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

+ CS(COMM) 205/2022

NOVEX COMMUNICATIONS
PRIVATE LIMITED

..... Plaintiff

Through: Mr. Chander M. Lall, Senior
Advocate with Mr. Jasdeep Dhillon, Mr. Rajpal
Singh, Ms. Ananya and Ms. Mohina Anand,
Advocates.

versus

AMAN HOSPITALITY
PRIVATE LIMITED & ANR.

..... Defendants

Through:

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **04.04.2022**

I.A. 5147/2022(exemption)

1. Subject to the Plaintiff filing originals, clearer copies and documents with proper margins, which they may seek to place reliance on, within four weeks from today, exemption is granted.

2. Application is allowed and disposed of.

I.A. 5146/2022 (for placing on record DVD and VCD)

3. By way of the present application, Plaintiff seeks leave to place on record the digital versatile disc (DVD) and video compact disc (VCD) containing the video recording of the songs played by the Defendants in their establishment.

4. For the reasons stated in the application, the same is allowed.

5. Plaintiff is permitted to file the aforementioned digital versatile disc (DVD) and video compact disc (VCD) within a period of two weeks from today.

I.A. _____/2022 (not numbered, exemption from pre-institution mediation)

6. For the reasons stated in the application, the requirement of pre-institution mediation is dispensed with.

7. Application is allowed and disposed of.

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8. Let plaint be registered as a suit.

9. Upon filing of process fee, issue summons to the Defendants, through all permissible modes, returnable on 07.07.2022. Summons shall state that the written statement shall be filed by the Defendants within 30 days from the receipt of summons. Along with the written statement, Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiffs.

10. Replication be filed by the Plaintiff within 15 days of the receipt of the written statement. Along with the replication, an affidavit of admission/denial of documents filed by the Defendants, shall be filed by the Plaintiff. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

11. List before the Joint Registrar on 07.07.2022.

12. List before the Court on 25.07.2022.

I.A. 5145/2022(under Order 39 Rules 1 and 2 CPC)

13. Present application has been preferred by the Plaintiffs under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure 1908 for

grant of *ex-parte ad-interim* injunction.

14. Issue notice to the Defendants through all prescribed modes, returnable on 25.07.2022.

15. Present suit has been filed alleging copyright infringement by the Defendants and seeking *quia timet* action for apprehended future violations by the Defendants.

16. It is averred in the plaint that the Plaintiff was established in 2002 and is currently a well renowned name in Broadcasting and Media solutions. Having started off as a leading satellite channel distribution company in India in its formative years, Plaintiff has since diversified into a wide array of services.

17. It is further averred that Plaintiff is a copyright owner of a large repertoire of sound recordings which are exploited by the Plaintiff *inter alia* by licensing public performance rights in such sound recordings. The licenses include public performance licenses to hotels, restaurants, lawns, discotheque, resorts, malls and other venues for communication to the public on commercial basis. The repertoire of sound recordings owned by the Plaintiff includes sound recordings of several music labels such as Eros International Media Limited, Tips Industries Limited, SPI Music Private Limited, Red Ribbon Entertainment Private Limited, Sukhbir Singh Jandu, DRecords International Private Limited etc. Plaintiff is also the authorised agent and authority holder of Yash Raj Films Private Limited.

18. It is contended by learned counsel for the Plaintiff that in the past, the Defendants have been procuring licenses and taking authorisation from the

Plaintiff for playing the sound recordings of the Plaintiff. Defendants have been playing the sound recordings in various corporate, social and celebrity events leading to increase in the footfall and popularity of the events and have thus earned huge revenues therefrom. Despite being aware of and having acknowledged the rights of the Plaintiff, Defendants have stopped taking license from the Plaintiff and are thus infringing the copyright of the Plaintiff.

19. It is submitted that the Defendants are continuously playing and publicly performing as well as commercially exploiting the sound recordings at their premises on different dates, the details of which have been furnished in the plaint. On learning of the same on 14.02.2022, a legal notice was sent to the Defendants calling upon them to: (i.) cease and desist from playing the sound recordings in which the Plaintiff has a copyright; (ii.) undertake not to infringe the copyright; and (iii.) tender an unconditional apology, apart from compensating for infringing the Plaintiff's copyright. Another legal notice was sent on 24.02.2022, however, Defendants have neither responded to the legal notices nor stopped playing the sound recordings. Instead, the Defendants have recently held an event on 08.03.2022, where they have blatantly infringed the Plaintiff's copyright by playing the sound recording at their premises, as brought out in para 26 of the plaint.

20. It is the contention of learned Senior Counsel for the Plaintiff that the use of the sound recordings of the songs contained in the films belonging to the Plaintiff's repertoire, without the requisite non-exclusive public performance rights therein from the Plaintiff and without payment clearly amounts to an infringement of the copyright, besides causing loss of revenue

to the Plaintiff. Defendants are continuing to unauthorisedly, illegally and with malafide intent, use and commercially exploit the intellectual property rights of the Plaintiff, in the various sound recordings.

21. Having heard the learned Senior Counsel for the Plaintiff, this Court is of the view that Plaintiff has made out a *prima facie* case for grant of *ex parte ad-interim* injunction. Balance of convenience lies in favour of the Plaintiff and it is likely to suffer irreparable harm in case the injunction, as prayed for, is not granted.

22. Accordingly, Defendants, their partners, directors, servants, employees, agents, assignees, licensees, representatives, third party event management companies, third party event organizers and/or any other person claiming through them or acting on their behalf are restrained from using, playing, exploiting or publicly performing in any manner communicating the sound recordings of the songs assigned and/or authorised to the Plaintiff or allowing their premises or any other premises under their control to be used for the said purposes, including in any event or function such as corporate events, celebrity events, promotional events, social events and Birthday parties, Anniversary parties, Engagement parties, Reception functions, Sangeet and DJ nights, Sagan functions, Pre and Post wedding celebrations, as well as for in-house utilisation in restaurants, halls, lounges, bars, gyms, open spaces, roof-tops, pool-sides, etc., without license from the Plaintiff, or otherwise infringing the copyright in any work owned and protected by the Plaintiff, till the next date of hearing.

23. Plaintiff shall comply with the provisions of Order 39 Rule 3 CPC within one week from today.

JYOTI SINGH, J

APRIL 04, 2022/st