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STAR INDIA PVT. LTD. V. MOVIESTRUNK.COM & ORS. (2020)**DELHI HC****Batchu Venkata Sai Lokesh¹****Introduction**

This case commentary aims to analyse the landmark decision of the Delhi High Court in *Star India Pvt. Ltd. v. Moviestrunk.com & Ors.*, which dealt with the issue of online copyright infringement in India. The case underscores the importance of protecting intellectual property rights in the digital age and sets a legal precedent for future cases involving online piracy and copyright infringement.

I. Background and Facts of the Case

In 2020, Star India Pvt. Ltd., a leading Indian media and entertainment company, filed a suit against Moviestrunk.com and several other defendants for copyright infringement. The plaintiff alleged that the defendants were operating websites that facilitated the unauthorized streaming and downloading of copyrighted television shows and movies, which were exclusively licensed to Star India Pvt. Ltd.²

The defendants were accused of creating multiple rogue websites to circumvent the protective measures taken by the plaintiff to safeguard its copyrighted content. The plaintiff sought an injunction against the defendants to prevent them from further infringing on their copyright and claimed damages for the losses incurred as a result of the infringement.³

II. Legal Issues and Analysis

The primary legal issue in this case was whether the defendants' actions constituted copyright infringement under the Indian Copyright Act, 1957. To establish copyright infringement, the plaintiff had to prove that:

1. They possessed valid copyright in the works;
2. The defendants had copied or otherwise infringed upon their copyrighted works; and
3. The infringement was not covered by any of the exceptions provided under the Act.⁴

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² *Star India Pvt Ltd v Moviestrunk.com & Ors*, CS(COMM) 667/2020 (Delhi HC).

³ *Ibid.*

⁴ Indian Copyright Act 1957, ss 14, 51.

A. Copyright Ownership and Infringement

The plaintiff established that it possessed valid copyright in the television shows and movies by submitting the necessary licenses and agreements. The court held that the unauthorized streaming and downloading of copyrighted content by the defendants amounted to copyright infringement, as it violated the exclusive rights of the copyright owner to reproduce, distribute, and communicate the work to the public.⁵

B. Exceptions and Fair Use

The defendants argued that their actions fell under the fair use exception provided under Section 52 of the Indian Copyright Act. However, the court rejected this argument, noting that the defendants' actions did not meet the criteria for fair use, as they were not for educational, research, or non-profit purposes, and their activities caused substantial harm to the plaintiff's commercial interests.⁶

C. Injunction and Damages

The court granted a permanent injunction against the defendants, restraining them from further infringing upon the plaintiff's copyrighted content. Additionally, the court directed Internet Service Providers (ISPs) to block access to the infringing websites and ordered the defendants to pay damages of INR 1 crore (approximately USD 130,000) to the plaintiff for their willful infringement.⁷

III. Significance and Implications of the Judgment

The judgment in *Star India Pvt. Ltd. v. Moviestrunk.com & Ors.* is significant for several reasons:

1. **Protection of Intellectual Property Rights in the Digital Age:** The decision reaffirms the importance of protecting intellectual property rights in the digital era, where online piracy and copyright infringement have become rampant. The judgment sends a strong message to rogue website operators and emphasizes the need for effective legal mechanisms to curb online piracy.⁸
2. **Legal Precedent for Future Cases:** The case sets a legal precedent for future cases involving online piracy and copyright infringement in India. It clarifies the scope of

⁵ *Star India Pvt Ltd v Moviestrunk.com & Ors* (n 1).

⁶ Indian Copyright Act 1957, s 52.

⁷ *Star India Pvt Ltd v Moviestrunk.com & Ors* (n 1).

⁸ *Ibid.*

copyright infringement and the fair use exception under the Indian Copyright Act, providing a roadmap for future litigants and courts to navigate similar disputes.⁹

3. **Role of Internet Service Providers (ISPs):** The judgment highlights the crucial role of ISPs in combating online piracy and copyright infringement. By directing ISPs to block access to the infringing websites, the court emphasized their responsibility to cooperate with rights holders in enforcing intellectual property rights. This may encourage ISPs to be more proactive in addressing online piracy and may serve as a deterrent to rogue website operators.¹⁰
4. **Damages as a Deterrent:** The court's decision to award substantial damages to the plaintiff reflects the seriousness with which it viewed the defendants' wilful infringement. This may deter potential infringers and encourage copyright owners to take legal action against online piracy.¹¹
5. **Importance of International Cooperation:** The case also highlights the need for international cooperation in tackling cross-border copyright infringement. The defendants in this case were operating from different jurisdictions, making it essential for law enforcement agencies and courts to work together to enforce intellectual property rights. This decision may encourage countries to collaborate more closely on matters related to online piracy and copyright infringement.¹²

IV. Criticisms and Challenges

Despite the significance of the judgment, there are some potential criticisms and challenges:

1. **Enforcement Difficulties:** One of the main challenges in cases like *Star India Pvt. Ltd. v. Moviestrunk.com & Ors.* is the enforcement of court orders, especially when the defendants are located in different jurisdictions. While the court directed ISPs to block access to the infringing websites, it is not always easy to enforce such orders, as rogue website operators can create new websites or use proxy servers to circumvent the blocks.¹³

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

2. Inadequate Legal Framework: Some critics argue that the current legal framework in India is not adequate to address the complexities of online piracy and copyright infringement. For instance, the Indian Copyright Act does not explicitly recognize the concept of "site blocking," and the court's reliance on ISPs to enforce its orders is not grounded in specific statutory provisions.¹⁴
3. Balancing Free Speech and Intellectual Property Rights: Another challenge is striking the right balance between protecting intellectual property rights and upholding the freedom of speech and expression. While the court's decision in this case prioritizes the protection of copyrighted content, it is essential to ensure that such measures do not unduly restrict the free flow of information and ideas on the internet.¹⁵

V. Possible Solutions and Recommendations

To address the challenges and criticisms raised by the *Star India Pvt. Ltd. v. Moviestrunk.com & Ors.* case, the following solutions and recommendations may be considered:

1. Strengthening the Legal Framework: The Indian Copyright Act should be amended to address the unique challenges posed by online piracy and copyright infringement more effectively. This may include recognizing "site blocking" as a valid enforcement measure and providing clearer guidelines for ISPs' roles and responsibilities in combating online piracy.¹⁶
2. Enhanced International Cooperation: As the case demonstrates, online piracy often transcends national borders, necessitating greater international cooperation. India should actively engage in international dialogues and initiatives to strengthen cross-border enforcement of intellectual property rights, including through the sharing of best practices and mutual legal assistance.¹⁷
3. Promoting the Use of Legal Platforms: Encouraging the use of legal platforms for accessing copyrighted content can help reduce the demand for pirated materials. Government and industry stakeholders should collaborate to raise public awareness

¹⁴ Indian Copyright Act 1957.

¹⁵ Constitution of India 1950, art 19(1).

¹⁶ Indian Copyright Act 1957.

¹⁷ World Intellectual Property Organization (WIPO), 'WIPO Treaties and Member States' <<https://www.wipo.int/treaties/en/>> accessed 12 April 2023.

about the importance of intellectual property rights and the availability of legal alternatives for accessing content.¹⁸

4. Technological Solutions: Rights holders and ISPs should invest in and deploy advanced technological solutions to detect and combat online piracy. This may include using content recognition software, watermarking, and other anti-piracy tools to identify and remove infringing content more efficiently.¹⁹
5. Ensuring Balance Between Intellectual Property Rights and Free Speech: Policymakers, courts, and industry stakeholders should strive to maintain a balance between protecting intellectual property rights and upholding the freedom of speech and expression. While enforcing intellectual property rights, care should be taken to ensure that legitimate speech and the free flow of information on the internet are not unduly restricted.²⁰

Conclusion

The *Star India Pvt. Ltd. v. Moviestrunk.com & Ors.* case is an important milestone in the fight against online piracy and copyright infringement in India. While it sets a legal precedent and emphasizes the need to protect intellectual property rights, it also highlights the challenges and complexities involved in enforcing such rights in the digital age. By adopting a multifaceted approach that includes strengthening the legal framework, enhancing international cooperation, promoting legal platforms, leveraging technology, and ensuring a balance between intellectual property rights and free speech, India can make significant strides in combating online piracy and safeguarding the rights of content creators.

¹⁸ Hemant Bhargava and others, 'The Fight Against Digital Piracy: Developing a Scalable Anti-Piracy Strategy' (2019) 61(4) *California Management Review* 100.

¹⁹ Ernesto Van der Sar, 'How Copyright Enforcement Tools Are Evolving to Tackle Piracy' (TorrentFreak, 3 February 2020) <<https://torrentfreak.com/how-copyright-enforcement-tools-are-evolving-to-tackle-piracy-200203/>> accessed 14 April 2023.

²⁰ Constitution of India 1950, art 19(1).