

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

**CS(OS) 2335/2013, I.As. 19123/2013, 19124/2013 and 19421/2013  
(under Order 6 Rule 17 CPC)**

**YASH RAJ FILMS PVT LTD**

**..... Plaintiff**

**Through: Mr.Jayant K. Mehta with Mr. Anuj Kapoor, Advs.**

**versus**

**CABLE OPERATORS FEDERATION OF INDIA and ORS**

**..... Defendant**

**Through: Ms Pratibha M. Singh with Mr. Sudeep Chatterjee and Mr. Kapil  
Midha, Advs. for defendant No. 8.**

**Mr. Ashok Mathur, Adv. with Mr. V.M. Srivastava, Adv. for D-7.**

**CORAM:**

**HON'BLE MR. JUSTICE M.L.MEHTA**

**ORDER**

**02.12.2013**

**I.A. 19421/2013 (under Order 6 Rule 17 CPC)**

**This is filed by the plaintiff seeking amendment in the plaint.**

**Heard the counsel for the plaintiff. The suit being at the initial  
stage and the sought amendments being relevant and necessary and  
essentially made only for clarification, are allowed. The application  
stands disposed of. Amended plaint is taken on record.**

**IA 19124/2013 (exemption)**

**Allowed, subject to all just exceptions.**

**IA stands disposed of.**

**CS (OS) 2335/2013 and IA 19123/2013 (under Order 39 Rule 1 and 2 CPC)**

**Let summons in the suit and notice in the IA be issued to all the defendants, on plaintiff taking steps/filing PF/RC within a week, returnable on 22nd April 2014.**

**Plaintiff is the sole and exclusive owner of all intellectual property rights in the film 'Dhoom 3', which is stated to be released on December 20, 2013. The defendants are said to be, inter alia, persons/agencies engaged in communication, broadcasting and entertainment industries in that:**

**a) Defendant nos. 1 to 5 and 13 to 18 are persons/entities engaged in the cable television industry. Infringing/pirated copies of the said film are telecast/transmitted/communicated through the medium of these defendants.**

**b) Defendant nos. 6 to 12 are ISPs i.e. Internet Service Providers and Network Service Providers, who are engaged in telecommunication industry.**

**c) Defendant no. 19 is a website, which is already engaged in infringing the copyright of the plaintiff in the film 'Dhoom 3' by allowing any person to download unlicensed and unauthorised copies of the songs of the said film.**

**d) Defendant nos. 20 to 28 are persons who are habitual infringers and indulge in piracy as a part of their business. They operate under various assumed identities in order to avoid the process of law. For convenience of reference, the plaintiff has named them 'Ashok Kumar', and is seeking an injunction in the nature of a 'John Doe Order' against these defendants.**

**The plaintiff's case is that contents of its film 'Dhoom 3', are being copied/telecast/distributed/transmitted/communicated inter alia through the medium of cable networks as well as internet websites. And that the plaintiff has not authorized any of the defendants to copy or reproduce or communicate or duplicate or display or telecast or upload or download the film 'Dhoom 3'. And that the present suit is necessitated for the reason that the plaintiff has experienced large scale violations of its intellectual property rights in some of its recent films.**

**The plaintiff submits that it has reliable information that the**

defendant nos. 13 to 17 as well as defendant nos. 20 to 28, whose identities are unknown to the plaintiff may inter alia use the medium and agency of defendant nos. 1 to 12 and 18 to carry out unauthorised distribution or transmission of the film through their networks. Similarly, defendants no. 20 to 28, who are unknown persons, who make poor copies of the film when it being screened, upload the infringing contents on websites such as defendant no. 19, which are accessible over the internet through the aegis of the ISPs and Network Service Providers such as defendants no. 6 to 12, who make these websites accessible to millions of users around the globe.

The plaintiff submits that the only effective remedy available to it, is to seek an injunction against the known defendants and an injunction in the nature of a ?John Doe Order? for the unknown defendants in order to ensure that its intellectual property rights are not infringed.

The plaintiff has placed reliance upon its earlier suits filed before this Court, such as CS(OS) No. 2141/2011 and CS(OS) No. 3194/2012, in which this injunction was granted against the known and unknown defendants. Reliance is also placed on the orders of this Court in CS(OS) No. 1724/2011, CS(OS) No. 821/2011 and CS(OS) No. 384/2011, where similar injunctions were granted.

Plaintiff also contends that the provisions of the Information Technology Act, 2000 mandates ISPs as well as Network Service Providers, which are included within the definition of an ?intermediary?. The licenses granted to ISPs and telecom service providers by the Department of Communication also oblige the licensees to ensure that intellectual property rights are not infringed by or through their networks. And that defendant nos. 1 to 12 and 18 are, thus, additionally mandated to ensure that once they are informed of nay infringing activity being carried out utilizing their medium and agency, they take immediate steps to ensure that such medium and agency is not used by any person for unauthorized copying, communication, duplication, reproduction, exhibition or distribution of the plaintiff?s film.

The learned counsel appearing for defendant no. 8 accepts notice and has fairly conceded that on being informed by the plaintiff in writing about the particulars of websites hosting infringing content, it shall, within 48 hours, block such URLs. Similarly, defendants no. 6, 7 and 9 to 12 are also directed to block URLs upon receiving particulars of the infringing websites from the plaintiff.

An ad interim ex parte injunction is granted against defendants and other unnamed and undisclosed persons, their partners or proprietors as the case may be, their officers, servants, agents and representatives,

franchisees, head-ends and all other in capacity of principal and agent acting for or on behalf, thereby restraining them from communicating or making available or distributing, or duplicating, or displaying, or releasing, or showing, or uploading, or downloading, or exhibiting, or

**playing, and/or defraying the movie ?Dhoom 3? in any manner without a proper license from the plaintiff, or in any other manner which would violate/infringe the plaintiff?s copyright in the said film, through mediums such as CD, DVD, Blue-Ray Disc, VCD, Cable TV, DTH, Internet services, MMS Clips, Tapes, or in any other manner.**

**Let notice be issued to defendants No. 6, 7, 9 to 12 on plaintiff taking steps/filing PF/RC within a week, returnable on 22nd April 2014.**

**Compliance of Order 39 Rule 3 CPC be made by the plaintiff within a week.**

**Dasti.**

**M.L.MEHTA, J**

**DECEMBER 02, 2013**

**kk/acm**

**\$ 11**