

Federal Court



Cour fédérale

Date: 20241216

Docket: T-1125-23

Ottawa, Ontario, December 16, 2024

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

**BELL MEDIA INC.
COLUMBIA PICTURES INDUSTRIES, INC.
DISNEY ENTERPRISES, INC.
GET'ER DONE PRODUCTIONS INC.
GET'ER DONE PRODUCTIONS 6 INC.
GET'ER DONE PRODUCTIONS 7 INC.
NETFLIX STUDIOS, LLC
NETFLIX WORLDWIDE ENTERTAINMENT, LLC
PARAMOUNT PICTURES CORPORATION
SPINNER PRODUCTIONS INC.
UNIVERSAL CITY STUDIOS LLC
UNIVERSAL CITY STUDIOS PRODUCTIONS LLLP
WARNER BROS. ENTERTAINMENT INC.**

Plaintiffs

and

**JOHN DOE 1 dba SOAP2DAY.TO et al aka ZHANG YONG
JOHN DOE 2 dba SOAP2DAY.RS
JOHN DOE 3 dba SOAP2DAYX.TO
JOHN DOE 4 dba SOAP2DAY.DAY
AND OTHER UNIDENTIFIED PERSONS WHO OPERATE UNAUTHORIZED
ONLINE TELEVISION AND MOTION PICTURE PIRACY PLATFORMS UNDER
THE BRAND SOAP2DAY**

Defendants

and

**BELL CANADA
BRAGG COMMUNICATIONS INC. dba EASTLINK
COGECO CONNEXION INC.
FIDO SOLUTIONS INC.
ROGERS COMMUNICATIONS CANADA INC.
SASKATCHEWAN TELECOMMUNICATIONS
TEKSAVVY SOLUTIONS INC.
TELUS COMMUNICATIONS INC.
VIDEOTRON LTD.
2251723 ONTARIO INC. dba VMEDIA**

Third Party Respondents

PUBLIC ORDER

UPON the motion made by the Plaintiffs for an Order against the Third Party Respondents pursuant to s 44 of the *Federal Courts Act*, RSC, 1985, c F-7;

AND UPON reading the Plaintiffs' motion record and hearing counsel for the Plaintiffs on December 9, 2024;

AND UPON giving counsel for the Third Party Respondents the opportunity to address the Court on December 9, 2024;

AND CONSIDERING the consent of the Third Party Respondent Bell Canada to the relief sought;

AND CONSIDERING that the Third Party Respondents Bragg Communications Inc dba Eastlink, Cogeco Connexion Inc, Fido Solutions Inc, Rogers Communications Canada Inc,

Saskatchewan Telecommunication, Teksavvy Solutions Inc, Telus Communications Inc, Videotron Ltd and 2251723 Ontario Inc dba VMedia take no position on the Plaintiffs' motion;

AND WITHOUT PREJUDICE to the ability of any Third Party Respondents to seek to stay, vary, or set aside this Order, or to oppose on any basis any other related or similar Order sought by any Plaintiffs or any other party;

AND CONSIDERING the reasons for issuing this Order canvassed at the hearing on December 9, 2024, to be reduced to writing in due course;

AND UPON being satisfied that it is appropriate in all of the circumstances to grant the relief sought;

THIS COURT ORDERS that:

1. In this Order, the "Soap2day Platforms" shall mean:
 - (a) the online piracy platforms operated by the Defendants from the domains, subdomains and IP addresses listed at Schedule 1 of this Order at the time of its issuance; and
 - (b) online piracy platforms that satisfy the following conditions:
 - (i) they satisfy the condition in Confidential Schedule 2 of this Order;

- (ii) they have the sole or predominant purpose of making available and/or communicating to the public by telecommunication motion pictures or television programming without the authorization of the owner of the copyright therein, and which also includes works for which the Plaintiffs own the copyright;
- (iii) they have substantially the same mode of operation as the online piracy platforms mentioned at paragraph 1((a)) of the Order;
- (iv) representatives from the Plaintiffs have confirmed that, as far as they are aware, no consent or licence has been granted by the Plaintiffs to the operator of the platform;
- (v) the platform can be accessed by users in Canada;
- (vi) where the platform has disclosed a means of contact, the Plaintiffs or their agents have sent a notice of infringement to the operator of the platform, which notice explains the infringements of copyright alleged by the Plaintiffs and their intention to take enforcement action should those activities not cease; and
- (vii) the platform continues to operate and the operator has taken no steps, within seven (7) days of the date of notice, to address the matters identified in the notice of infringement.

2. Within ten (10) business days of the issuance of this Order, the Third Party Respondents shall block or attempt to block access by at least their residential wireline Internet service customers to the Soap2day Platforms by blocking or attempting to block access to all of the domains, subdomains and IP addresses identified in Schedule 1 to this Order.
3. If the Plaintiffs are made aware of any other domain, subdomain or IP address that has as its sole or predominant purpose to enable or facilitate access to a Soap2day Platforms:
 - (a) the Plaintiffs may serve and file a proposed amended Schedule 1 together with an affidavit that may be limited to:
 - (i) stating that the Soap2day Platform(s) subject to the amended Schedule 1 meet the conditions set out at paragraph 1 above;
 - (ii) identifying the additional domain(s), subdomain(s) or IP address(es) associated with the Soap2day Platform(s) subject to the amended Schedule 1;
 - (iii) stating that such additional domain, subdomain and/or IP address have as their sole or predominant purpose to enable or facilitate access to a Soap2day Platform(s), and that any additional IP address is not associated with any other active domain or subdomain that

provides access to a service or website other than a Soap2day Platform;

- (iv) proposing to supplement Schedule 1 to this Order to include such additional domain, subdomain, and/or IP address;
- (b) any Third Party Respondent may bring a motion to object to the additional proposed domain, subdomain and IP address by serving and filing a motion record within ten (10) business days of service of the Plaintiffs' affidavit and proposed amended Schedule 1; in the event that such a motion record is filed, the Third Party Respondents shall not be ordered to block or attempt to block the domains, subdomains or IP addresses that are the subject of the motion until the motion is decided or the Court orders otherwise;
- (c) if no Third Party Respondent brings a motion to object within ten (10) business days in accordance with paragraph 3((b)) of this Order, the Court may grant the Order without further proceedings; and
- (d) the Plaintiffs' affidavit and proposed amended Schedule 1 shall be accepted for filing as confidential, and be treated as confidential by the Third Party Respondents until ten (10) business days following the date of any Order that is final and determinative of a proposal to amend pursuant to paragraph 3 of this Order.

4. The Third Party Respondents have no obligation to verify whether the Plaintiffs' updates to Schedule 1 to this Order are correct, and are wholly reliant on the Plaintiffs accurately identifying the domains, subdomains or IP addresses associated with the Soap2day Platform(s).
5. If and once they become or are made aware of the following situations, the Plaintiffs must notify the Third Party Respondents as soon as reasonably practicable that:
 - (a) any domain, subdomain or IP address contained in Schedule 1 to this Order (as updated) no longer has the sole or predominant purpose of enabling or facilitating access to a Soap2day Platform, in which case the Plaintiffs shall provide to the Third Party Respondents and file with the Court an updated Schedule 1 removing said domain, subdomain or IP address, and the Third Party Respondents shall no longer be required to block or attempt to block access to said domain, subdomain or IP address; and
 - (b) any IP address contained in Schedule 1 to this Order (as updated) hosts one or more active website(s) other than a Soap2day Platform, in which case the Third Party Respondents shall no longer be required to block or attempt to block access to said IP address.
6. Notices and service of documents under this Order may be made by the Plaintiffs, the Third Party Respondents and their agents to one another by electronic means at

the addresses determined and agreed upon by them. Service and filing of documents pursuant to paragraph 3 of this Order may be made no more frequently than every ten (10) business days.

7. The Internet Service customers of the Third Party Respondent will be notified through the following mechanism:

- (a) the Plaintiff shall post this Order, as well as an explanation of the purpose of the Order, on a separate website domain [Notification Website] that will also make the following information immediately available:

- (i) that access has been blocked by this Order;

- (ii) the identity of the Plaintiff and the Federal Court File for this matter and contact information of the Plaintiff or its counsel;

- (iii) a statement to the effect that the operators of the Soap2day Platforms (*i.e.*, the John Doe Defendants), any third party who claims to be affected by this Order, and any internet service customer affected by the Order, may apply to the Court to discharge or vary the Order pursuant to paragraph 12 below; and

- (b) where an Internet Service customer has access to a domain blocked by a Third Party Respondent pursuant to this Order, to the extent practicable, the

Third Party Respondent shall set up the DNS blocking, DNS re-routing or an alternative or equivalent technical means, to redirect the internet service customer to the Notification Website; and

(c) the Plaintiff shall notify the Third Party Respondents of any changes to the domain or website address of the Notification Website as soon as reasonably practicable.

8. A Third Party Respondent will be deemed to have complied with paragraph 2 of this Order or with an Order issued pursuant to paragraph 3 if it uses the technical means set out in Schedule 3 to this Order, or alternative or equivalent technical means, provided that the Third Party Respondent notifies to the Plaintiffs of the change.
9. If a Third Party Respondent, in complying with this Order, is unable to implement one of the steps referred to in Schedule 3 of this Order, that Third Party Respondent must, within ten (10) business days of the issuance of this Order or of the issuance of an Order referred to in paragraph 3, or of being first made aware that it is unable to implement blocking, as applicable, notify the Plaintiffs of the step or steps it has taken and why it could not comply with the Order. The Plaintiffs shall treat any information received pursuant to this paragraph confidentially and shall use it solely for the purpose of monitoring compliance with this Order.

10. A Third Party Respondent shall not be in breach of this Order if it temporarily suspends, for no longer than is reasonably necessary, its compliance with paragraph 2 of this Order or an Order issued pursuant to paragraph 3, in whole or in part, when such suspension is reasonably necessary to:
- (a) correct or investigate potential over-blocking that is caused or suspected to be caused by the steps taken pursuant to paragraph 2 of this Order or an Order issued pursuant to paragraph 3;
 - (b) maintain the integrity or quality of its Internet services or the functioning of its blocking system(s);
 - (c) upgrade, troubleshoot or maintain its Internet services or blocking system(s), including as a result of technical or capacity limitations of its blocking system(s);
 - (d) prevent or respond to an actual or potential security threat to its network or systems; provided that the Third Party Respondent (i) gives notice to the Plaintiffs during or following such suspension and provides the reason for such suspension and an estimate of its duration, or (ii) if the suspension does not last longer than 48 hours, uses commercially reasonable efforts to maintain a record of the suspension and provides that record to the Plaintiffs upon request. The Plaintiffs shall treat any information received pursuant to

this paragraph confidentially and shall use it solely for the purposes of monitoring and ensuring compliance with this Order.

11. For greater certainty a Third Party Respondent may hold a reasonable portion of its capacity to implement DNS blocking in reserve, if it deems it necessary to do so, in order to be able to respond to threats to its subscribers and to maintain the integrity of its network and services. Any such measure must be justified with reference to the network capacity used for similar purposes within the 12 months preceding this Order.
12. The operator(s) of any Soap2day Platform, the operators of any other website who claim to be affected by this Order, and any Internet service customer of the Third Party Respondents affected by the Order, may bring a motion to seek a variation of this Order insofar as this Order affects their ability to access or distribute non-infringing content by serving and filing a motion record within thirty (30) days of the first occurrence of the event that allegedly affects them and that results from this Order.
13. The Plaintiffs shall indemnify and save harmless the Third Party Respondents for:
 - (a) the reasonable marginal cost of implementing paragraphs 2 and 7 of this Order and updating the implementation of this Order pursuant to paragraphs 3 and 5 of this Order;

- (b) any reasonably incurred loss, liability, obligation, claim, damages, costs (including defence costs), or expenses resulting from a third party complaint, demand, action, claim, application or similar proceeding whether administrative, judicial, or quasi-judicial in nature, in respect of the Third Party Respondents as a result of their compliance with the Order; and
- (c) for certainty, the scope of the Plaintiffs' indemnification obligations set out in this paragraph is limited to the circumstances of this proceeding, and this paragraph of the Order is specifically without prejudice to the ability of the Third Party Respondents, Plaintiffs or any other party to seek indemnification obligations of a different scope in other cases or proceedings.

14. With respect to the costs referenced in paragraph (a)) of this Order:

- (a) the Third Party Respondents shall provide the Plaintiffs with an invoice setting out the claimed cost elements and the total costs claimed after having complied with one or more terms of this Order;
- (b) the Plaintiffs shall pay the invoice within thirty (30) days of receipt unless a disagreement as to its reasonableness must be resolved under paragraph 14((c)); and
- (c) in the event that the Plaintiffs and Third Party Respondents disagree as to the reasonableness of the invoice, the parties are encouraged to attempt to

amicably resolve their disagreement; if required, the parties may bring a motion to settle this issue.

15. This Order shall terminate two (2) years from the date of issuance, unless the Court orders otherwise.
16. All without prejudice to the ability of any Third Party Respondents to subsequently seek to stay, vary, or set aside this Order or to oppose on any basis any other related or similar Order sought by any Plaintiffs or any other party.
17. No costs are awarded.

"Simon Fothergill"
Judge

Schedule 1 – Soap2day Platforms

Domains to be blocked	Subdomains to be blocked	IP addresses to be blocked
soap2day.day		
soap2day.pe		

Confidential Schedule 2 – Condition for blocking under paragraph Error! Reference source
not found. **of the Order**

Schedule 3 – Technical Means

1. For domains identified in Schedule 1 (as updated): DNS blocking, or alternatively DNS rerouting to comply with paragraph 7 of the Order.
2. For domains, subdomains or specific paths identified in Schedule 1 (as updated): DNS blocking or DNS re-routing or, at a Third Party Respondent's election, URL path blocking, to the extent that the Third Party Respondent's existing technical infrastructure allows this blocking method. For certainty:
 - a. for domains and subdomains identified in Schedule 1 (as updated), the Third Party Respondents do not need to implement URL path blocking if they implement DNS blocking or DNS re-routing in accordance with paragraph 1 of this Schedule 2.
 - b. no Third Party Respondent shall be required to acquire the hardware and software necessary to put in place or upgrade URL path blocking.
3. For the IP addresses identified in Schedule 1 (as updated): IP address blocking, or alternatively IP address re-routing. For certainty, IP address blocking, or IP address re-routing shall only be required to block IP addresses in respect of which the Plaintiffs or their agents notify the Third Party Respondents that, to the best of their knowledge, the server associated with the notified IP address does not also host an active website other than the Soap2day Platforms.