

## **A critical analysis of John Doe or Ashok Kumar Orders**

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### **Abstract**

*John Doe (male) or Jane Doe (female) or Ashok Kumar orders relay on the principle of prevention is better than cure. These orders are passed against the unknown or stranger people for the act that they would be allegedly committing or has already committed. It is the Blanket order that is passed by the Courts. Intellectual property is a valuable intangible asset. Names either individual name or trade name is a form of intellectual property; Anton Pillar Orders play a vital role in protection of Intellectual property against identify infringers and Jon Doe or Ashok Kumar against unidentified infringers of the Intellectual property. This paper analyses the origin and application of the John Doe or Ashok Kumar Order in India.*

### **Keywords**

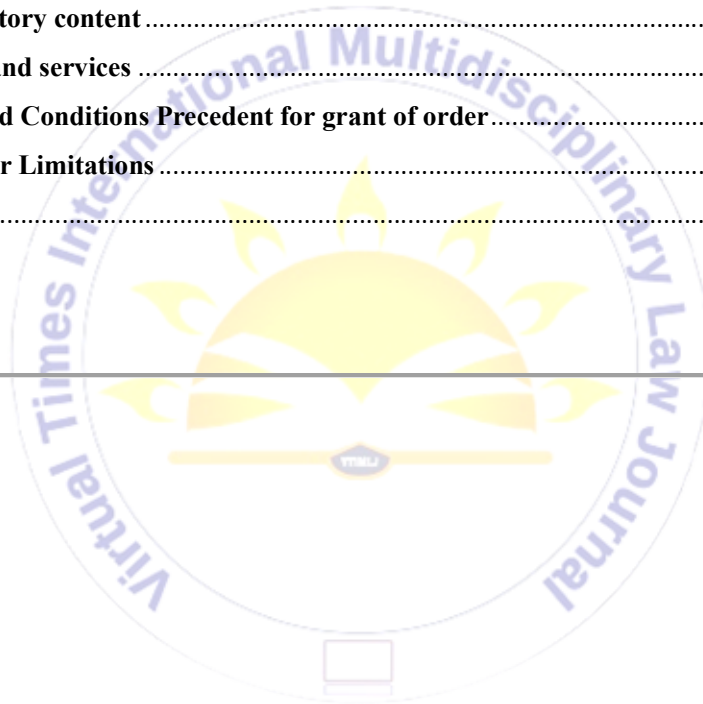
*John Doe orders; Jane Doe Orders; Ashok Kumar Order; Intellectual Property; Infringement of Intellectual Property*

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## 1. Introduction

“Quia Timet John Doe Order” is the legal maxim that is applicable here. “Quia Timet” means “because he fears” and “John Doe Order” refers to injunction that is granted against unknown people. The maxim means injunction granted by a Court where complainant fears that his rights will be infringed by the unknown party and hence protection will be issued against unidentified individual.

Courts may pass John Doe or Jane Doe or Ashok Kumar orders (hereinafter referred as order) against the strangers or unidentified people. The primary objective of the order is to avoid delay of administration of justice. The court while passing these orders believes that immediate relief is required and no undue time will be spent on finding the defendant or finding defendant will take a lot a time.

Unknown defendants are referred as John Doe and female version is Jane Doe. Oxford dictionary defines the term as an Anonymous Party. The Indian version of the same is Ashok Kumar. The reason behind the nomenclature is untraced till date.

This order is dynamic; hence it is applicable at all circumstances where the wrongdoer is unidentified. However, it to be noted that that circumstances are not identical hence the court should apply its discretion in awarding the order. It is important for the courts to balance the protection of rights of both parties and upholding the principles of justice.

## 2. Origin and Development

Initially Anton Pillar Orders were passed. This authorized plaintiff to enter into the premises and seize evidence of the infringement from the infringers. It is a form of discovery right given to the complainant so that the infringer could be stopped from committing an unlawful activity. This was first passed by the English Court to prevent the destruction of the evidence<sup>2</sup>. However, this was applicable only in the case of known infringers. The issue of the action against

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<sup>2</sup> Anton Piller KG v. Manufacturing Process Ltd, Daniel S. Drapeau and Michel W. Drapeau, The Taming of John Doe by Federal Courts of Canada, 17 C.I.P.R 545, [1976] 1 All E.R. 55 (C.A.)

unknown infringers was not still addressed. This led to the legal innovation of the John Doe Orders.

This was issued for the first time by England's King Edward III. Later this was adopted by United States and Canadian Courts. Eventually Indian Courts adopted it and named it as Ashok Kumar orders.

Joh Doe order was first passed in India by Delhi High Court in the case of Taj Television case<sup>3</sup> where unlicensed cable operators were restricted from broadcasting the FIFA World Cup 2002. It was held that they were illegally transmitting the Plaintiffs channel and hence resulted in the infringement of rights.

Madras High Court passed first ever Ashok Kumar order in R.K. Production v. BSNL and others<sup>4</sup>. The plaintiff claims that they are the producer of Tamil Film "3" which features the popular "Kolaveri-Di" and is scheduled to release in few days and is expected to be super hit movie. Henceforth, the plaintiff claims that there will be large scale piracy of the movie over the internet therefore they are seeking John Doe order. Considering all of these factors, the Madras High Court passed this order and published it in the newspaper. The permanent injunction restrained the defendants and any unknown persons including anyone acting on their behalf from infringing the copyright of the plaintiff by copying, recording, reproducing, displaying, uploading and other modes. The injunction also restricts the medium of CDs, DVDs, Cabel TV, internet services, pen drive, hard drive and other related modes.

### 3. Indian Laws on John Doe or Ashok Kumar Orders

In India, there is no defined or specific statutory law which exclusively speaks about Ashok Kumar Orders. These orders are of specific nature that is issued against the unidentified defendants, restrain them from doing a certain act. The order is issued both against unidentified violators and potential unidentified violators to protect the interest of the complainant.

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<sup>3</sup> Taj Television v. Rajan Mandal (2003) FSR 22

<sup>4</sup> C.S.No 208 of 2012

It is important to note that even the absence of the codified law, the courts rely on judicial precedents and the authority that is provided by the existing laws. The Court draws its authority from Order XXXIX Rule 01 of the Code of Civil Procedure, 1908<sup>5</sup> listed the cases under which temporary injunction may be passed. Order XXXIX Rule 02 of the Code of Civil Procedure, 1908<sup>6</sup> speaks about Injunction to restrain repetition or continue breach. Further, Courts inherit the powers from Section 151 of the Code of Civil Procedure, 1908<sup>7</sup>. The provision states that the Courts inherent power limited or impacted by any provision of the code and Courts are empowered to pass necessary orders for the meeting ends of justice or to prevent misuse of the process of the Court. Part II of the Specific Relief Act, 1963<sup>8</sup> speaks about Specific relief and is divided into Six (06) chapters and Part III speaks about Preventive Relief which is divided into two (02) chapters. Judicial interpretations to a greater extent have shaped the framework for Asoka Kumar orders.

There has been a tremendous judicial innovation in adopting, establishing and executing the legal principles to address the contemporary legal issues. Legislative and Judiciary has incorporated the balance of protection of individual fundamental rights and that of unidentified third parties.

In addition to this the parties can take shelter in other laws including but not limited to Information Technology Act, 2000<sup>9</sup>, The Patents Act, 1970<sup>10</sup>, The Copyright Act, 1957<sup>11</sup>, The Trade Marks Act, 1999<sup>12</sup>, The Designs Act, 2000<sup>13</sup>, The Geographical Indications of Goods (Registration and Protection) Act, 1999<sup>14</sup>, The Protection of Plant Varieties and Farmers'

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<sup>5</sup> Act No. 5 OF 1908

<sup>6</sup> Ibid

<sup>7</sup> Ibid

<sup>8</sup> Act No. 47 OF 1963

<sup>9</sup> No. 21 OF 2000

<sup>10</sup> Act No. 39, of 1970

<sup>11</sup> Act No. 14 of 1957

<sup>12</sup> Act No. 47 of 1999

<sup>13</sup> Act No. 16 of 2000

<sup>14</sup> Act No. 48 Of 1999

Rights Act, 2001<sup>15</sup>, The Semiconductor Integrated Circuits Layout-Design Act, 2000<sup>16</sup>, The Biological Diversity Act, 2002<sup>17</sup>, The Customs Act, 1962<sup>18</sup>.

#### **4. Applicability of John Doe or Jane Doe or Ashok Kumar Orders**

The scope of this order is vast and covers areas including but not limited to movies, books and sports events. These orders are important in the modern legal system and offers great tool to uphold justice when the violators are not identified or determined. This order offers flexibility and adopts itself to multiple domains. It also expands to both Offline and online environments.

##### **4.1. Entertainment Industry**

This order play a significant role in combating piracy. This order can be issued to get protection against unauthorized recording, telecast or streaming of movies and other activities. This along with intellectual property, protects financial interest as well. This blanket order covers the unidentified individuals also ensuing the commercial and creative efforts of the stakeholders are protected.

In Fox Star Studios India Ltd case<sup>19</sup>, the High Court of Delhi has blocked 72 rogue websites that has or may have pirated version of the movie Bang Bang resulting in the copyright infringement. Further in Fox Star Studios India Pvt. Ltd and Anr v.s Speed Play & Ors<sup>20</sup>, 105 websites were blocked as a precautionary action against online piracy of the movie “Prem Ratan Dhan Payo” which was scheduled to be released. Fox Star Studios India Ltd and anr v. Macpuler Willian & ors<sup>21</sup>, rouge websites were blocked to protect the infringement of copyright of the film “Bombay Velvet” by Delhi High Court. In Balaji Motion Pictures Limited v/s

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<sup>15</sup> Act No. 53 of 2001

<sup>16</sup> Act No. 37 of 2000

<sup>17</sup> Act No. 18 of 2002

<sup>18</sup> Act No. 52 of 1962

<sup>19</sup> Fox Star Studios India Ltd v. John Ceedge & Ors, CS (OS) No.2975/2014

<sup>20</sup> CS (OS) 3271/2015

<sup>21</sup> CS (OS) 1299/2015

www.1337.yootorrent.com & ors<sup>22</sup>, Delhi High Court restrained about 239 websites from communicating, distributing, duplicating, displaying, uploading, downloading, exhibiting the movie “Kya Kool Hai Hum 3” movie without obtaining license from the plaintiff that is owner of the copyright.

In Singham<sup>23</sup> movie though there was no actual infringement of the movie made, there was an apprehension that it could be done. The complainant was able to establish prima facie case, impending injury and balance of convenience. On this ground Delhi High Court passed Ashok Kumar/ John Doe orders.

To quote movies including but not limited to Veerapan<sup>24</sup>, Uda Punjab<sup>25</sup>, Padmaavat<sup>26</sup>, Padman<sup>27</sup>, Pari<sup>28</sup>, Seema raj<sup>29</sup>, Don 2<sup>30</sup>, Azhar<sup>31</sup>, Piku<sup>32</sup>, Flying Jatt<sup>33</sup>, Great Grand Masti<sup>34</sup>, Happy New Year<sup>35</sup>, Body Guard<sup>36</sup> were successfully in obtaining this Order.

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<sup>22</sup> CS (COMM) 38/2016

<sup>23</sup> Reliance Big Entertainment v. Multivision Network and Ors., I.A. No. 11242/2011 in CS(OS) No. 1724/2011

<sup>24</sup> Viking Media and Entertainment Pvt Ltd v BSNL Suit (L) No.575 /2016.

<sup>25</sup> Balaji Motion Picture Limited & Anr v Bharat Sanchar Nigam Limited & 49 Ors Notice of motion (L) NO.1783 of 2016 in SUIT (L) NO.633 of 2016

<sup>26</sup> Viacom 18 Media Pvt Ltd v BSNL OA No. 66 of 2018 in CS No. 56 of 2018

<sup>27</sup> SPE Films v BSNL & Ors OA No. 114 of 2018 in CS No. 90 of 2018

<sup>28</sup> Kriarj Entertainment Pvt Ltd v BSNL and Ors CS No.137 of 2018

<sup>29</sup> O.A.No.849 of 2018 in CS No 633 of 2018

<sup>30</sup> Reliance Big Entertainment Pvt. Ltd.v. Multivision Network and Ors .CS(OS) 3207/2011

<sup>31</sup> Sony Pictures Network India Pvt Ltd v www.Vimeo.com & Ors CS(COMM)523/2016

<sup>32</sup> Multiscreen media Pvt Ltd v www.vimeo.com & Ors CS(OS) 1230/2015

<sup>33</sup> OA No.716-718/2016 in CS NO.590/2016

<sup>34</sup> Balaji Motion Pictures Ltd. & Anr. v. Bharat Sanchar Nigam Ltd. & Ors., Notice of Motion (L) No. 1940 of 2016 in Suit (L) No. 694 of 2016, order dated July 4, 2016 (Bom. HC).

<sup>35</sup> Red Chillies Entertainments Private Limited v. Hathway Cable & Datacom Limited, Suit (L) No. 993 of 2014, order dated Oct. 14, 2014 (Bom. HC), reported as MANU/MH/1884/2014.

<sup>36</sup> Reliance Big Entertainment Pvt. Ltd. v. Jyoti Cable Network & Ors., C.S. (O.S.) No. 2066 of 2011, order dated Aug. 26, 2011 (Del. HC).



## 4.2. Arts Industry

This order is applicable in the Arts industry. It shall help to curb the menace of unauthorized reproduction, illegal photocopying, online piracy, sale or distribution of Art work. All these activities are eminent threat to the creators.

In Rahul Mishra case<sup>37</sup>, Delhi High Court passed John Doe/Ashok Kumar Order to protect the copyright and registered trademarks of the fashion designer Rahul Mishra. Interim injunction was granted to prevent manufacture, sale, distribution and advertisement of the counterfeit dresses of Plaintiffs original design.

## 4.3. Sports Industry

Sports events fall under the trap of unauthorized live streaming or broadcasting. The Broadcasting rights are procured after paying a huge amount of consideration and these illegal activities negatively impact the revenue generated. Hence John Doe orders can provide protection from the unknown or unidentified individuals ensuing protection of copyrights and broadcasting rights.

The Delhi High Court in Star India Pvt Ltd case<sup>38</sup>, with reference to broadcasting of India-England Series 2014 has ordered to block 107 websites. In Star India Pvt Ltd v. Roy Ma<sup>39</sup>, 75 websites were blocked as they were broadcasting the India Srilanka Cricket Series 2014. In Star India v. Sujit Jha and Ors<sup>40</sup>, 73 websites were blocked by Delhi High Court in the pretet of broadcast of India Australia Cricket Series. In Star India Pvt. Ltd. V. Khalid Nasir Raja and Ors<sup>41</sup>, the court orders for blocking websites from live broadcasting ICC world Cup 2015.

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<sup>37</sup> Rahul Mishra v. John Doe, CS(COMM) 1194/2024

<sup>38</sup> Star India Pvt Ltd v. Haneeth Ujjawal , CS (OS) 2243/2014

<sup>39</sup> CS (OS) 3319/2014

<sup>40</sup> CS (OS) 3702/2014

<sup>41</sup> CS (OS) 696/2015



In Viacom 18 Media Private Limited v. B.S.N.L and others<sup>42</sup>, High Court of Madras issued a permanent injunction from broadcasting/communicating, telecasting, transmitting the event “Diamond League” including update on the live score, play-by-play, commentary both via verbal and written mode through any kind of platform. In Viacom 18 Media Private Limited v. BSNL and others<sup>43</sup>, blocked the existing websites and future websites which were and/or will be infringing the event “Laliga Premire Spanish Football League”. The permanent injunction also covered transmitting information about game, footages, audio-video clips, images and other related intellectual property that will be shared via CDs, DVDs, Hard Drives and other manner.

#### 4.4. Personality rights

Personality rights include an individual’s name, image, likeness, voice, body language and other factors which helps to relate to him or identify him. Public figures often become victim of the impersonation due to their brand value. This order helps these people to protect their identity and ensure they are not being exploited for commercial purposes or financial gains.

Personality rights, right to publicity and other rights of Amitabh Bachan, senior Bollywood actor was protected by Delhi High Court under Amitabh Bachna v. Rajat Negi and ors<sup>44</sup>. This order was issued by the court as fake Kaun Banega Corerepathi game show was being done at a large scale, causing financial harm to the copyright holder as well as the general public.

#### 4.5. Real Estate Industry

The John Doe/Ashok Orders are applicable not just on intangible property but can be extended to intangible property as well. These orders can be passed at instances where unknown individuals have encroached or caused damages to the property. This will provide immediate relief and safeguard the plaintiff property rights. It shall also help to evade the potential harm that would be caused by the unidentified wrongdoer.

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<sup>42</sup> C.S.(Comm.Div.)No.163 of 2022 and O.A.Nos.488 to 490 of 2022

<sup>43</sup> C.S(Comm. Div.).No.215 of 2022 and O.A.Nos.654 to 656 of 2022

<sup>44</sup> CS(COMM) 819/2022

The Karnataka High Court protected the legal rights of the Kerala Woman settled in Bengaluru by issuing John Doe orders as an interim injunction. The women were allegedly threatened by unknown individuals, they also constructed a compound wall around her property. This created fear in the minds of the women and hence she knocked the doors of the courts. The Karnataka high court, assessing the severity of the situation passed an ex-parte order of temporary injunction against the unidentified respondents<sup>45</sup>. The final disposal of the case is still open before the High Court of Karnataka.

#### 4.6. Defamatory content

In this digital era, spreading of defamatory content by anonymous people is a great threat. This order provide legal recourse to fight against the defamatory publication at social media platforms and other medium of communications. Courts can take action to remove defamatory contents, restricting future actions and also taken down defamatory content.

In Rupali Ganguly v. Esha Verma<sup>46</sup>, The High Court of Bombay held that the statements issued by the step daughter of the plaintiff and publications were per se defamatory. The Court further restrained the Defendant No. 01, her agents, servants or any other person actioning or publishing or enabling the content on her behalf that is John Doe Platforms from publishing defamatory content.

The Social media platforms including but limited to LinkedIn, Meta and others were directed to delete photographs which alleged to be that of Supreme Court Judges, Justice Surya Kant and Justice JB Pardiwala. This picture was clicked in a private event, where guest list included several political leaders. This leads the people framing the Supreme Court Judges as “Communist” and “Naxal groups”. This was defaming the Judges as well judiciary and caused

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<sup>45</sup> MEERA AJITH Vs JOHN DOE ALIAS ASHOK KUMAR MFA 806/2022

<sup>46</sup> Suit (L) 37958 of 2024 with INTERIM APPLICATION (L) NO.38060 OF 2024 IN SUIT (L) NO.37958 OF 2024

irreparable injury to the reputation and good will. On these grounds Dipali Sikand, owner of Mindescapes was successful in obtaining John Doe orders by the Bengaluru Court<sup>47</sup>.

#### 4.7. Goods and services

This Order is boon in goods and services industry as it helps to restrict counterfeiting and unauthorized distribution. These acts result in damaging brand reputation along with financial losses. The interest of the legitimate businesses will be upheld because of these orders. The consumers also will be protected from the duplicate products or services.

In Pidilite Industries Limited v. John Doe (s)/Ashok Kumar (s) and others<sup>48</sup>, the plaintiff pleaded injunction against the infringement of trademarks, counterfeit goods, unfair competition. Order was passed against defendants restricting them from unauthorized manufacture, sale and distribution of counterfeit products. Local Commissioner was formed by the court, who is permitted to inspect the premises of the defendant and seize the products. Fees of Rs.2,00,000/- (Rupees Two Lakhs only) in addition to the out-of-pocket expenses, travel and related expenses.

Delhi High Court restrained manufacturing, selling, stocking or dealing with celebrate under the label or artistic work as of the State Express 555<sup>49</sup>. In Luxottica Group v. Saad Nasim and Others<sup>50</sup>, this order was passed against the unidentified defendants who were manufacturing, selling, distributing the counterfeit products using trademark RAYBAN. In Societe Des Produits Nestles.A & Anr v. Mohd Zahid and Sons & Ors<sup>51</sup>, this order was passed restraining the manufacturing and selling counterfeit of goods using the trademark “NESCAFE”.

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<sup>47</sup> India Legal Live, Karnataka Court Passes John Doe Order on Photograph Defaming 2 Supreme Court Judges, <https://indialegallive.com/constitutional-law-news/courts-news/karnataka-court-passes-john-doe-order-on-photograph-defaming-2-supreme-court-judges/> (last visited Jan. 10, 2025).

<sup>48</sup> CS (COMM) 586/2024

<sup>49</sup> Ardath Tobacco Company Ltd v. Mr Munna Bhai & Ors , CS (OS) 141/2004

<sup>50</sup> Luxottica Group S.P.A. & Anr. v. Saad Nasim & Ors., C.S. (O.S.) No. 688 of 2010, order dated Apr. 16, 2010 (Del. HC).

<sup>51</sup> CS(COMM) 271/2018 & I.As. 23635/2014, 6301/2023, 18020/2023 & 24616/2023

In Sandisk Corporation case<sup>52</sup>, the Delhi High Court passed this order and restricted the sale, manufacture and distribution of Counterfeit product with the trademark of Sandisk or same logo and/or packaging used by the plaintiff.

## **5. Essentials and Conditions Precedent for grant of order**

Complainant has to make full disclosure, prove existence of rights, previous instances of breach and anticipated infringement at the large scale. Prima Facie case should be established before seeking the pre-emptive relief. The plaintiff should prove beyond reasonable doubt that they have legal and genuine claim.

Bombay High Court set forth guidelines for issue and implementation of this Order. It stated that the copyright holder should be providing illicit prior links prior to requesting their blocking via notarised affidavit and same shall be verified by a neutral third party. The ISP should be displayed in the landing page of website wherein facts of case, details of copyright holder and reason for the blocking shall be mentioned. The parties will be provided an opportunity to appear before court by serving notice. Moving ahead court also stated that the Ban will be valid only upto the period of 21 dates and after this said tenure the copyright holder shall approach court requesting further extension of ban<sup>53</sup>.

In UTV Software communications Limited Case<sup>54</sup> it was held that even though the pirated version of the movie “7 Khoon Maaf” and “Thank you” was telecasted only once it reached vast population, hence it is sufficient to pass Ashok Kumar order. The judgement further directed the SHO/Superintendent to offer assistance to plaintiff if any required by him. The Court also permitted the plaintiff to release official publication of the John Doe injunction in the newspapers.

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<sup>52</sup> Sandisk Corporation v. Ramjee & Ors, CS(OS) 3205/2014

<sup>53</sup> Eros International and Anr v. BSNL & others, CS(OS) No 2315/2016

<sup>54</sup> UTV Software communications Limited v. Home Cable Network Ltd and others, CS(OS) No. 821/2011

Delhi High Court granted an order to block Seventy-Three (73) websites as they were “likely” to infringe the copyrighted works<sup>55</sup>, Contrary to this the Madras High Court stated that only mentioned Uniform Resource Locators also known as URLs shall be blocked. The responsibility of identifying such website was pushed to the Sholders of the copyright owners<sup>56</sup>.

In a leading case<sup>57</sup>, Viacom 18 Media Private Limited owns exclusive media rights relating to sports events organised by BCCI for the tenure of five years from 2023 to 2027 vide Media Rights Agreements dated 27<sup>th</sup> June 2022 executed between these two parties. The plaintiff claims that to protect their rights it is important to block the rouge websites telecasting pirated content and also alarm about the mirror websites. The plaintiff also claims that it is a time sensitive matter and hence seeks for a Dynamic Injunction so that they can act immediately. This is important as the plaintiff has procedure these rights by investing a huge amount. The Delhi High Court opined that the Plaintiff has established prima facie case and balance of convenience is in their favour. Considering that fact that the IPL matches are for a brief duration, it is important to act immediately to prevent financial losses or irreparable breach. The court orders the defendants that is Domian Name registrars, ISPs/Telecom Service providers to block the websites that are listed. Plaintiff are at liberty to report the websites infringing their copyrights to DoT and MeitY for issuing blocking orders and parallely to ISPs, who will block the said website that is in real time basis without any considerable delay. Also, the Delhi High Court, stated that if any website is wrongly blocked for infringing the rights they can approach the court with a request to restoration of the website.

In UTV Software Communication Ltd. And Ors v. 1337 and ors<sup>58</sup>, the court analysed the website blocking in various countries. The Learned Amicus Curiae Mr Hemanth Singh opined that it is predominantly important for the court to decide if the website falls under the category of the Flagrantly Infringing Online Locations (FOIL)<sup>59</sup>. He further stated that though the

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<sup>55</sup> Star India Pvt. Ltd v. Sujit Jha, CS (OS) 3702/2014

<sup>56</sup> R K Productions v. BSNL , C.S.No. 208 of 2012

<sup>57</sup> Viacom 18 Media Private Limited v. John Doe and others, CS(COMM) 254/2024

<sup>58</sup> CS(COMM) 724/2017 & I.As. 12269/2017, 12271/2017, 6985/2018, 8949/2018 AND 16781/2018

<sup>59</sup> Websites that share illegal or infringed contents as defined in Para 2 of Order dated 29.07.2016 in DEITY Vs. Star India Pvt. Ltd, FAO (OS) 57/2015

website is blocked, the visitors are redirected to the mirror website wherein pirated contents are available. He further explained about the technical aspects and functioning of the websites. In this case learned counsel for DoT, MEITY and ISPs did not submit any documents but however acknowledged that they would be abode by the orders passed by the court. The court considering the damage that digital piracy is causing on the film industry opined that it is important to invoke the powers of the court to protect the rights of the plaintiff. Further in this case, the court answered highlighted the below facts:

- i. Copyright infringer in digital mode be need not be treated different from physical copyright infringer. The Court opined that the laws governing copyright does not call out any such differentiation, hence there is no grounds for this distinguishment.
- ii. Blocking website with pirated content doesn't breach the internet freedom. It is a reasonable restriction on the illegal content and hence does not infringe any rights. It draws boundiries for providing safe and legal content.
- iii. A website to be considered as FIOL/Rouge website should satisfy the below test:
  - a. The primary objective of the website is to commit copyright infringement.
  - b. The owner or registrant of the website is not traceable.
  - c. There is silence or inaction even after receipt of notice to take down the infringed content.
  - d. The website is facilitating the infringement of the copyright and contain details about the same.
  - e. The owner of website is disregarding the copyright laws.
  - f. There is disablement to the online location by the orders of the court of other country on any grounds or ground related to copyright infringement.
  - g. Notice on website regarding disablement of content or access.
  - h. Any other relevant matter
- iv. The criteria to identify the rogue website is not qualitative but not quantitative. This is because the website may partially post legitimate content and request for upliftment of ban on this ground.
- v. The courts shall also conduct quantitative test inclusive of traffic of website, legitimate contact details and other features, before deciding if it's a rouge website.



- vi. The Court states that blocking rogue website would help to combat the issue of online piracy. The court further opined that partnering with internet companies, domain seizure, prosecuting domain owners and other channels.
- vii. The Court directed MEITY/DOT to frame rules regarding updating illegal content in the website. The court further added that even after notification, if the viewers continue to view fine should be levied on them.

## 6. Drawbacks or Limitations

This order is an important legal remedy but however their misuse is a matter of concern. The broad injunction restricts legitimate websites and then they have to hustle to retain the status of the website. *IPRS v. Mr Badal Dhar Chowdhry*<sup>60</sup> it was held that unclear or broad injunctions should not be issued. Most of the times, this order will be issued to block the entire website. This is an issue as there are several file sharing websites. These file sharing websites do not check the contents that is being shared and end up losing the entire website.

Jurisdiction is another matter of consideration. Online platforms have global reach and enforcement orders. Hence there is gap in the existing laws. This raises alarm for clearer laws and policies to address cross-border issues.

In case of pleading for this order, multiple defendants are clubbed into single one. They are unidentified parties. The courts in this blanket order can lead to unjust actions who are not connected with the violations. These orders do not provide an opportunity to the defendant to be heard or present his case. In addition to this Legal Notice is not shared to the defendant informing the infringement and requesting for actions. This raise questions and concerns regarding fairness and due process established by law.

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<sup>60</sup> CS(OS)1014/2004



## 7. Conclusion

This order is an order that is passed by the Court against world at large, against unknown people. It plays a significant role in protecting the intellectual properties against the unknown infringers.

In this era where digital landscape is evolving at the speed of rocket, legal protection is also gearing up at its best. The best example is Jon Doe / Jane Doe / Ashok Kumar Orders. Digital media primarily followed by globalization has shrilled the scale of business and expanded the horizons of intellectual property infringement. Under this circumstance, it is not possible to track the infringer who is located remotely in some corner of world and also, if possible, it will take ample amount of time. In these cases, time is of the essence and the complaint seeks not just “Remedy” but an “Timely Remedy”.

This order primarily relay on the precedents as they don't find place any codified law. It is high time for the law makers to focus on this method of protection that is provided to the intellectual property owners so that they can knock the doors the justice with a definite manner with justifiable grounds.

The execution of this order is also challenging as there is no dedicated or specific department is allocated by the Government who would be executing the order by blocking and monitoring websites. Ministry of Information Technology is currently complying with the court orders. The department will issue notification about blocking of websites, pursuant to the order of the court. The ministry in its notification also states that if any website is blocked by mistake or they believe that the blocking was error they can reach to the Ministry or to that of the Court. This is a cumbersome and lengthy process.

In the light of above discussions, case laws and observations it can be concluded that it is of paramount importance to codify John Doe Order with a dedicated department for the execution of the court orders.