaining to Meta Data of Plaintiffs' copyrighted works, forming the subject matter of the present suit. Rule 24 of Chapter XI of the Delhi High Court (Original Side) Rules, 2018 makes it clear that electronic records can be received in CD/DVD/Medium encrypted with a hash value.

The said Rule is extracted below:

“24. Reception of electronic evidence -A party seeking to tender any electronic record shall do so in a CD/ DVD/ Medium, encrypted with a hash value, the details of which shall be disclosed in a separate memorandum, signed by the party in the form of an affidavit. This will be tendered along with the encrypted CD/ DVD/ Medium in the Registry. The electronic record in the encrypted CD/ DVD/ Medium will be uploaded on the server of the Court by the Computer Section and kept in an electronic folder which shall be labeled with the cause title, case number and the date of document uploaded on the server. Thereafter, the encrypted CD/ DVD/ Medium will be returned to the party on the condition that it shall be produced at the time of admission/denial of the documents and as and when directed by the Court/ Registrar. The memorandum disclosing the hash value shall be separately kept by the Registry on the file. The compliance with this rule will not be construed as dispensing with the compliance with any other law for the time being in force including Section 65B of the Indian Evidence Act, 1872.”

10. Registry may receive electronic record on CD-ROM so long as it is encrypted with a hash value or in any other non-editable format. The said documents contained in CD-ROM be placed in the electronic record of the



present suit in a format which is non-editable, so that the same can be viewed by the Court during hearing.

11. Application is disposed of.

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12. Let the plaint be registered as a suit.

13. Issue summons. Counsel mentioned in appearance above accept summons for Defendants No. 2, 3, 4 and 5 respectively. They confirm receipt of the suit paper-book, and waive their right of formal service of summons. Written statement(s) shall be filed within thirty days commencing from today. Upon filing of process fee, issue summons to Defendant No. 1 by all permissible modes. Summons shall state that the written statement(s) shall be filed by Defendant No. 1 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 Plaintiffs, without which the written statement(s) shall not be taken on record.

14. Liberty is given to the Plaintiffs 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 Plaintiffs, affidavit(s) of admission/denial of documents of the Defendants, be filed by the Plaintiffs, 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.

15. List before the Joint Registrar for marking of exhibits on 28th August, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

16. List before Court for framing of issues thereafter.



17. Ms. Riddima Sharma, counsel appearing for Defendant No. 3, Apple Inc., states that the only relief claimed against them pertains to take down/removal of content from the 'App Store', however, Apple Inc. does not control the App Store. Accordingly, she states that the appropriate party to be impleaded is 'Apple Distribution International Limited', located at Hollyhill Industrial Estate, Hollyhill, Cork, Republic of Ireland. Mr. Chander M. Lall, Senior Counsel for Plaintiffs, states that he will take appropriate steps in this regard.

I.A. 30477/2024(u/O XXXIX Rules 1, 2 & 10 of CPC)

18. Issue notice. Counsel mentioned in appearance above accept notice for Defendants No. 2, 3, 4 and 5. Reply, if any, be filed within four weeks from today. Rejoinder thereto, if any, be filed within two weeks thereafter.

19. Upon filing of process fee, issue notice to Defendant No. 1, by all permissible modes, returnable on the next date of hearing. Reply, if any, be filed within four weeks from date of service. Rejoinder thereto, if any, be filed within two weeks thereafter.

20. Mr. Chander M. Lall, Senior Counsel for Plaintiffs, has presented the following facts and contentions:

20.1 Plaintiffs have filed the present suit seeking, *inter alia*, permanent injunction to restrain Defendant No. 1 from infringing Plaintiffs' exclusive copyright in respect of sound recordings forming part of Plaintiffs' copyrighted works. Defendants are exploiting/ utilising the said work on their platform "Boomplay"/ "Boomplay Lite" without a valid license or authorization from the Plaintiffs, in any manner.

20.2 Plaintiffs are renowned names in the entertainment and media



industry, engaged in producing or acquiring copyrighted works, such as films, songs, music videos, etc., and commercial exploitation of the same by sale or licensing their use on various platforms. Plaintiffs have invested significant sums of money and labour towards acquiring and developing a diverse repertoire of more than 40,000 sound recordings/ audio clips in which the Plaintiffs have copyright. Pertinently, Plaintiffs have also acquired the exclusive global distribution rights of sound recordings for a few major Indian film production and distribution companies such as Yash Raj Films.

20.3 Defendant No. 1, a company registered under the laws of Hong Kong, offers music streaming and download services under the name of “Boomplay” and “Boomplay Lite”. The Boomplay platform is available globally for access and download on laptops, mobile platforms and tablets/iPads, as well as *via* the web through the link www.boomplay.com and through their mobile applications available on the Google Play Store and Apple ‘App Store’.

20.4. The Boomplay services were launched in the year 2015, and Defendant No. 1 forayed into India in the year 2021. On 16th November, 2021, Defendant No. 1 Company reached out to Yash Raj Films seeking to take a license for the said label’s repertoire to make the same available on their platform. Plaintiffs informed Defendant No. 1 that the distribution rights of sound recordings of Yash Raj Films Music vest with the Plaintiff. Accordingly, the parties entered into discussions for licensing and the Plaintiffs shared an overview deck along with the complete catalogue/repertoire under their library as on 15th December, 2021. Thereafter, Defendant No. 1, through e-mail dated 16th February, 2022, agreed to take licences for the Plaintiffs’ entire repertoire/catalogue and



proposed to pay a minimum guarantee of USD 15,000/- for one year for the territory of Pakistan and Bangladesh. However, despite the Plaintiffs' efforts, the negotiations were ultimately unfruitful and no commercial agreement came to be executed.

20.5. In February 2024, Plaintiffs discovered that the Boomplay website/app has been broadcasting/exploiting the sound recordings/music belonging to the Plaintiffs, without any authorization or licence whatsoever. They further found that the content has been illegally uploaded by the Defendant No. 1 shortly after the negotiations between parties broke down. Plaintiffs' representatives reached out to Defendant No. 1 through e-mails informing them about the unlawful exploitation of the Plaintiffs' sound recordings. In the course of correspondences exchanged between them, Plaintiffs also provided specific links to the infringing content uploaded on the Defendant No. 1's platforms and called upon them to take down the same. Despite providing assurances, Defendant No. 1 only partially complied with the said request but continued to exploit the Plaintiffs' content. A representative list of unauthorised sound recordings/ music of Plaintiffs uploaded on Defendant No. 1's platforms is annexed with the present order and marked as 'ANNEXURE-A'. In such circumstances, the Plaintiffs have approached this Court by way of the instant suit seeking protection of their intellectual property rights in the sound recordings/ audio clips in which they have copyright.

21. The Court has considered the aforementioned facts and circumstances. The documents on record *prima facie* establish the Plaintiffs' rights in the sound recordings/ audio clips which are subject matter of the present suit. Further, the Plaintiffs have demonstrated that their content has been uploaded on



Defendant No. 1's "Boomplay" and "Boomplay Lite" platforms without any license or authorisation. In view of the above, the Court finds that the Plaintiffs have made out a *prima facie* case in their favour and in case no *ex-parte ad-interim* injunction is granted, the Plaintiffs will suffer an irreparable loss; balance of convenience also lies in favour of the Plaintiffs and against the Defendant No. 1.

22. Accordingly, till the next date of hearing, Defendant No. 1 and/or anybody acting on their behalf are restrained from reproducing, adapting, distributing, communicating, transmitting, releasing, launching, airing/ exhibiting, disseminating or displaying the sound recordings which form part of the Plaintiffs' copyrighted works on the Defendant No. 1's platforms, i.e. "Boomplay" and "Boomplay Lite".

23. Further, Defendant No. 1 is directed to remove the said works from their website within a period of two weeks from the date of receipt of this order. A complete list detailing Plaintiffs' works to be taken down shall be enclosed along with notice of compliance under Order XXXIX Rule 3 of Code of Civil Procedure, 1908 (CPC).

24. Compliance of Order XXXIX Rule 3 of CPC, be done within ten days from today.

25. List before the Court on 25th October, 2024.

SANJEEV NARULA, J

MAY 27, 2024/d.negi



ANNEXURE-A

S.No.	Details of songs uploaded on the Boomplay	Link
1.	Same Beef Song BOHEMIA Ft. Sidhu Moose Wala Byg Byrd	https://www.boomplay.com/share/music/132373502?srModel=COPYLINK&srList=IOS
2.	Tich Button - Simar Sethi Mainu Supne Aunde Ne Chahida kuch vi nai	https://www.boomplay.com/share/music/89131331?srModel=WHATSAPP
3.	Jordan Sandhu - Jattiye Ni - Majhe to doobe tak Gimmi Kapoor Arjan Virk	https://www.boomplay.com/share/music/124949880?srModel=WHATSAPP
4.	Gori Tame Manda Lidha	https://www.boomplay.com/share/music/134044507?srModel=WHATSAPP
5.	Udaarian	https://www.boomplay.com/share/music/93079939?srModel=WHATSAPP
6.	Tujh Mein Rab Dikhta Hai (from the movie Rab Ne Bana Di Jodi)	https://www.boomplay.com/songs/129307648?from=search
7.	Swag Se Swagat (from the movie Tiger Zinda Hai)	https://www.boomplay.com/songs/108633037?from=search
8.	Chand Sifarish (from the movie Fanaa)	https://www.boomplay.com/songs/129839497?from=search
9.	Jag Ghoomeya (from the movie Sultan)	https://www.boomplay.com/songs/160551967?from=search



10.	Aankhein Khuli (from the movie Mohabbatein)	https://www.boonplay.com/songs/48844810?from=search
11.	Main Yahaan Hoon (from the movie Veer Zaara)	https://www.boonplay.com/songs/159986593?from=search
12.	Moh Moh Ke Dhaage (from the movie Dum Laga Ke Haisha)	https://www.boonplay.com/songs/147164440?from=search
13.	Le Gayi (from the movie Dil To Pagal Hai)	https://www.boonplay.com/songs/739422852?from=search
14.	Bol Na Halke Halke (from the movie Jhoom Barabar Jhoom)	https://www.boonplay.com/songs/126273741?from=search
15.	Tujh Mein Rab Dikhta Hai (from the Rab Ne Bana Di Jodi)	https://www.boonplay.com/songs/113221070?from=search
16.	O Re Piya (Aaja Nachle) - YRF Music	https://www.boonplay.com/songs/142049630
17.	O Re Piya (Aaja Nachle) - YRF Music	https://www.boonplay.com/songs/142032245
18.	Tune Jo Na Kaha (New York) - YRF Music	https://www.boonplay.com/songs/130469956 ; https://www.boonplay.com/songs/141944952



19.	Dil Diyan Gallan (Tiger Zinda Hai) - YRF Music	https://www.boonplay.com/songs/164407319 https://www.boonplay.com/songs/141465429
20.	Tujh Mein Rab Dikhta Hai (Rab Ne Bana Di Jodi) - YRF Music	https://www.boonplay.com/songs/142104424
21.	Bol Na Halke Halke (Jhoom Barabar Jhoom) - YRF Music	https://www.boonplay.com/songs/142029324
22.	Hey Shona (Ta Ra Rum Pum) - YRF Music	https://www.boonplay.com/songs/146204301
23.	Mere Haath Mein (Fanaa) - YRF Music	https://www.boonplay.com/songs/142102203
24.	Main Yahaan Hoon (Veer Zaara) - YRF Music	https://www.boonplay.com/songs/115331665
25.	Khuda Jaane (Bachan Ae Haseeno) - YRF Music	https://www.boonplay.com/songs/115061063
26.	Dil To Pagal Hai (Dil To Pagal Hai) - YRF Music	https://www.boonplay.com/songs/134514442
27.	Saiyaara (Ek Tha Tiger) - YRF Music	https://www.boonplay.com/songs/140958552