

sg

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION (L) NO.1106 OF 2015

IN

SUIT (L) NO.373 OF 2015

Indian Independent Filmmakers Worldwide Association ...Plaintiff

vs

YOU TUBE LLC And Anr.

...Defendants.

.....
Ms. L.M. Jenkins, i/b. Jurisperitus Mumbai, for the Plaintiff.

.....
CORAM : S.C. GUPTA, J.

DATED : 21 APRIL, 2015

P.C. :

The present suit is a copyright infringement action. The Plaintiff is an association of independent film makers formed with the object of promoting, supporting and nurturing independent cinema by filmmakers of Indian origin anywhere in the world. It is the case of the Plaintiff that in or around 2010, the Plaintiff brought out a concept of a **not for profit** project, the “**IIFW MASTERCLASS**” as an initiative to share knowledge acquired by reputed film makers over their professional journeys with aspiring filmmakers and film enthusiasts. The first season of the “**IIFW MASTERCLASS**” was accordingly **video recorded** and thereafter televised as a “**cinematographic film**” on the TV channel of **National Geographic**. The broadcast was repeated successfully during the year. It is the case of the Plaintiff that the Plaintiff thereafter proposed the second season of “**IIFW MASTERCLASS**”. This second season was to be conducted by reputed film directors, including Raju Hirani and Mr. Sudhir Mishra. As in the case of the first “**MASTERCLASS**” even this “**MASTERCLASS**” was

recorded as a **“cinematographic film”** professionally using multi camera set up, high-end technical equipment and top film industry professionals and technical crew members. Accordingly, the Plaintiff tied up with several advertisers, producers and TV channels, etc. for broadcast of the second season of **“IIFW MASTERCLASS”**. The Plaintiff has produced with the plaintiff a permission granted to the Plaintiff by the Federation of Indian Chambers of Commerce & Industry (FICCI), under whose auspices the **“MASTERCLASS”** was conducted, to exclusively record the **“MASTERCLASS”** session held on 26 March 2015. FICCI has confirmed that no filming or broadcasting by any other person or entity shall be permitted during the session of **“IIFW MASTERCLASS”**. It is the case of the Plaintiff that after about a week of the **“MASTERCLASS”**, the Plaintiff was shocked to find an infringing recording of the first debut interview of Season 2 of **“IIFW MASTERCLASS”** launched at **“FICCI FRAMES” 2015** uploaded and broadcasted all over the YouTube website under a title **“Sudhir Mishra & Rajkumar Hirani|Curtain Raiser of FICCI Frame 2015”**. The YouTube website is owned by YouTube LLC, a Delaware Limited Liability Company operating from California. It has his corporate office at Gurgaon in India and also an office at Mumbai. A notice of this application was duly served on both the addresses of Defendant No.1 in India. YouTube LLC is claimed to be a wholly owned and controlled subsidiary of Google Inc., who is also arraigned as a defendant to the present suit. It is the grievance of the Plaintiff that the platform 'YouTube' made available by the Defendant for sharing of cinematographic content has been currently showing the entire recording of the first episode of Season 2 of **“IIFW MASTERCLASS”**, which was recorded at FICCI Frames 2015, and which is a cinematographic content in which the Plaintiff alone owns a copyright.

2. In spite of notice issued to the Defendant, the Defendant is absent and does not show cause. Learned Counsel for the Plaintiff has produced for the perusal of the Court the notices issued to the Defendant together with the postal delivery record. Learned Counsel undertakes to file an affidavit of service within a period of one week from today.

3. On these facts a *prima-facie* case of copyright infringement is made out by the Plaintiff. There is no cause shown to the relief claimed by way of ad-interim relief in the present Notice of Motion by the Defendants. In the premises, there will be an ad-interim relief in terms of prayer clauses (a) and (b) against the Defendants, which are quoted below :-

“(a) Pending the hearing and final disposal of the suit the defendants herein, and by themselves, their content partners/providers, associates, clients, representatives, successors in business, assignees distributors, agents or any one claiming through or under them be and be restrained by an order of interlocutory injunction to cease and desist from exhibiting, communicating, distributing, storing, caching, transmitting in any manner the infringing cinematographic film which is an infringement of the plaintiffs copyright in the cinematographic film;

(b) Pending the hearing and final disposal the defendants herein, and by themselves, their content partners/providers, associates, clients, representatives, successors in business, assignees distributors, agents or any one claiming through them be and be restrained by an order of interlocutory injunction to expeditiously remove and/or block any and all references to materials and content which fall within the

Plaintiff's copyrights, and any stored, cached or embedded copies of links which will enable copyright infringement of the plaintiffs content. ”

4. Let a Court notice be issued to the Defendants returnable on 7 May 2015. The Plaintiff is also permitted to issue a private notice and file an affidavit of service by the next date. Stand over to 7 May 2015 for further ad-interim reliefs.

(S.C. GUPTE, J.)