

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-13/2021-DS-II

Dated:18-05-2022

To,

All Internet Service Licensees'

Subject: CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.

In continuation to Department of Telecommunications (DoT) even no. letters dated 23.04.2021, 27.04.2021, 03.05.2021, 05.05.2021, 24.05.2021, 29.05.2021, 04.06.2021, 14.06.2021, 01.07.2021, 13.07.2021, 08.10.2021, 25.10.2021, 12.11.2021 & 18.04.2022; kindly find the enclosed Hon'ble Delhi High Court order dated 16th April, 2021 & 08th April 2022 in the subject matter court case C.S.(Comm) No. 181 of 2021 along with **Thirty-Second (1 website/URL)** list of additionally identified website/URL, as provided by the advocate for the plaintiff and said to be infringing the Plaintiff's exclusive rights. DoT is defendant No. 13 in the case.

2. Hon'ble Court in order dated 16th April, 2021 has, inter alia, directed that:

14. Consequently, till the next date of hearing:

v) defendant Nos. 13 & 14 are directed to issue notifications calling upon the internet & telecom service providers to block access to various domains of defendant No. 1 and/or its collaborator websites.

vi) in case the plaintiffs come across any other domain names/websites carrying out the infringing activities, the plaintiffs would file an affidavit before this Court and on such an affidavit being filed, the directions contained above would also apply to such subsequent domain names/websites.

3. Further, Hon'ble Court vide Order dated 8th April 2022, has stated that:

"4. Considering the nature of the matter, the interim injunction already granted vide order dated 16th April, 2021, is made absolute during the pendency of the suit.

4. 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 16th April, 2021 read with order dated 8th April 2022 with respect to **Thirty-Second (1 website/URL)** list of additionally identified website/URL.

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) 181/2021 & I.A. 5516/2021**

STAR INDIA PVT LTD & ANR. Plaintiffs

Through: Ms. Snehima Jauhari, Mr. Sidharth
Chopra, Mr. Angad Singh Makkar,
Advocates (M:9897896284)

versus

SAJID HUSSAIN Defendant

Through: Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Kamaldeep, Advocate for R-
13&14 (M:9910483635)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **08.04.2022**

1. This hearing has been done through hybrid mode.

I.A. 5516/2021 (for stay)

2. The present suit was filed seeking permanent injunction restraining the infringement of the Plaintiffs' exclusive rights and reliefs for copyright(s), rendition of accounts, damages, etc. The Plaintiffs are a leading production and distribution company in India with exclusive media rights in content of different genres and languages, broadcasted through STAR Channels and/or Disney+Hotstar. The Plaintiffs are stated to have exclusive media and broadcasting rights over various content, including films, TV shows, sporting events, etc., The case of the Plaintiffs is that Defendant No.1, through the rogue application/software 'ThopTV' and other bridge domains/websites are showing illegal content, broadcasting various pirated shows, matches, live sporting events, web series, etc, without

authorization from the owners. Defendant No.1 is stated to be providing the said content free of cost as well as at premium. Accordingly, injunction is sought against the application - ThopTV and its various domain names, which are as under:

- (i) thoptvpro.com
- (ii) thethoptv.com
- (iii) thoptv.online
- (iv) thoptvpc.com
- (v) thoptv-apk.in
- (vi) thoptvapps.com
- (vii) thoptv-pc.com
- (viii) thethoptv.net

3. Vide order dated 16th April, 2021, an interim injunction was granted restraining Defendant No.1 from streaming the Plaintiffs' content through its application- ThopTV or through its websites- thethoptv.com, thoptv.online, thoptvpc.com, thoptv-apk.in, thoptvapps.com, thoptvpro.com, thoptv-pc.com, thethoptv.net, indianabones .buzz, teslamodelz.buzz. The ISPs were also directed to block the impugned domains of Defendant No.1 and all its collaborators. Further, the Defendant No.13/Department of Telecommunications (*hereinafter "DoT"*) and Defendant No.14/Ministry of Electronics and Information Technology (*hereinafter "MEITY"*) were also directed to issue notifications to block access to the impugned domains. The Registrars of Domain Names were also directed to suspend the said domains. The said order reads as under:

*"14. Consequently, till the next date of hearing:
(i) defendant No. 1, its owners, partners,*

proprietors, officers, servants, affiliates, employees and all others in capacity of principal or agent acting for and on its 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, and/or making available for viewing, the plaintiffs' content through its application "Thop TV" or through the domains/websites - thethoptv.com, thoptyv.online, thoptyvpc.com, thoptyv-apk.in, thoptyvapps.com, thoptyvpro.com, thoptyv-pc.com, thethoptv.net, indianabones.buzz, teslamodelz.buzz and/or any other application/domains/websites.

ii) defendant Nos. 2 to 10 are directed to block access to various domains names of defendant No. 1 and/or its collaborator websites within 72 hours of receipt of this order.

iii) defendant No. 11 is directed to deactivate/suspend the domain name registration of thoptyv-apk.in.

iv) defendant No. 12 is directed to deactivate/suspend the domain name registration of thoptyvpro.com and thoptyvapps.com.

v) defendant Nos. 13 & 14 are directed to issue notifications calling upon the internet & telecom service providers to block access to various domains of defendant No. 1 and/or its collaborator websites.

vi) in case the plaintiffs come across any other domain names/websites carrying out the infringing activities, the plaintiffs would file an affidavit before this Court and on such an affidavit being filed, the directions contained above would also apply to such subsequent domain names/websites."

4. Considering the nature of the matter, the interim injunction already granted vide order dated 16th April, 2021, is made absolute during the pendency of the suit.

5. Accordingly, *I.A. 5516/2021* is disposed of.

CS(COMM) 181/2021

6. Further to order dated 16th April, 2021, summons has been issued. Subsequently, vide order dated 25th February, 2022, the Court had observed that all the Defendants have been served but none has appeared. Mr. Shukla, Id. counsel, appears for DoT and MIETY. Other defendants are proceeded *ex-parte*.

7. Since the Plaintiff is seeking a permanent injunction *qua* the application 'ThopTV' itself and various domains of the said application, this Court is of the opinion that evidence ought to be led in this matter, at least by two witnesses - one on behalf of the Plaintiff and one being an who may have enquired into the Defendant's activities.

8. Accordingly, issues are framed in this suit as under:

1. Whether Defendant No.1's application - 'ThopTV' is a rogue application predominantly hosting infringing content? OPP
2. If the answer to (1) above is in the affirmative, are Defendant No.1's application - 'ThopTV' along with the various domains/websites of ThopTV as stated in the plaint liable to be permanently injuncted? OPP
3. Whether the Plaintiff is entitled to any relief of damages/costs/etc., and if so to what amount? OPP

9. The affidavits in evidence be filed within six weeks.

10. List before the Joint Registrar, for filing of affidavits in evidence and for marking of exhibits on 6th July, 2022.

11. List before the Court on 8th August, 2022. On the said date, the two deponents of the affidavits in evidence, shall remain present in Court, for recordal of their examination in chief and for cross examination, if any.

PRATHIBA M. SINGH, J.

APRIL 8, 2022/aman/MS

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

+ CS(COMM) 181/2021

STAR INDIA PVT LTD & ANR. Plaintiffs

Through: Mr. Saikrishna Rajagopal, Advocate
alongwith Ms. Sneha Jain, Mr. Yatinder Garg, Ms.
Snehima Jauhari, Advocates

Versus

SAJID HUSSAIN & ORS.

.... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

ORDER

% **16.04.2021**

I.A. 5517/2021 (Exemption)

1. The present application has been filed under Section 151 CPC on behalf of the plaintiffs seeking exemption from filing the certified/clearer/proper/translated copies of documents with proper margins.
2. The application is allowed, subject to the plaintiffs filing the clearer/proper/translated copies of documents with proper margins within two weeks from today.
3. Insofar as filing of certified copies of documents is concerned, the plaintiffs shall place the same on record as and when directed to do so by this Court.
4. The application stands disposed of.

I.A. 5520/2021 (Under Section 149 CPC seeking Exemption from filing Court Fee)

1. The present application has been filed under Section 149 CPC on behalf of the plaintiffs seeking exemption from filing Court Fee.
2. For the reasons stated in the application, the same is allowed. The Court Fee be filed within two weeks.
3. The application stands disposed of.

I.A. 5519/2021 (Under Order XI Rule 1(4) of Commercial Courts Act)

1. The present application has been filed under Order XI Rule 1(4) of the Commercial Courts Act, 2015 read with Section 151 CPC on behalf of the plaintiffs seeking leave to file additional documents.
2. For the reasons stated in the application, the prayer made in the application is allowed and liberty is granted to the plaintiffs to file additional documents.
3. The application stands disposed of.

CS(COMM) 181/2021, I.A. 5516/2021 (Under Order XXXIX Rules 1 & 2 CPC) & I.A. 5518/2021 (Under Section 80 CPC)

1. Plaint be registered as suit.
2. Issue summons in the suit and notice in the applications to the defendants on the plaintiffs taking steps by all permissible modes, returnable before the learned Joint Registrar on 27.05.2021 for completion of service, pleadings and admission/denial of documents.
3. The summons shall indicate that the written statements to the suit and reply affidavits to the applications must be filed by the defendants within thirty days from the date of receipt of the summons. The defendants shall

also file affidavits of admission/denial of the documents filed by the plaintiffs, failing which the written statements shall not be taken on record.

4. The plaintiffs are at liberty to file replications and rejoinder affidavits thereto within three weeks after filing of the written statements. The replications shall be accompanied by affidavits of admission/denial in respect of the documents filed by the defendants, failing which the replications shall not be taken on record.

5. List the suit and the applications before the Court on 28th July, 2021.

6. The present suit has been filed seeking relief of permanent injunction restraining the defendants that are engaged in infringing the plaintiffs' copyright(s), broadcast reproduction rights and ancillary reliefs.

7. The plaintiff No. 1 claims to be a leading entertainment and media company in India engaged in the production of popular content broadcast on its STAR channels and an exclusive licensee of media rights to various sporting events which are broadcasted on its STAR Channels. It is also claimed that plaintiff No. 1 is the owner of an extensive portfolio of more than 70 channels in over eight languages. The plaintiff No. 1 claims to be a leading production and distribution company in India and also the exclusive licensee of media rights in various films across varied genres and languages.

8. The plaintiff No. 2 owns and operates the online audio-visual streaming platform and website 'www.hotstar.com', and the mobile application, 'Disney+ Hotstar'. It is also claimed that the plaintiff No. 2 is also the producer or the exclusive assignee or licensee of various web-series in different languages.

9. It is averred that the plaintiffs are the producers of various TV shows, films, and/or web-series which are communicated on STAR Channels and/or

Disney+Hotstar, having exclusive distribution rights to publicly exhibit and communicate the said content through any medium or mode. The plaintiffs claim to have rights under the Copyright Act on various TV shows, films and web-series. The plaintiffs also claim to have Broadcast Reproduction Rights in relation to the plaintiffs' broadcasts of sporting events through the STAR channels and Disney+Hotstar conferred under Section 37 of the Copyright Act.

10. It is averred that defendant No. 1 is the owner of the application software known as "*Thop TV*". It is claimed that defendant No. 1 is, in fact, a "rogue" application software and illegally provides access to content shown on TV Channels including movies, TV shows, live sporting events, web-series and other Video on Demand content without authorization from the original owner of the content including the plaintiffs. It is further averred that defendant No. 1 is providing the content free of cost as well as on premium thus, commercially exploiting the plaintiffs' work and content illegally.

11. It is averred that the WHOIS details of thoptvpro.com shows defendant No.1 as the owner, thus the plaintiffs believe that defendant No.1 is the owner/developer of "*Thop TV*" application as well as various domains where *Thop TV* APK is distributed viz.:

- (i) thoptvpro.com
- (ii) thethoptv.com
- (iii) thoptv.online
- (iv) thoptvpc.com
- (v) thoptv-apk.in
- (vi) thoptvapps.com

(vii) thoptv-pc.com

(viii) thethoptv.net

12. Further the domains, indianabones.buzz & teslamodelz.buzz, stated to be collaborator websites, are designed only to facilitate the illegal business of “Thop TV”. To explain the manner in which such collaborator website functions, an affidavit from the Investigator has also been placed on record. The plaintiffs have also relied the screenshots which capture the plaintiffs’ content and works being streamed on “Thoptv”. Learned counsel for the plaintiffs has also placed on record various orders passed in favour of the plaintiffs and against other similar “rogue” websites.

13. Having gone through the averments and the documents placed on the record and after hearing the submissions of the learned counsel for the plaintiffs, this Court is of the opinion that the plaintiffs have succeeded in making out a *prima facie* case in their favour and in case, no *ex-parte ad-interim* injunction is granted in favour of the plaintiffs, the same would cause irreparable loss to them. Balance of convenience also lies in favour of the plaintiffs and against the defendants.

14. Consequently, till the next date of hearing:

(i) defendant No. 1, its owners, partners, proprietors, officers, servants, affiliates, employees and all others in capacity of principal or agent acting for and on its 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, and/or making available for viewing, the plaintiffs’ content through its application “Thop TV” or through the domains/websites

- thethoptv.com, thoptyv.online, thoptyvpc.com, thoptyv-apk.in, thoptyvapps.com, thoptyvpro.com, thoptyv-pc.com, thethoptv.net, indianabones.buzz, teslamodelz.buzz and/or any other application/domains/websites.

ii) defendant Nos. 2 to 10 are directed to block access to various domains names of defendant No. 1 and/or its collaborator websites within 72 hours of receipt of this order.

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v) defendant Nos. 13 & 14 are directed to issue notifications calling upon the internet & telecom service providers to block access to various domains of defendant No. 1 and/or its collaborator websites.

vi) in case the plaintiffs come across any other domain names/websites carrying out the infringing activities, the plaintiffs would file an affidavit before this Court and on such an affidavit being filed, the directions contained above would also apply to such subsequent domain names/websites.

15. Compliance under Order XXXIX Rule 3 CPC be done within one week.

MANOJ KUMAR OHRI, J

APRIL 16, 2021

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Click here to check corrigendum, if any

LIST OF ADDITIONAL DOMAINS / URLs / IP ADDRESSES



S. NO.	DOMAINS / WEBSITES
1.	picashows.xyz