FEDERAL COURT OF AUSTRALIA

Roadshow Films Pty Limited v Telstra Corporation Limited (No 2) [2020] FCA 769

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| File number: |  |
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| Judge: | **BURLEY J** |
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| Date of judgment: | 4 June 2020 |
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| Catchwords: | **PRACTICE AND PROCEDURE** – site blocking application pursuant to s 115A of the *Copyright Act 1968* (Cth) – form of final orders |
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| Legislation: | *Copyright Act 1968* (Cth) s 115A |
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| Cases cited: | *Australasian Performing Right Association Ltd v Telstra Corporation Limited* [2019] FCA 751  *Foxtel Management Pty Limited v TPG Internet Pty Ltd* [2019] FCA 1450  *Roadshow Films Pty Limited v Telstra Corporation Limited* [2019] FCA 885  *Roadshow Films Pty Limited v Telstra Corporation Limited* [2019] FCA 1328  *Roadshow Films Pty Limited v Telstra Corporation Limited* [2020] FCA 507 |
|  |  |
| Date of last submissions: | 20 May 2020 |
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| Registry: | New South Wales |
|  |  |
| Division: | General Division |
|  |  |
| National Practice Area: | Intellectual Property |
|  |  |
| Sub-area: | Copyright and Industrial Designs |
|  |  |
| Category: | Catchwords |
|  |  |
| Number of paragraphs: | 8 |
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| Counsel for the Applicants: | F. St John |
|  |  |
| Solicitor for the Applicants: | Baker McKenzie |
|  |  |
| Counsel for the First to Eleventh Respondents: | The First to Eleventh Respondents filed submitting appearances |
|  |  |
| Counsel for the Twelfth to Forty-Seventh Respondents: | The Twelfth to Forty-Seventh Respondents did not appear |
|  |  |
| Counsel for the Forty-Eighth to Fiftieth Respondents: | The Forty-Eighth to Fiftieth Respondents filed submitting appearances |

ORDERS

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|  | | NSD 1940 of 2019 |
|  | | |
| BETWEEN: | ROADSHOW FILMS PTY LIMITED (ACN 100 746 870)  First Applicant  VILLAGE ROADSHOW FILMS (BVI) LTD  Second Applicant  DISNEY ENTERPRISES, INC. (and others named in the Schedule)  Third Applicant | |
| AND: | TELSTRA CORPORATION LIMITED (ACN 051 775 556)  First Respondent  PACNET INTERNET (A) PTY LTD (ACN 085 213 690)  Second Respondent  PACNET SERVICES (A) PTY. LTD. (ACN 056 783 852) (and others named in the Schedule)  Third Respondent | |

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| JUDGE: | BURLEY J |
| DATE OF ORDER: | 4 JUNE 2020 |

In these Orders, the following terms have the following meanings:

(a) **Domain Name** means a name formed by the rules and procedures of the **Domain Name System (DNS)** and includes subdomains.

(b) **DNS Blocking** means a system by which any user of a Respondent's service who attempts to use a DNS resolver that is operated by or on behalf of that Respondent to access a Target Online Location is prevented from receiving a DNS response other than a redirection as referred to in Order 6.

(c) **IP Address** means an Internet Protocol address.

(d) **Optus** means the fourth to eleventh Respondents.

(e) **Target Online Locations** means the online locations as referred to in the Schedule to these Orders and that are or were accessible:

(i) at the URLs listed in the Schedule to this Order (together, the **Target URLs**);

(ii) at the IP Addresses listed in the Schedule to this Order (together, the **Target IP Addresses**);

(iii) at the Domain Names listed in the Schedule to this Order (together, the **Target Domain Names**); and

(iv) any other domain names, URLs and IP addresses that the Applicants notified to the Respondents pursuant to Order 12 (subject to the procedure set out in that Order).

(f) **Telstra** means the first to third Respondents.

(g) **TPG** means the thirtieth to the forty-seventh Respondents.

(h) **URL** means a Uniform Resource Locator.

(i) **Vocus** means the twelfth to twenty-ninth Respondents.

(j) **Vodafone** means the forty-eighth to fiftieth Respondents.

THE COURT ORDERS THAT:

1. Each Respondent must, within 15 business days of service of these Orders (and thereafter within 15 business days of an obligation to disable access to a Domain Name, IP Address or URL arising under Order 12), take reasonable steps to disable access to the Target Online Locations.

2. Order 1 is taken to have been complied with by a Respondent if that Respondent implements any one or more of the following steps:

(a) DNS Blocking in respect of the Target Domain Names;

(b) IP Address blocking or re-routing in respect of the Target IP Addresses;

(c) URL blocking in respect of the Target URLs and the Target Domain Names; or

(d) any alternative technical means for disabling access to the Target Online Locations as agreed in writing between the Applicants and a Respondent.

3. If a Respondent in complying with Order 1 does not implement one of the steps referred to in Order 2, that Respondent must, within 15 business days of service of these Orders, notify the Applicants of the step or steps it has implemented.

4. Each Respondent must redirect any communication by a user of its service seeking access to the Target Online Locations which have been disabled pursuant to Order 1 to a webpage established, maintained and hosted by either:

(a) the Applicants, or their nominee, pursuant to Order 5; or

(b) that Respondent or its nominee.

The Applicants’ obligations pursuant to Orders 5 and 6 only arise if a Respondent notifies the Applicants that the Respondent will redirect a communication pursuant to Order 4(a) and for so long as at least one Respondent redirects communications to that webpage.

5. The Applicants, or their nominee, must establish, maintain and host a webpage which informs users of a Respondent’s service who have been redirected to the webpage pursuant to Order 4 that access to the website has been disabled because this Court has determined that it infringes or facilitates the infringement of copyright.

6. Within 5 business days of these Orders, the Applicants will notify each of the Respondents in writing of the URL of the webpage established, maintained and hosted under Order 4 and, if the webpage ceases to operate for any reason, will notify each of the Respondents in writing of a different URL that complies with Order 5.

7. If, in complying with Order 4, a Respondent redirects any communication by a user of its service to a webpage established, maintained and hosted by it, that Respondent or its nominee must ensure that the webpage informs the user of that Respondent's service that access to that the website has been disabled because this Court has determined that it infringes or facilitates the infringement of copyright.

8. In the event that any of the Applicants has a good faith belief that:

(a) any Target URL, Target IP Address or Target Domain Name which is subject to these Orders has permanently ceased to enable or facilitate access to any Target Online Location; or

(b) any Target URL, Target IP Address or Target Domain Name has permanently ceased to have the primary purpose of infringing or facilitating the infringement of copyright,

a representative of the Applicants must, within 15 business days of any of the Applicants forming such a good faith belief, notify each Respondent of that fact in writing, in which case the Respondents shall no longer be required to take steps pursuant to Order 1 to disable access to the relevant Target URL, Target IP Address or Target Domain Name that is the subject of the notice.

9. A Respondent will not be in breach of Order 1 if it temporarily declines or temporarily ceases to take the steps ordered in Order 1 (either in whole or in part) upon forming the view, on reasonable grounds, that suspension is necessary to:

(a) maintain the integrity of its network or systems or functioning of its blocking system;

(b) upgrade, troubleshoot or maintain its blocking system;

(c) avert or respond to an imminent security threat to its networks or systems; or

(d) ensure the reliable operation of its ability to block access to online locations associated with criminal content if it reasonably considers that such operation is likely to be impaired, or otherwise to comply with its statutory obligations including under section 313(3) of the *Telecommunications Act 1997* (Cth),

provided that:

(e) unless precluded by law, it notifies the Applicants or their legal representative(s) of such suspension, including the reasons and the expected duration of such suspension, by 5.00 pm on the next business day; and

(f) such suspension lasts no longer than is reasonably necessary and, in any case, no longer than 3 business days or such period as the Applicants may agree in writing or the Court may allow.

10. The owner or operator of any of the Target Online Locations and the owner or operator of any website who claims to be affected by these Orders may apply on 3 days' written notice, including notice to all parties, to vary or discharge these Orders, with any such application to:

(a) set out the orders sought by the owner or operator of the Target Online Locations or affected website; and

(b) be supported by evidence as to:

(i) the status of the owner or operator of the Target Online Locations or affected website; and

(ii) the basis upon which the variation or discharge is sought.

11. The parties have liberty to apply on 3 days' written notice, including, without limitation, for the purpose of any application:

(a) for further orders to give effect to the terms of these Orders;

(b) for further orders in the event of any material change of circumstances including, without limitation, in respect of the consequences for the parties and effectiveness of the technical methods under Order 2; and/or

(c) for orders relating to other means of accessing the Target Online Locations not already covered by these Orders.

12. If a website the subject of any of the Target Online Locations is at any time during the operation of these Orders provided from a different Domain Name, IP Address or URL, the Applicants may, by their solicitor:

(a) Provide a notice in writing to the Respondents and the Court that:

(i) Identifies the different Domain Name, IP Address or URL; and

(ii) Certifies that, in the good faith belief of the Applicants, the website operated from the different Domain Name, IP Address or URL is a new location for the Target Online Locations the subject of these Orders and brief reasons therefore;

(b) Within 7 business days of the notice given pursuant to Order 12(a), the Respondents must notify the Applicants and the Court in writing if they object to taking steps pursuant to Order 1 to disable access to the Domain Name, IP Address or URL notified in accordance with Order 12(a);

(c) If any Respondent objects to disabling a Domain Name, IP Address or URL notified in accordance with Order 12(a), or the Court otherwise considers it appropriate to do so, the proceeding will be relisted for further directions; and

(d) If, within the time period specified in Order 12(b) no Respondent objects to disabling access to any Domain Name, IP Address or URL notified in accordance with Order 12(a) and the Court does not otherwise require the proceeding to be relisted, then upon receipt of a notification from the Applicants that the Court does not require the matter to be relisted, that Respondent~~s~~ must take steps pursuant to Order 1 to disable access to the Domain Name, IP Address or URL notified in accordance with Order 12(a).

13. These Orders are to operate for a period of 3 years from the date of these Orders.

14. No less than two months prior to the expiry of these Orders:

(a) the Applicants may file and serve:

(i) an affidavit which states that, in the good faith belief of the deponent, the Target Online Location continues to have the primary purpose of infringing or facilitating the infringement of copyright; and

(ii) short minutes of order extending the operation of these Orders for a further 3-year period; and

(b) the process contained in Order 16 shall apply.

15. The affidavit referred to in Order 16 is to be given by a deponent duly authorised to give evidence on behalf of the Applicants and may be given by their solicitor.

16. If an affidavit and short minutes of order are filed and served in accordance with Order 14:

(a) within 7 business days, the Respondents must notify the Applicants and the Court if they object to the Orders being made in accordance with the short minutes of order served by the Applicants;

(b) if any Respondents give notice of any objection, or the Court otherwise thinks fit, the proceeding will be relisted for further directions;

(c) if no Respondent gives notice of any objection and the Court does not otherwise require the proceeding to be relisted, then the Court may make orders in terms of the short minutes of order served by the Applicants without any further hearing; and

(d) the Applicants must serve on the Respondents any such orders made.

17. The Applicants pay Telstra's, Optus', Vocus', TPG's and Vodafone’s compliance costs calculated at the rate of $50 per Domain Name the subject of DNS Blocking undertaken for the purposes of complying with Order 1.

18. There be no order as to costs.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

SCHEDULE

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| --- | --- | --- | --- | --- |
| **No** | **Target Online Location** | **Target URLs** | **Target Domain Names** | **Target IP Addresses** |
| 1. | mrunlock | https://mrunlock.space/ | mrunlock.space | 104.28.31.129 |
| 104.28.30.129 |
| http://mrunlock.red/ | mrunlock.red | 104.31.79.99 |
| 104.31.78.99 |
| 2. | nocensor | http://nocensor.surf/ | nocensor.surf | 104.28.27.7 |
| 104.28.26.7 |
| https://nocensor.casa/ | nocensor.casa | 104.24.103.195 |
| 104.24.102.195 |
| http://nocensor.fun/ | nocensor.fun | 104.24.106.180 |
| 104.24.107.180 |
| 3. | unblockproject | http://unblockproject.pw/ | unblockproject.pw | 104.31.84.187 |
| 104.31.85.187 |
| https://unblockproject.icu/ | unblockproject.icu | 104.31.93.108 |
| 104.31.92.108 |
| https://unblockproject.info/ | unblockproject.info | 104.27.184.38 |
| 104.27.185.38 |
| 4. | 123unblock | http://123unblock.space/ | 123unblock.space | 104.31.64.59 |
| 104.31.65.59 |
| https://123unblock.fun/ | 123unblock.fun | 104.28.0.166 |
| 104.28.1.166 |
| http://unbl0ck.online/ | unbl0ck.online | 104.18.56.20 |
| 104.18.57.20 |
| http://123unblock.icu/ | 123unblock.icu | 104.18.44.139 |
| 104.18.45.139 |
| 5. | prox4u | http://prox4you.club/ | prox4you.club | 104.18.49.160 |
| 104.18.48.160 |
| https://prox4you.pro/ | prox4you.pro | 104.18.58.212 |
| 104.18.59.212 |
| http://prox4you.info/ | prox4you.info | 104.27.182.91 |
| 104.27.183.91 |
| 6. | unblocked.to | https://unblocked.to/ | unblocked.to | 104.28.15.242 |
| 104.28.14.242 |
| 7. | prostylex | https://prostylex.org/ | prostylex.org | 104.18.56.4 |
| 104.18.57.4 |
| 8. | torrents.io | https://torrents.io | torrents.io | 104.27.208.30 |
| 104.27.209.30 |
| 9. | katcr.co | https://katcr.co/ | katcr.co | 91.212.150.157 |
| 10. | katcr.to | https://katcr.to/ | katcr.to | 104.31.16.3 |
| 104.31.17.3 |
| 11. | kikass.to | https://kikass.to/ | kikass.to | 104.27.150.245 |
| 104.27.151.245 |
| 12. | kat.sx/ | https://kat.sx/ | kat.sx | 104.31.16.3 |
| 104.31.17.3 |
| 13. | kickass.sx | https://kickass.sx/ | kickass.sx | 104.31.18.30 |
| 104.31.19.30 |
| 14. | kickass1.to | https://kickass1.to/ | kickass1.to | 104.31.18.30 |
| 104.31.19.30 |
| https://kat.ag | kat.ag | 104.31.18.30 |
| 104.31.19.30 |
| 15. | ibit | https://ibit.to | ibit.to | 104.31.94.163 |
| 104.31.95.163 |
| 16. | onionplay | https://onionplay.eu | onionplay.eu | 104.18.50.237 |
| 104.18.51.237 |
| https://onionplay-network.xyz/ | onionplay-network.xyz | 104.28.12.127 |
| 104.28.13.127 |
| https://onionplay.co/ | onionplay.co | 104.27.180.32 |
| 104.27.181.32 |
| https://proxyportal.org | proxyportal.org | 104.31.82.250 |
| 104.31.83.250 |
| https://proxyportal.ws/ | proxyportal.ws | 104.28.14.239 |
| 104.28.15.239 |
| 17. | p30download | https://p30download.com | p30download.com | 5.144.130.116 |
| 18. | torrentquest | https://torrentquest.com/ | torrentquest.com | 104.27.156.51 |
| 104.27.157.51 |
| 19. | rutor | http://rutor.info/ | rutor.info | 91.132.60.13 |
| 20. | btbtdy | http://btbtdy.me/ | btbtdy.me | 203.186.25.59 |
| 103.113.156.70 |
| 116.92.208.79 |
| 21. | lookmovie | https://lookmovie.ag/ | lookmovie.ag | 104.31.112.70 |
| 104.31.113.70 |
| 22. | 037hdd | https://www.037hdd.com/ | 037hdd.com | 104.25.34.28 |
| 104.25.35.28 |
| 23. | cuevana3 | https://cuevana3.io/ | cuevana3.io | 172.64.100.14 |
| 172.64.101.14 |
| https://cuevana3.co/ | cuevana3.co | 104.27.156.231 |
| 104.27.157.231 |
| 24. | exsite24 | https://exsite24.pl/ | exsite24.pl | 104.18.36.250 |
| 104.18.37.250 |
| 25. | downduck | http://www.downduck.com/ | downduck.com | 104.28.10.121 |
| 104.28.11.121 |
| 26. | downloadha | https://www.downloadha.com/ | downloadha.com | 79.127.127.25 |
| 27. | emotionvideo-tv | http://emotionvideo-tv.com/ | emotionvideo-tv.com | 51.15.22.226 |
| 28. | movieon21 | http://movieon21.biz/ | movieon21.biz | 103.194.171.190 |
| http://movieon21.xyz/ | movieon21.xyz | 104.27.142.143 |
| 104.27.143.143 |
| 29. | modufree | http://m6.modufree.net | modufree.net | 104.27.140.55 |
| 104.27.141.55 |
| https://j20.hitjjal.com/ | j20.hitjjal.com | 104.27.160.54 |
| 104.27.161.54 |
| 30. | phim33 | https://phim33.com/ | phim33.com | 104.18.48.232 |
| 104.18.49.232 |
| 31. | tfpdl | https://www.tfp.is/ | tfp.is | 104.24.115.4 |
| 104.24.114.4 |
| 32. | tvsubtitles | http://www.tvsubtitles.net/ | tvsubtitles.net | 91.226.212.44 |
| 33. | msubs | http://www.msubs.net | msubs.net | 91.234.33.166 |
| 34. | dytt series | https://dytt8.net/ | dytt8.net | 127.66.100.10 |
| 35. | ttdytt | https://www.ttdytt.cc/ | ttdytt.cc | 113.52.134.110 |
| https://www.ttdytt.net/ | ttdytt.net | 113.52.134.110 |
| 36. | fast-torrent | http://fast-torrent.ru/ | fast-torrent.ru | 5.45.71.49 |
| 37. | heroturko | http://www.heroturko.net/ | heroturko.net | 104.27.128.189 |
| 104.27.129.189 |
| 38. | imovies | https://www.imovies.cc | imovies.cc | 188.93.90.62 |
| https://www.imovies.ge | imovies.ge | 188.93.90.62 |
| 39. | getpopcorntime | https://getpopcorntime.is/ | getpopcorntime.is | 185.198.57.17 |
| 81.17.30.43 |
| 185.248.160.75 |
| 62.141.46.79 |
| 40. | toxicwap | http://toxicwap.com | toxicwap.com | 104.27.240.249 |
| 104.27.241.249 |
| 41. | english-films | https://english-films.com/ | english-films.com | 51.77.244.43 |
| 42. | topeuropix | https://topeuropix.net/ | topeuropix.net | 172.64.134.3 |
| 172.64.135.3 |
| https://topeuropix.com/ | topeuropix.com | 104.27.164.14 |
| 104.27.165.14 |
| 43. | poseidonhd | https://poseidonhd.me/ | poseidonhd.me | 172.64.175.12 |
| 172.64.174.12 |
| https://poseidonhd.co/ | poseidonhd.co | 172.64.136.36 |
| 172.64.137.36 |
| 44. | anakbnet | http://www.anakbnet.com/ | anakbnet.com | 104.25.151.16 |
| 104.25.150.16 |
| 45. | moviesjoy | https://www.moviesjoy.net/ | moviesjoy.net | 104.28.20.245 |
| 104.28.21.245 |
| 46. | filmlicious | https://www.filmlicious.net/ | filmlicious.net | 104.27.174.37 |
| 104.27.175.37 |
| 47. | proxybit | https://proxybit.fun/ | proxybit.fun | 104.24.113.183 |
| 104.24.112.183 |
| https://proxybit.pro/ | proxybit.pro | 104.27.180.73 |
| 104.27.181.73 |
| 48. | 123movies.love | https://www.123movies.love/ | 123movies.love | 104.28.10.159 |
| 104.28.11.159 |
| 49. | movies.cab | https://1primewire.com/ | 1primewire.com | 104.24.117.75 |
| 104.24.116.75 |
| https://movies.cab/ | movies.cab | 104.27.157.142 |
| 104.27.156.142 |
| https://www1.putlocker.digital/ | putlocker.digital | 104.24.110.101 |
| 104.24.111.101 |
| 50. | solarmoviefree | http://www6.solarmoviefree.net/ | solarmoviefree.net | 104.31.70.113 |
| 104.31.71.113 |
| 51. | solarmovie.net | http://www1.solarmovie.net/ | solarmovie.net | 104.26.5.191 |
| 104.26.4.191 |
| 52. | yifyddl.movie/yify.yt | https://yifyddl.movie/ | yifyddl.movie | 104.28.7.57 |
| 104.28.6.57 |
| https://yify.yt/ | yify.yt | 104.31.65.120 |
| 104.31.64.120 |
| 53. | yifymovietorrent.com | https://yifymovietorrent.com/ | yifymovietorrent.com | 104.27.136.165 |
| 104.27.137.165 |
| 54. | ytsdownload.com | https://ytsdownload.com/ | ytsdownload.com | 104.28.6.79 |
| 104.28.7.79 |
| 55. | movie4k.ag | https://movie4k.ag/ | movie4k.ag | 5.254.40.240 |
| 56. | fmovies.org | http://www3.fmovies.org/ | fmovies.org | 104.26.14.229 |
| 104.26.15.229 |
| 57. | 5movies.cloud | https://5movies.cloud/ | 5movies.cloud | 104.31.84.55 |
| 104.31.85.55 |
| 58. | couchtuner2.com | http://couchtuner2.com/ | couchtuner2.com | 54.38.69.123 |
| 59. | couchtuner123.com | https://couchtuner123.com/ | couchtuner123.com | 104.31.76.207 |
| 104.31.77.207 |
| 60. | couchtuner.watch | https://ww1.couchtuner.watch/ | couchtuner.watch | 104.24.108.203 |
| 104.24.109.203 |
| 61. | couchtuner0.com | https://couchtuner0.com/ | couchtuner0.com | 104.28.12.68 |
| 104.28.13.68 |
| 62. | 1watchfree.me | https://2watchfree.me/ | 2watchfree.me | 162.251.108.146 |
| https://1watchfree.me/ | 1watchfree.me | 162.251.108.146 |
| 63. | putlockerstoworld2.com | https://putlockerstoworld2.com/ | putlockerstoworld2.com | 104.18.58.244 |
| 104.18.59.244 |
| 64. | putlocker.actor | https://putlocker.actor/ | putlocker.actor | 104.24.102.61 |
| 104.24.103.61 |
| 65. | zmz2019.com | http://www.rrys2019.com/ | rrys2019.com | 96.44.183.197 |
| http://www.zmz2019.com/ | zmz2019.com | 47.52.153.161 |
| 47.52.174.174 |
| 66. | m4ufree.tv | http://m4ufree.tv/ | m4ufree.tv | 104.31.90.131 |
| 104.31.91.131 |
| 67. | them4ufree.info | http://them4ufree.info/ | them4ufree.info | 104.31.84.227 |
| 104.31.85.227 |
| 68. | projectfreetv.xyz | https://projectfreetv.xyz/ | projectfreetv.xyz | 104.26.12.207 |
| 104.26.13.207 |
| 69. | yesmovies.ai | https://www13.yesmovies.gg/ | yesmovies.gg | 104.25.206.11 |
| 104.25.207.11 |
| https://yesmovies.ai/ | yesmovies.ai | 104.26.5.144 |
| 104.26.4.144 |
| 70. | yesmovies.cloud | https://www3.yesmovies.cloud | yesmovies.cloud | 104.28.0.55 |
| 104.28.1.55 |
| 71. | 99kubo | http://www.99kubo.tv/ | 99kubo.tv | 104.20.182.100 |
| 104.20.181.100 |
| 72. | cayphim | http://cayphim.net/ | cayphim.net | 108.61.159.182 |
| 73. | dramacool | https://www4.dramacool.video/ | dramacool.video | 104.26.12.197 |
| 104.26.13.197 |
| https://www1.dramacool.movie/ | dramacool.movie | 104.26.9.156 |
| 104.26.8.156 |
| 74. | gimy | https://gimy.tv/ | gimy.tv | 104.26.1.83 |
| 104.26.0.83 |
| 75. | kenh88 | http://kenh88.com/ | kenh88.com | 104.28.25.86 |
| 104.28.24.86 |
| 76. | yeuphimmoi | https://yeuphimmoi.com/ | yeuphimmoi.com | 104.31.66.58 |
| 104.31.67.58 |
| 77. | Anime-sharing | http://www.anime-sharing.com/ | Anime-sharing.com | 104.25.24.115 |
| 104.25.23.115 |
| 78. | Tokyotosho | http://tokyotosho.info/ | Tokyotosho.info | 104.27.138.240 |
| 104.27.139.240 |
| 79. | animetosho | https://animetosho.org/ | animetosho.org | 185.22.172.173 |
| 80. | animebam | https://www.animebam.net/ | animebam.net | 104.26.12.60 |
| 104.26.13.60 |
| https://www.animebam.se/ | animebam.se | 104.31.76.148 |
| 104.31.77.148 |
| 81. | animelon | https://animelon.com/ | animelon.com | 104.27.155.10 |
| 104.27.154.10 |
| 82. | animejolt | https://ww5.animejolt.com/ | animejolt.com | 104.18.39.84 |
| 104.18.38.84 |
| 83. | project-gxs | https://project-gxs.com/ | project-gxs.com | 185.62.190.8 |
| 84. | eyeonanime | https://eyeonanime.tv/ | eyeonanime.tv | 104.31.75.173 |
| 104.31.74.173 |
| 85. | animehd47 | https://animehd47.com/ | animehd47.com | 104.28.24.254 |
| 104.28.25.254 |
| 86. | animereborn | http://animereborn.io/ | animereborn.io | 104.24.118.26 |
| 104.24.119.26 |

REASONS FOR JUDGMENT

BURLEY J:

1 On 20 April 2020 I delivered reasonsfor judgment where I found that the respondents, each a carriage service provider (**CSP**), should be required to take reasonable steps to disable access to 86 target online locations that infringe or facilitate the infringement of copyright: ***Roadshow*** *Films Pty Limited v Telstra Corporation Limited* [2020] FCA 507. These reasons adopt the same definitions as in *Roadshow*.

2 The orders that I proposed to make in *Roadshow* were set out in Annexure A of the reasons, and were in a slightly different form to those made in a number of previous applications under s 115A of the *Copyright Act 1968* (Cth). In particular, in Order 12 they provide a new process whereby additional URLs, domain names and IP Addresses that provide access to target online locations which are the subject of existing orders (**additional avenues**) can be added to the operation of those orders without further order of the Court. Having regard to the novelty of this form, I invited further submissions from the parties, which have now been received from the applicants and from one of the five respondent groups, Telstra.

3 Having regard to those submissions, the revised form of Order 12 that I will now make is set out below, with amendments to the form proposed in *Roadshow* marked up:

If a website the subject of any of the Target Online Locations is at any time during the operation of these Orders provided from a different Domain Name, IP Address or URL, the Applicants may, by their solicitor:

(a) Provide a notice in writing to the Respondents and the Court that:

(i) Identifies the different Domain Name, IP Address or URL; and

(ii) Certifies that, in the good faith belief of the Applicants, the website operated from the different Domain Name, IP Address or URL is a new location for the Target Online Locations the subject of these Orders and brief reasons therefore;

(b) Within ~~14~~7 business days of the notice given pursuant to Order 12(a), the Respondents must notify the Applicants and the Court in writing if they ~~agree~~ object to taking steps pursuant to Order 1 [being the initial site blocking Order] to disable access to the Domain Name, IP Address or URL notified in accordance with Order 12(a);

(c) If any Respondent ~~does not agree~~ objects to disabl~~e~~ing a Domain Name, IP Address or URL notified in accordance with Order 12(a), or the Court otherwise considers it appropriate to do so, the proceeding will be relisted for further directions; and

(d) If, within the time period specified in Order 12(b), no  ~~any~~ Respondent objects ~~agrees~~ to disabl~~e~~ing access to any Domain Name, IP Address or URL notified in accordance with Order 12(a), and the Court does not otherwise require the proceeding to be relisted, then upon receipt of a notification from the Applicants that the Court does not require the matter to be relisted, that Respondent must take steps pursuant to Order 1 to disable access to the Domain Name, IP Address or URL notified in accordance with Order 12(a)~~the subject of the agreement~~.

4 The procedure envisaged in the initially proposed orders required the respondents to consent to the inclusion of additional avenues, failing which the proceedings would be re-listed. The applicants submit that this procedure would be complicated by the problem that frequently, as in the present case, some of the CSPs joined as respondents elect not to participate in the proceedings. They either enter submitting appearances (as Telstra, Optus and Vodafone did in the present case) or enter no appearance at all, despite being ordered to do so (as TPG and Vocus did). In the present proceedings, only Telstra entered an appearance and also supplied submissions in relation to the form of orders.

5 This leads to two difficulties. The first is that more frequently than not it may be expected, as here, that there will be no participation in the proceedings at all by the CSPs. This appears to be routine in such cases: see *Roadshow Films Pty Limited v Telstra Corporation Limited* [2019] FCA 1328 at [10] – [11]; *Roadshow Films Pty Limited v Telstra Corporation Limited* [2019] FCA 885 at [2]; *Foxtel Management Pty Limited v TPG Internet Pty Ltd* [2019] FCA 1450 at [2]; *Australasian Performing Right Association Ltd v Telstra Corporation Limited* [2019] FCA 751 at [7]. The norm is likely to be that at least some of the CSPs will not consent to the inclusion of the additional avenues, which will occasion the relisting of the proceedings and additional delay and expense, which is antithetical to the purpose for the broader regime envisaged under the recent amendments to s 115A: see *Roadshow* at [76] – [78].

6 Secondly, if one CSP does consent, but others do not, the consenting CSP may in effect be penalised, because only it will be the subject of a broader site blocking order. This could over time provide the other CSPs with a competitive advantage.

7 The applicants contend that the preferable approach is for the additional avenues to be included within site blocking orders if, upon the provision of notice to the respondents, the respondents fail to notify the Court and the applicants whether they agree to the inclusion within a specified period. Telstra agrees broadly with this approach, but submits that it should be refined slightly so that the obligation upon the CSPs is to indicate “if they object” to the inclusion of the additional avenues. Telstra submits that it is not well placed to determine which online locations are to be blocked, or what additional avenues should be blocked, and does not wish for the additional cost burden of ascertaining the answer to that question to fall upon it. Accordingly, a more appropriate wording is for a CSP to have the opportunity to object to blocking any additional avenue, should a matter come to its attention that should be raised, but otherwise the question of what should be blocked be left to the applicants and the Court.

8 Having regard to the arguments of the parties, I am satisfied that the approach proposed by the applicants, as refined by the Telstra proposal, is appropriate. It meets the objective of the legislation to facilitate, in appropriate cases, a more expeditious and less expensive means by which orders may be amended.

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| I certify that the preceding eight (8) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justice Burley. |

Associate:

Dated: 4 June 2020

SCHEDULE OF PARTIES

|  |  |
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|  |  |
| Applicants |  |
| Fourth Applicant: | PARAMOUNT PICTURES CORPORATION |
| Fifth Applicant: | COLUMBIA PICTURES INDUSTRIES, INC. |
| Sixth Applicant: | UNIVERSAL CITY STUDIOS LLC. |
| Seventh Applicant: | WARNER BROS. ENTERTAINMENT INC. |
| Eighth Applicant: | NETFLIX STUDIOS, LLC |
| Ninth Applicant: | TELEVISION BROADCASTS LIMITED (COMPANY REGISTRY NUMBER 0011781) |
| Tenth Applicant: | TVBO PRODUCTION LIMITED (REGISTRATION NO. EC 32284) |
| Eleventh Applicant: | MADMAN ANIME GROUP PTY LTD |
| Respondents |  |
| Fourth Respondent: | OPTUS MOBILE PTY LIMITED (ACN 054 365 66) |
| Fifth Respondent: | OPTUS NETWORKS PTY LIMITED (ACN 008 570 330) |
| Sixth Respondent: | OPTUS ADSL PTY LIMITED (ACN 138 676 356) |
| Seventh Respondent: | OPTUS SATELLITE PTY LIMITED (ACN 091 790 313) |
| Eighth Respondent: | UECOMM OPERATIONS PTY LIMITED (ACN 093 504 100) |
| Ninth Respondent: | OPTUS INTERNET PTY LIMITED (ACN 083 164 532) |
| Tenth Respondent: | VIRGIN MOBILE (AUSTRALIA) PTY LIMITED (ACN 092 726 442) |
| Eleventh Respondent: | OPTUS WHOLESALE PTY LIMITED (ACN 092 227 551) |
| Twelfth Respondent: | M2 WHOLESALE PTY LTD (ABN 99 119 220 843) |
| Thirteenth Respondent: | M2 WHOLESALE SERVICES PTY LTD (ACN 071 659 348) |
| Fourteenth Respondent: | M2 COMMANDER PTY LTD (ACN 136 950 082) |
| Fifteenth Respondent: | PRIMUS NETWORK (AUSTRALIA) PTY LTD (ACN 109 142 216) |
| Sixteenth Respondent: | PRIMUS TELECOMMUNICATIONS PTY LTD (ACN 071 191 396) |
| Seventeenth Respondent: | PRIMUS TELECOMMUNICATIONS (AUSTRALIA) PTY LTD (ACN 061 754 943) |
| Eighteenth Respondent: | DODO SERVICES PTY LTD (ACN 158 289 331) |
| Nineteenth Respondent: | ENGIN PTY LTD (ACN 080 250 371) |
| Twentieth Respondent: | EFTEL CORPORATE PTY LTD (ACN 154 634 054) |
| Twenty-First Respondent: | EFTEL RETAIL PTY LTD (ACN 092 667 126) |
| Twenty-Second Respondent: | EFTEL WHOLESALE PTY LTD (ACN 123 409 058) |
| Twenty-Third Respondent: | CLUB TELCO PTY LTD (ACN 144 488 620) |
| Twenty-Fourth Respondent: | WHOLESALE COMMUNICATIONS GROUP PTY LTD (ACN 109 626 011) |
| Twenty-Fifth Respondent: | 2TALK PTY LTD (ACN 161 656 499) |
| Twenty-Sixth Respondent: | VOCUS PTY LTD (ACN 127 842 853) |
| Twenty-Seventh Respondent: | AMCOM IP TEL PTY LTD (ACN 065 092 962) |
| Twenty-Eighth Respondent: | AMNET BROADBAND PTY LTD (ACN 092 472 350) |
| Twenty-Ninth Respondent: | NEXTGEN NETWORKS PTY LTD (ACN 094 147 403) |
| Thirtieth Respondent: | TPG INTERNET PTY LTD (ACN 068 383 737) |
| Thirty-First Respondent: | TPG NETWORK PTY LTD (ACN 003 064 328) |
| Thirty-Second Respondent: | FTTB WHOLESALE PTY LTD (ACN 087 533 328) |
| Thirty-Third Respondent: | CHARIOT PTY LTD (ACN 088 377 860) |
| Thirty-Fourth Respondent: | SOUL PATTINSON TELECOMMUNICATIONS PTY LIMITED (ACN 001 726 192) |
| Thirty-Fifth Respondent: | SPT TELECOMMUNICATIONS PTY LIMITED (ACN 099 173 770) |
| Thirty-Sixth Respondent: | SPTCOM PTY LIMITED (ACN 111 578 897) |
| Thirty-Seventh Respondent: | SOUL COMMUNICATIONS PTY LTD (ACN 085 089 970) |
| Thirty-Eighth Respondent: | PIPE NETWORKS PTY LIMITED (ACN 099 104 122) |
| Thirty-Ninth Respondent: | INTRAPOWER TERRESTRIAL PTY LTD (ACN 081 193 259) |
| Fortieth Respondent: | IINET LIMITED (ACN 068 628 937) |
| Forty-First Respondent: | INTERNODE PTY LTD (ACN 82 052 008 581) |
| Forty-Second Respondent: | TRANSACT CAPITAL COMMUNICATIONS PTY LTD (ACN 093 966 888) |
| Forty-Third Respondent: | TRANSACT VICTORIA COMMUNICATIONS PTY LTD (ACN 063 024 475) |
| Forty-Fourth Respondent: | WESTNET PTY LTD (ACN 086 416 908) |
| Forty-Fifth Respondent: | ADAM INTERNET PTY LTD (ACN 055 495 853) |
| Forty-Sixth Respondent: | AAPT LIMITED (ACN 052 082 416) |
| Forty-Seventh Respondent: | REQUEST BROADBAND PTY LTD (ACN 091 530 586) |
| Forty-Eighth Respondent: | VODAFONE HUTCHISON AUSTRALIA PTY LIMITED (ACN 096 304 620) |
| Forty-Ninth Respondent: | VODAFONE NETWORK PTY LIMITED (ACN 081 918 461) |
| Fiftieth Respondent: | VODAFONE PTY LIMITED (ACN 062 954 554) |