

FEDERAL COURT OF AUSTRALIA

BURLEY J

**BURLEY J:**

<b>1</b>	<b>INTRODUCTION</b>	[1]
1.1	<b>The Parties</b>	[3]
1.2	<b>The Evidence</b>	[5]
1.3	<b>Proof of Standing to Sue and Service</b>	[18]
1.4	<b>Overview of the Target Online Locations</b>	[27]
<b>2</b>	<b>THE MPA/ROADSHOW APPLICATION</b>	[38]
<b>3</b>	<b>THE TVB APPLICATION</b>	[57]
<b>4</b>	<b>THE MADMAN APPLICATION</b>	[61]
<b>5</b>	<b>FORM OF ORDERS</b>	[71]

**1. INTRODUCTION**

1 This is a site blocking case. The applicants rely on s 115A of the *Copyright Act 1968* (Cth) to obtain orders requiring the respondents, who are carriage service providers, to disable access to 86 different **target online locations** that are situated outside Australia. The applicants contend that each of the target online locations infringes or facilitates the infringement of the applicants' copyright in certain cinematograph films and literary works. For the reasons set out below, I am satisfied that it is appropriate to grant relief under the section.

2 The orders that I propose to make are in a slightly different form to those made in previous s 115A applications. They provide a new process by which the applicants can bring within the scope of existing orders new URLs, domain names and IP Addresses that provide access to target online locations which are the subject of existing orders. The Court has the power to enable this process pursuant to subsection 115A(2B), which was introduced by the *Copyright*

*Amendment (Online Infringement) Act 2018* (Cth). The proposed order is set out in Order 12 in Annexure A to these reasons. Having regard to the novelty of this form of order, I will allow the parties 14 days within which to file submissions addressing that form, which differs from the form proposed in the amended originating application.

### **1.1 The Parties**

3 The applicants fall into three groups. The first to eighth applicants are each engaged in the creation, distribution, licensing and/or marketing of theatrical motion pictures, television programming, DVDs, digital downloads and related products throughout the world. They are conveniently grouped together and referred to as the **MPA/Roadshow applicants** and each claims to be either an owner or exclusive licensee of such popular cinematograph films as *The Lego Movie*, *Toy Story*, *Transformers: Age of Extinction*, *Spider-Man 2*, *Despicable Me 3*, *Dunkirk* and *Stranger Things* (season one episode eight). The ninth and tenth applicants create, distribute, license and market Chinese television programs throughout the world including *Dead Wrong* (episode one) and *Provocateur* (episode one) and are referred to as the **TVB applicants**. The eleventh applicant, which I refer to below as **Madman**, distributes, licenses and markets in Australia the cinematograph film *Tokyo Ghoul* (episode one).

4 There are 50 named respondents, but they can conveniently be collected into five groups, representing their corporate grouping, being **Telstra** (the first to third respondents), **Optus** (fourth to 11<sup>th</sup> respondents), **Vocus** (12<sup>th</sup> to 29<sup>th</sup> respondents), **TPG** (30<sup>th</sup> to 47<sup>th</sup> respondents) and **Vodafone** (48<sup>th</sup> to 50<sup>th</sup> respondents). The Telstra, Optus and Vodafone respondents filed submitting appearances. The Vocus and TPG respondents did not. The evidence indicates that each individual respondent was served personally.

### **1.2 The Evidence**

5 In order to satisfy the evidentiary requirements of s 115A, the applicants rely on the affidavit evidence of the following witnesses. Their evidence is uncontested.

6 **Akiko Fukushi** is the Team Lead of the International Distribution and Licensing Team of Pierrot Co., Ltd. Ms Fukushi gives evidence in relation to the ownership of copyright in the cinematograph film *Tokyo Ghoul* (episode one) and licensing arrangements between Pierrot Co., Ltd and Madman.

7 **Andrew Gavin Stewart** is a solicitor at Baker McKenzie, and the solicitor on the record for the applicants in these proceedings. He gives evidence concerning: the ownership of copyright

and licensing arrangements in relation to the applicants' cinematograph films, scripts and subtitles; the respondents' status as carriage service providers; orders made by courts in other jurisdictions which have had the effect of requiring access to a number of the target online locations in issue in these proceedings to be disabled; correspondence with the legal representatives of the respondents in relation to proposed amendments to the originating application; and the purpose and effect of those proposed amendments.

8 **Anthony Pasquale Guerrieri** is a paralegal employed by Baker McKenzie, and gives evidence of service on the respondents of notices to admit, as well as the amended concise statement and amended originating application.

9 **Belinda Katherine Goh** is a graduate-at-law employed by Baker McKenzie. She gives evidence in relation to WhoIs look up searches she conducted in respect of the domain names and IP Addresses of the MPA/Roadshow and TVB applicants' target online locations.

10 **Gregory Donald Fraser** is the Content Protection Investigations Manager of Australia and New Zealand for the Motion Picture Association, which represents the interests of the third to eighth applicants in these proceedings. He has extensive experience as an investigator specialising in the investigation of piracy conducted on the internet. Mr Fraser gives evidence in relation to the steps taken to identify the IP Addresses associated with the MPA/Roadshow target online locations, the primary purpose of the MPA target online locations, and identifying means of contacting the owners or operators of the MPA/Roadshow target online locations.

11 **Joel Robert Vagnoni** is the Business and Legal Affairs Executive for the Madman group, of which the eleventh applicant is a related company. He gives evidence in relation to Madman's rights in respect of the cinematograph film Tokyo Ghoul (episode one), as well as the primary purpose of the Madman target online locations. Mr Vagnoni also gives evidence in relation to Madman's licensing rights in respect of cinematograph films such as Shonen Maid (series one, episode one), K-On (series two, episode one), Fate/Zero (season one, episode one) and Death Note (season one, episode one).

12 **Kong Wo Tang** is accredited by the National Accreditation Authority for Translators and Interpreters as a Cantonese interpreter and Chinese translator. He provides English translations of Copyright Certificates issued by the Hong Kong Motion Picture Industry Association Ltd. Those Copyright Certificates certify the TVB applicants' ownership of the cinematograph films House of Spirits, Come Home Love: Lo and Behold, and May Fortune Smile On You.

- 13 **Nicholas Vincent Kraegen** is a solicitor in the employ of Baker McKenzie. He gives evidence in relation to the service of documents on the respondents. He also gives evidence in relation to the Madman application, and specifically: identifying the means of contacting the owners or operators of the Madman target online locations; and correspondence he exchanged with a person who purported to be the operator of the target online location ‘animelon’.
- 14 **Sarah Lee** is a solicitor in the employ of Baker McKenzie. She gives evidence about: the investigations she conducted to identify the registration details for the target online locations; attempts made by the applicants to notify the owners or operators of the target online locations of these proceedings; and the functionality of and content made available at three of the Madman target online locations.
- 15 **Simon Thomas Phillipson** is a Director of the first applicant, and the General Counsel of Village Roadshow Ltd, which controls or owns interests in the first and second applicants. He gives evidence about the ownership and licensing of the cinematograph film The Lego Movie in Australia.
- 16 **Wu Kam Ming** is the Senior Executive Engineer at TVB. His role at TVB involves work on anti-piracy litigation in jurisdictions such as Australia, the United States and China. He gives evidence about his review of the TVB target online locations, including: the primary purpose of those target online locations; the functionality of those target online locations; the availability of the TVB applicants’ films at those target online locations; and any contact details for the owners or operators available on the websites for the TVB target online locations. He also gives evidence in relation to the steps he took to identify the IP Addresses of the TVB target online locations.
- 17 **Xiaoguo Weng** is the Manager, Sales and Customer Service Department at TV Media Australia Pty Ltd, which is TVB’s agent for its activities in Australia. He gives evidence of the logistical support he provided to enable Mr Wu to conduct his investigations.

### **1.3 Proof of Standing to Sue and Service**

- 18 As I have noted, section 115A was amended by the *Copyright Amendment (Online Infringement) Act 2018* (Cth), which took effect on 11 December 2018. References to section 115A in these reasons are to the amended form of that section. Subsections (1), (3) and (4) now read as follows:

#### **115A Injunctions relating to online locations outside Australia**

*Application for an injunction*

- (1) The owner of a copyright may apply to the Federal Court of Australia to grant an injunction that requires a carriage service provider to take such steps as the Court considers reasonable to disable access to an online location outside Australia that:
- (a) infringes, or facilitates an infringement, of the copyright; and
  - (b) has the primary purpose or the primary effect of infringing, or facilitating an infringement, of copyright (whether or not in Australia).

[...]

*Parties*

- (3) The parties to an action under subsection (1) are:
- (a) the owner of the copyright; and
  - (b) the carriage service provider; and
  - (ba) if the application under subsection (1) also sought for the injunction to apply against an online search engine provider—the online search engine provider; and
  - (c) the person who operates the online location if, but only if, that person makes an application to be joined as a party to the proceedings.

*Service*

- (4) The owner of the copyright must notify:
- (a) the carriage service provider; and
  - (aa) if the application under subsection (1) also sought for the injunction to apply against an online search engine provider—the online search engine provider; and
  - (b) the person who operates the online location;

of the making of an application under subsection (1), but the Court may dispense, on such terms as it sees fit, with the notice required to be sent under paragraph (b) if the Court is satisfied that the owner of the copyright is unable, despite reasonable efforts, to determine the identity or address of the person who operates the online location, or to send notices to that person.

19 Under ss 115A(1) and (3)(a) of the Act it is “the owner of the copyright” who has standing to bring an application under the section. In the case of the MPA/Roadshow and the TVB applicants, the evidence indicates that both owners and, in some cases exclusive licensees of the works in question are joined. There is accordingly no doubt about their standing to bring the proceedings.

20 Madman, however, is the exclusive licensee of Tokyo Ghoul (episode one) but not an owner, and no owner has been joined. It seeks leave pursuant to s 120 of the Act to proceed without

the joinder of the owner. For the reasons set out in *Universal Music Australia Pty Ltd v TPG Internet Pty Ltd* [2017] FCA 435; 348 ALR 493; 126 IPR 219 at [46] – [51] it is in my view appropriate to grant that leave. I might observe at this point that none of the respondents have put in issue the subsistence of copyright in any of the works involved in the present application. Furthermore, the effect of s 126 of the Act is that copyright is presumed to subsist in all of them: *Universal* at [55].

21 The applicants contend that each respondent is a “carriage service provider” within s 115A(1) and (3)(b), which is in substance a person who provides a telecommunications service over a network at least part of which is in Australia: *Australasian Performing Right Association Ltd v Telstra Corporation Limited* [2019] FCA 751; 369 ALR 529 at [13]. I am satisfied that this is so. First, because each has impliedly admitted the fact after being served with, but failing to respond to a notice to admit that fact: r 22.04 of the *Federal Court Rules 2011* (Cth). Secondly, because none of the respondents has put into issue the fact, which is set out in the concise statement served on them: r 16.07(2) of the Rules. Thirdly, because they are (unsurprisingly) the same respondents as in numerous other site blocking proceedings where the Court has found them to be carriage service providers: see, for example, *Roadshow Films Pty Limited v Telstra Corporation Limited* [2019] FCA 885; 144 IPR 1 and *Foxtel Management Pty Limited v TPG Internet Pty Ltd* [2019] FCA 1450; 148 IPR 432.

22 There are 86 target online locations identified in the amended originating application. These are listed in the Schedule to Annexure A of these reasons. Each target online location is accessible by a Uniform Resource Locator (**URL**), a **domain name**, and an Internet Protocol address (**IP Address**). Those terms were explained by Nicholas J in *Roadshow Films Pty Ltd v Telstra Corporation Ltd* [2016] FCA 1503; 248 FCR 178 (*Roadshow No. 1*) at [10], [11] and [9], respectively.

23 By way of illustration, the first target online location listed in the amended originating application is described as “mrunlock”, which may be thought of as the name or title of the website. When navigating to the “mrunlock” website, a user may be taken to:

- (1) The URL “https://mrunlock.space/”, which has the domain name “mrunlock.space”, and the IP Addresses 104.28.31.129 and 104.28.30.129; or
- (2) The URL “https://mrunlock.red/”, which has the domain name “mrunlock.red” and the IP Addresses 104.31.79.99 and 104.31.78.99.

24 The affidavit evidence describes in some detail the attempts that were made on the part of the applicants to contact the persons responsible for the operation of each target online location. These involved:

- (1) Messrs Fraser, Wu and Kraegen viewing the websites available at the URLs for each of the target online locations to identify any contact details provided, or any electronic forms which could be completed in order to contact the owners or operators of each website;
- (2) Ms Lee, and Messrs Fraser and Wu, conducting Domain Name System queries to identify the correct IP Addresses for the domain names of the target online locations;
- (3) Ms Lee and Ms Goh conducting WhoIs look up searches to identify the owners of the domain names and IP Addresses of the target online locations;
- (4) Ms Lee emailing a notice describing the nature of these proceedings, attaching the originating application and concise statement, to the email addresses identified through steps (1) and/or (3) above;
- (5) Ms Lee posting a notice describing the nature of these proceedings, enclosing the originating application and concise statement, to the postal addresses identified through steps (1) and/or (3) above; and
- (6) Ms Lee completing any electronic contact forms provided by the target online locations, identified through step (1) above, using a message which described the nature of these proceedings and explained where the owner and/or operator of that website could obtain further information about these proceedings.

25 With the exception of one, the operator of the animelon website, to which I refer in more detail in section 4 below, no substantive response was received from any of the operators. None of the operators of the relevant websites or target online locations applied to be joined as a party to the proceedings and none sought to appear at the hearing or made an application to be joined as a party. I am satisfied on the basis of the evidence adduced that the applicants have made reasonable efforts to determine the identity of, and to contact in order to provide relevant notice of these proceedings to, the persons who operate the relevant websites: s 115A(4)(b) of the Act. To the extent that it is necessary to do so, I am satisfied that it is appropriate to dispense with the notice requirement in s 115A(4) of the Act insofar as any such notice has not already been given.

26 On 13 February 2020 the applicants filed an amended originating application and concise statement, which they served on the respondents. The amendments removed one target online location and otherwise adjusted the details of target URLs, target domain names and target IP Addresses. They also changed the form of Order 12, which I deal with further in section 5 below. In Schedule A to the amended originating application, and in Schedule 2 to the amended concise statement, the applicants added or corrected the URLs, domain names and/or IP Addresses for several of the target online locations.

27 The evidence shows that the applicants took steps similar to those outlined in [22] above to contact and notify the owners and/or operators of those added or corrected URLs, domain names and IP Addresses of these proceedings. Again, no substantive response was received. In my view it is appropriate to permit the applicant to proceed on the basis of the amended documents, notwithstanding that the owners and/or operators of the domain names, URLs and IP Addresses listed in the originating application were not served with the amended originating application.

#### 1.4 Overview of the Target Online Locations

28 The applicants categorise each of the target online locations as falling into one of seven classes, as defined in Mr Fraser's first affidavit and described below.

29 First, **linking target online locations** are websites that provide a means for users to locate third-party sources which allow content to be downloaded or streamed. Upon navigating to a linking target online location website, a user is often presented with the option to select featured content such as "New TV Shows" or "Popular Movies", or to search a catalogue or index for a particular title. Once the user has clicked on the desired title, the user is presented with a list of hyperlinks. Upon selecting a hyperlink, the user is re-directed to a third-party website and is able to download or stream the chosen film or television show.

30 Second, **streaming target online locations** are websites which allow a user to stream content hosted on that website. As with the linking target online locations, streaming target online locations often display featured content and provide the user with the option to search a catalogue or index for a particular title. Unlike the linking target online locations, however, the streaming target online locations allow the user to view the material on that same streaming target online location website without being re-directed to a third-party website.

- 31 Third, **torrenting target online locations** are websites which allow a group of users with the same networking program to connect with one or more other users and directly access and download files from each others' hard drives, without connecting through a central server. To view content obtained through a torrenting target online location, the user must first install software which will enable the user to connect to other users and download the selected file. As with the linking target online locations and streaming target online locations, torrenting target online locations often display featured content and provide the user with the option to search for a particular title in the website's catalogue or index. Upon selecting the desired title, the user chooses to download a file called a torrent file or a magnet link. Once downloaded, the file is opened using the torrenting software and the user is able to view the film or television content.
- 32 Fourth, **downloading target online locations** are websites which make files containing content available for download directly to a user's hard drive, without the need for the user to have installed software such as torrenting software. Again, as with the linking, streaming and torrenting target online locations, at a downloading online location users are typically presented with featured content and the option to search for a particular title in the website's catalogue or index. The user then selects the title they wish to view, and causes a file containing that film to be downloaded.
- 33 Fifth, **subtitle target online locations** are websites from which a user can download a file, typically in SubRip Text (**SRT**) format, which contains the subtitles to a cinematograph film. The two subtitle target online location websites in issue in these proceedings present the user with some featured content, such as "Most downloaded subtitles" or "Latest subtitles". The user also has the option to search the website's catalogue or index for a specific title. The user selects the title they wish to view, and causes the SRT file to be downloaded. Once downloaded, the SRT files may be opened or used in two ways. First, the user can view the text of the subtitles with a text editor program. Second, the user can embed the file into a matching video source, enabling the subtitles to be synchronised with the playback of the cinematograph film. This is accomplished by the user opening the relevant cinematograph film file through a computer program, such as VLC Player, and either clicking and dragging the SRT file into the VLC Player, or by navigating through the appropriate fields under user "preferences" to open the SRT file from within the VLC Player.

34 The applicants advance a claim of copyright in the subtitles as a literary work, separate to their claim of copyright in the cinematograph film to which the subtitles are applied. A person who does, or who authorises the doing of, any act comprised in the copyright in a literary work without the licence of the copyright owner, infringes copyright: s 36(1) of the Act. Section 14 of the Act provides that references to the doing of an act in relation to a work “shall be read as including a reference to the doing of that act in relation to a substantial part of the work”. Mr Fraser exhibits to his first affidavit a table comparing the applicants’ authorised subtitles to the subtitles made available through the SRT files which he downloaded from the subtitle target online locations. The discrepancies between the authorised subtitles and the SRT files are minor: for example, in the authorised subtitles for *Shameless* (season four, episode 12) the authorised subtitles read “Two dollars”, while the SRT file subtitles read “\$2”. I am satisfied that the SRT files communicate to the public a substantial part of the applicants’ literary works, and that such acts of communication to the public are an infringement of copyright as they are done without the consent or licence of the copyright owner.

35 Sixth, **proxy target online locations** are websites which do not themselves provide links to content or offer users categories of content such as “New Releases”. Rather, proxy target online locations provide links to third party streaming, torrenting or downloading online locations. Typically, those third party streaming, torrenting or downloading online locations are either difficult to find, or operate under the same or a similar name to online locations that have been the subject of injunctions ordered by this Court in other proceedings. The links provided by the proxy target online locations usually either redirect the user to webpages located at a different domain name, or to webpages which are hosted as a subdomain of the proxy target online location. Only after being redirected to the third party website or subdomain is the user presented with categories such as “New Releases” or offered the option to search a catalogue or index for particular content.

36 For example, the proxy target online location “unblocked.to” provides a navigation bar from which a user can select categories such as “Torrent Proxies”, “Streaming Proxies” and “Direct Download proxies”. If the user selects “Torrent Proxies”, they are taken to a screen which lists a number of third party websites, including The Pirate Bay, access to which was blocked pursuant to orders made in *Roadshow No. 1*. If the user selects the link to The Pirate Bay offered by the “unblocked.to” target online location, they are redirected to a webpage at the subdomain “thepb.unblocked.to”, which displays what appears to be the branding and homepage or landing page for the online location The Pirate Bay, and allows the user to search for and

download torrent files as if they are using The Pirate Bay. Similarly, if the user selects “Streaming Proxies” from the navigation bar, they are taken to a webpage which lists a number of third party websites, including PrimeWire, access to which was blocked pursuant to orders made in *Roadshow Films Pty Ltd v Telstra Corporation Limited* [2017] FCA 965. By selecting PrimeWire, the user is redirected to the subdomain “primewire.unblocked.to”, which uses the PrimeWire branding and enables the user to search for and stream films as if they are using PrimeWire.

37 Seventh, the **Popcorn Time target online location** is a website which does not enable users to download, stream or torrent movies or television shows; rather, it allows users to download a piece of software known as “Popcorn Time”, through which software users can stream movies or television shows. Upon visiting the Popcorn Time website, the user is prompted to click on a link to download a version of the software which is compatible with their device’s operating system, such as Windows or iOS. Once the software file has been downloaded, the user can click on the file and cause the software to be installed on their device. Once installed, the software can be opened and run. At that stage, the user is presented with a selection of films and television programs available to be viewed. The user can either select a film, or search for a particular title. Once the user has selected a film to view, the film is streamed and played within the Popcorn Time software window. The operation of the Popcorn Time target online location is explained further at paragraph [52] below.

38 It is convenient to consider the applications brought in respect of the MPA/Roadshow, TVB and Madman claims separately.

## 2. THE MPA/ROADSHOW APPLICATION

39 There are 70 target online locations relevant to the MPA/Roadshow application. The MPA/Roadshow applicants assert that each of those target online locations fall into one of the seven classes described in section 1.4 above. Those target online locations are addressed in the first affidavit of Mr Fraser. Exhibited to Mr Fraser’s affidavit are a number of video recordings he made while viewing the content made available by the target online locations. The evidence so provided enables the findings set out in this section to be made.

40 By using the domain names associated with each of the **linking, streaming, torrenting and downloading** target online locations which the MPA/Roadshow applicants seek to have blocked, one is able to stream, torrent or download copies of the MPA/Roadshow applicants’

cinematograph films, or is redirected to a third party website from which the MPA/Roadshow applicants' cinematograph films can be streamed, torrented or downloaded.

41 By using the domain names associated with the **proxy target online locations** one is redirected to a sub-domain of the proxy target online location or third party website from which one can successfully stream, torrent or download copies of the MPA/Roadshow applicants' cinematograph films.

42 By using the domain names associated with the **subtitle target online locations** one can successfully download an unauthorised SRT file containing English subtitles for the MPA/Roadshow applicants' cinematograph films, and then either view the text of the subtitles through a text editor program, or embed and synchronise the subtitles so that they play together with the film.

43 By using the domain name associated with the **Popcorn Time target online location**, one can successfully download the Popcorn Time software and use that software to stream a copy of the MPA/Roadshow applicants' cinematograph films.

44 Section 115A(1)(a) requires that the target online locations infringe, or facilitate the infringement of, their copyright. Section 115A(1)(b) further requires that the target online locations have the primary purpose or primary effect of infringing, or facilitating an infringement of, copyright. In *Roadshow No. 1* Nicholas J observed:

[47] An online location may both infringe and facilitate the infringement of copyright by making an electronic copy of a work or other subject matter available online for transmission to users. But it may also facilitate the infringement of copyright merely by making it easier for users to ascertain the existence or whereabouts of other online locations that themselves infringe or facilitate the infringement of copyright.

45 I am satisfied, having regard to the content made available at the target online locations, that each either makes copyright works available online for transmission to users, or facilitates the infringement of copyright by making it easier for users to ascertain the existence or whereabouts of other online locations that themselves infringe or facilitate the infringement of copyright within section 115A(1)(a). I am also satisfied that the primary purpose or primary effect of the target online locations is to infringe, or facilitate the infringement of, copyright: s 115A(1)(b).

46 Section 115A(5) lists the matters which the Court may take into account in determining whether to grant an injunction as follows:

- (5) In determining whether to grant the injunction, the Court may take the following matters into account:
- (a) the flagrancy of the infringement, or the flagrancy of the facilitation of the infringement, as referred to in paragraph (1)(b);
  - (b) whether the online location makes available or contains directories, indexes or categories of the means to infringe, or facilitate an infringement of, copyright;
  - (c) whether the owner or operator of the online location demonstrates a disregard for copyright generally;
  - (d) whether access to the online location has been disabled by orders from any court of another country or territory on the ground of or related to copyright infringement;
  - (e) whether disabling access to the online location is a proportionate response in the circumstances;
  - (ea) if the application under subsection (1) also sought for the injunction to apply against an online search engine provider—whether not providing search results that refer users to the online location is a proportionate response in the circumstances;
  - (f) the impact on any person, or class of persons, likely to be affected by the grant of the injunction;
  - (g) whether it is in the public interest to disable access to the online location;
  - (ga) if the application under subsection (1) also sought for the injunction to apply against an online search engine provider—whether it is in the public interest not to provide search results that refer users to the online location;
  - (h) whether the owner of the copyright complied with subsection (4);
  - (i) any other remedies available under this Act;
  - (j) any other matter prescribed by the regulations;
  - (k) any other relevant matter.

47 I am satisfied that it is appropriate to grant an injunction under s 115A having regard to the factors set out in s 115A(5). In this regard the following examples provided in the evidence of Mr Fraser are illustrative of the matters that I have taken into account in reaching this conclusion. Each site systematically promotes the viewing of copyright works by offering extensive indices of content. Many have been the subject of site blocking orders in other jurisdictions. I consider these sites to engage in the flagrant facilitation of copyright infringement in disregard of the rights of copyright owners. I consider the granting of the site blocking orders to be a proportionate response to the conduct of the target online locations.

- 48 The **linking target online location** “heroturko” displays on its home page recent and well-known films including *Exit 0*, *Little Women* and *1917*. The website offers users the option to “select a category” such as “Movies”, “Games”, “Software” and “Music”. Users can also use a search bar at the top of the page to search for a particular title, and a variety of films other than the MPA/Roadshow applicants’ films are made available to users. On 14 November 2014 the United Kingdom High Court of Justice ordered that access to “the website that is currently known as the Heroturko website and that is currently accessible at [www.heroturko.me](http://www.heroturko.me)” be blocked.
- 49 The home page of the **streaming target online location** “movieon21” displays “New releases (2020)” as featured content, alongside several advertisements. Users can search for their desired title using the search bar, or can select from categories such as “Action”, “Crime”, “Thriller”, “Release Year” and “Quality”. The homepage also lists the number of 18+, Action, Adventure and Animation titles available through the website. By clicking on the “Fantasy” category, the user is presented with 16 pages of results, and each of those pages displays 35 titles: a total of approximately 560 fantasy titles. In addition to making available films belonging to the MPA/Roadshow applicants, the website makes available films belonging to other copyright owners who are not party to these proceedings. In the navigation bar at the top of the page there is a link to “DMCA”, and the page that the user is directed to upon clicking that link claims that movieon21 indexes and embeds links to third party sites, and states “it is not our responsibility for the accuracy, compliance, copyright, legality and decency [sic]. If you have any legal issues please contact the appropriate media file owners or host sites”.
- 50 The **torrenting target online location** “prostylex” displays advertisements above a rotating banner of “Recommended Torrents”, and a list of “Movies Torrents” which includes recent films such as *Little Women*, *The Invisible Man* and *1917*. Below that is a list of “TV Shows Torrents”, “Music Torrents” and various other categories of content. Users can also elect to “Browse Torrents”, “Upload Torrent” or “Search Torrents”. Users can also torrent films belonging to copyright owners who are not party to these proceedings. The site also includes links to “Site Friends” including ETTV, which is an online location that has been blocked pursuant to orders made in *Foxtel Management Pty Ltd v TPG Internet Pty Ltd* [2018] FCA 933.
- 51 “downloadha” is a **downloading target online location** which is almost exclusively written in Persian. There are several advertisements displayed at the top of the webpage in Persian, and

links in the site map provide information about placing advertisements on the website. Despite the primary language of the website being Persian, the user can successfully search, in English, for the MPA/Roadshow applicants' cinematograph film *The Lego Movie* and download that title in the original English, or dubbed in Persian. The user can also choose to view titles in categories including "Software", "Mobile", "Play" and "Multimedia". Cinematograph films belonging to copyright owners who are not party to these proceedings are also made available. At the footer of the page there is a statement in Persian that "all downloads are copyrighted".

52 The two **subtitle target online locations** the subject of the MPA/Roadshow application both display indexes or categories of content: the "tvsubtitles" target online location lists categories including "TV Shows", "New", and "Top"; "msubs" provides categories such as "List Movies", "Most Popular" and "New subtitles". Users of both target online locations are able to search for subtitles for a desired television show or film, and both websites claim that "Subtitles are available in multiple languages". For example, users can download subtitles for *Shameless* (season four, episode 12) from "tvsubtitles" in five different languages. Both subtitle target online locations also make available subtitles to popular or well-known films and television shows other than the MPA/Roadshow applicants' cinematograph films.

53 The **proxy target online location** "proxybit" provides links to third party online locations including: torrenting online locations such as Kickass Torrents, access to which was blocked pursuant to orders made in *Universal*; streaming online locations such as ProjectFreeTV, access to which was blocked pursuant to orders made in *Foxtel Management Pty Limited v TPG Internet Pty Ltd* [2017] FCA 1041; 349 ALR 154; 126 IPR 579; and downloading online locations such as AllYouLike, access to which was blocked pursuant to orders made in *Roadshow Films Pty Limited v Telstra Corporation Limited* [2019] FCA 1328. From those third party websites, users can torrent, stream or download the MPA/Roadshow applicants' cinematographic films and content which belongs to or is licenced by entities who are not party to these proceedings. The "proxybit" website displays statements to the effect that: the purpose of the site is to bypass "internet censorship"; that proxybit does not host any of the content; and that copyright infringement notices should be sent to the "original" website owners. The proxybit website displays advertising for a Virtual Private Network (VPN) at a discounted rate, though it does not display any other advertising.

54 Like the proxy target online locations, the **Popcorn Time target online location** does not itself provide users with the ability to stream, download or torrent the MPA/Roadshow applicants'

cinematograph films. Nor does it provide links to third party website, or act as a proxy for an online location which has previously been blocked pursuant to orders made by this Court. Rather, the Popcorn Time target online location allows users to download a piece of software called “Popcorn Time”. Once downloaded and installed, the user is able to stream the MPA/Roadshow applicants’ cinematographic films, as well as films and television shows belonging entities who are not party to this application, within the Popcorn Time software. That is, once the Popcorn Time software has been downloaded, there is no need for a user to revisit the Popcorn Time target online location. The terms of service available at the Popcorn Time target online location state, among other things: that Popcorn Time disclaims all warranties including warranties as to “non-infringement, or other violation of rights”; that the content available through Popcorn Time is not hosted by Popcorn Time, but rather is “pulled in from the yify movie database”; that “by watching a movie with this application you might be committing [sic] copyright violations depending on your country’s laws. We do not take any responsibilities [sic]”. Within the software, the user is presented with a screen displaying a large number of movies, including recent titles such as Frozen II, Parasite and Joker. Additional titles load every time the user reaches the bottom of the screen. The user can select an icon in the top left of the screen in order to view a similar display of television shows. There is also a small bar on the left side of the screen which, when hovered over, reveals categories which a user can select such as “Action”, “Comedy”, “Romance” and “War”. Users can also sort the displayed titles by popularity, date added, year or title. The search bar in the top right of the software window can be used to search for a specific title.

55 In his first affidavit, Mr Stewart lists the target online locations which have been the subject of site blocking injunctions in other jurisdictions. Twenty-three of the MPA/Roadshow target online locations have been the subject of such injunctions.

56 The MPA/Roadshow applicants submit, and I accept, that there is no evidence or indication that there will be any impact on any persons likely to be affected if an injunction is granted in respect of any of the MPA/Roadshow target online locations, except to the extent that users will not be able to access material which infringes copyright and the operators of the target online locations will be deprived of visits from Australian users.

57 Accordingly, in my view it is appropriate to grant injunctive relief in relation to MPA/Roadshow target online locations.

### **3. THE TVB APPLICATION**

58 There are six target online locations relevant to the TVB applicants, who assert that they are either streaming or linking target online locations. They are addressed in the evidence of Mr Wu. Exhibited to Mr Wu's affidavit are a number of video recordings, like those exhibited to Mr Fraser's affidavit. The evidence so provided enables the findings set out in this section to be made.

59 There is no material difference between the content and approach taken in relation to the TVB streaming and linking target online locations when compared with the MPA/Roadshow streaming and linking target online locations. It is unnecessary to set out details of further examples of the activities of the TVB target online locations, which are very similar to those described, by way of example, in section 2 at [48] and [49] above. The target online locations which fall into these classes often provide indices or categories of films or television shows which the user can view, and offer the user the ability to search for a particular title. These target online locations host a large volume of content, including content which is owned by entities that are not party to these proceedings. Many of the streaming and linking target online locations provide statements which: claim they are in compliance with copyright; disclaim their liability for any infringing content; and/or provide instructions to teach users how to access infringing content. Several also display advertisements to users. One of the TVB target online locations, namely "99kubo", has been the subject of site blocking injunctions in other jurisdictions, as set out in Mr Stewart's first affidavit.

60 Like the MPA/Roadshow applicants, the TVB applicants submit, and I accept, that there is no evidence or indication that there will be any impact on any persons likely to be affected if an injunction is granted in respect of any of the TVB target online locations, except to the extent that users will not be able to access material which infringes copyright and the operators of the target online locations will be deprived of visits from Australian users.

61 Having regard to the evidence, I am satisfied that it is appropriate to grant injunctive relief in relation to the TVB target online locations.

### **4. THE MADMAN APPLICATION**

62 Madman submits that the 10 target online locations relevant to its application are either streaming, torrenting or linking target online locations. They are addressed in Mr Vagnoni's evidence, which enables the findings set out in this section to be made.

63 Again, there is no material difference between the Madman streaming, torrenting and linking target online locations and the MPA/Roadshow streaming, torrenting and linking target online locations that I have described in section 2 above. The Madman target online locations make available a large volume of television shows and movies, including content that is owned or licenced by entities who are not party to this application, and content which is licenced to Madman in Australia but which is not the subject of these proceedings. Content is frequently categorised under headings such as “Latest Episodes”, “Popular Anime” and “Top Dubbed”. Users can also search for specific titles. Several of these target online locations display advertisements. Several also display statements which claim the target online location is in compliance with copyright law, or which disclaims responsibility for infringement of copyright.

64 Madman submits, and I accept, that there is no evidence or indication that there will be any impact on any persons likely to be affected if an injunction is granted in respect of any of the Madman target online locations, except to the extent that users will not be able to access material which infringes copyright and the operators of the target online locations will be deprived of visits from Australian users.

65 The only person to contest the making of an order in relation to a target online location in these proceedings was a person purporting to be one of the operators of the target online location “animelon”, Sarah Florian. Ms Florian sent an email to the solicitors for the applicant on 12 December 2019, which stated, among other things:

- (1) that animelon is a non-profit educational entity that uses animated videos to provide a novel and fun way for users to learn the Japanese language;
- (2) that animelon operates in countries where copyright statute permits “fair use” for educational purposes;
- (3) that there is a “possibility that our site has unintentionally diverted some of the traffic away from sources of content provided by [the applicants]”;
- (4) that despite any such “unintentional” diversion by animelon, any providers of the applicants’ content may similarly divert traffic from one another; and
- (5) that the owners and/or operators of animelon did not have the resources to come to Australia to participate in these proceedings, but hoped that the email would be brought to the Court’s attention.

66 Ms Florian did not seek to be heard on the application beyond the content of her email.

67 The applicants submit that:

- (1) the email response from animelon merely confirms that the animelon target online location has the primary purpose or effect of infringing copyright;
- (2) Ms Florian's claim that all providers of the applicants' copyright content draw traffic away from one another is not relevant;
- (3) the closest approximation to the "fair use" argument Ms Florian appears to be advancing is the Australian "fair dealing" exception to infringement for the purposes of research or study, which is provided for in s 103C of the Act; and
- (4) the animelon target online location is not engaging in fair dealing for the purposes of research or study.

68 The evidence indicates that Mr Vagnoni reviewed the animelon website and noted that eight television series in which Madman has licencing rights were available for users to stream. One of those television series, On Piece, has over 850 episodes. The evidence indicates that the owner of copyright in On Piece has not licenced any copyright rights in On Piece to animelon. Mr Vagnoni also noted that the animelon website indexed or categorised its content in groups such as "Recently uploaded", "Popular Anime" and "Everything on Animelon". Mr Vagnoni observed that the animelon website did not display advertising, but carried a copyright 'disclaimer'. That disclaimer is similar in terms to the matters raised by Ms Florian in her email. After making those observations, Mr Vagnoni used the search functionality of the animelon website to navigate to Tokyo Ghoul (season one episode one). He was able to stream the film without making any payments, and to ensure that it was a complete copy of the film he viewed portions of its opening sequence, middle and final credits. Finally, Mr Vagnoni also used the animelon website to stream portions of other films in which Madman has rights.

69 Having regard to Mr Vagnoni's evidence as to the content of the animelon website it is apparent that animelon facilitates the infringement of copyright by providing a vehicle for users to stream the entirety of the cinematograph films that it offers. Section 103C of the Act sets out the fair dealing exception for the purpose of research or study, which provides that in determining whether a dealing with an audio-visual item constitutes a fair dealing, the following matters are to be taken into account: the purpose and character of the dealing; the nature of the audio-visual item; the possibility of obtaining the audio-visual item within a

reasonable time at an ordinary commercial price; the effect of the dealing upon the potential market for, or value of, the audio-visual item; and the amount and substantiality of any part copied, taken in relation to the whole item. None of these matters are addressed by Ms Florian or are answered having regard to the content of the animelon website. As I have noted, the website on its face encourages the wholesale streaming of copyright films. It is not apparent to me that a defence under s 103C could succeed, even if properly raised. Furthermore, a site blocking order in Australia would not preclude Ms Florian from relying on what she describes to be fair use defences in relation to conduct in other jurisdictions, to the extent that such defences are available elsewhere.

70 I am satisfied that the animelon website flagrantly facilitates the infringement of copyright. I am not satisfied that users of the target online location access the website do so only for educational purposes. Rather, I consider, having regard to its content and form, that it provides a vehicle for users to copy copyright material, without recourse to the owner of that material, for their own purposes, educational or otherwise. Having regard to the considerations set out in s 115A(5) of the Act, in my view it is appropriate that the site blocking orders sought be made in respect of this target online location.

71 I am satisfied that it is appropriate to grant injunctive relief in relation to each of the Madman target online locations.

## **5. FORM OF ORDERS**

72 The orders sought by the applicants are in all but one respect in similar form to those made in similar applications: see, for instance, *Universal* (126 IPR 219 at 242 to 246). The one material difference is that the applicants seek an order that changes the process which enables additions to be made to the domain names, URLs and IP Addresses of the target online locations the subject of the orders after the orders have been made. The applicants seek orders that enable such additions to be made by a four step process:

- (1) The applicants provide notice in writing to the respondents and the Court identifying any different domain name, IP Address or URL for the target online locations the subject of the orders, and stating that the applicants have the good faith belief that the website operated at the different domain name, IP Address or URL is a new location for the target online locations that are already the subject of the orders;

- (2) Within seven days the respondents notify the applicants if they object to taking the steps required by the original orders to disable access to the different domain name, URL or IP Address;
- (3) If any notice is given by a respondent, or the Court otherwise thinks fit, the proceedings will be relisted for further directions; and
- (4) Otherwise, upon receipt of a further notification from the applicants that no objection has been raised, the respondents must take the steps set out in the original order to disable access to the additional target online locations.

73 Previous forms of orders in s 115A applications have required the applicants to file and serve a proposed form of order, supported by affidavit evidence, seeking the leave of the Court to vary the existing orders to include any additional domain names, URLs or IP Addresses which commenced providing access to the target online location after the original orders were made: see *Roadshow No. 1* at [137] – [139], where Nicholas J set out his reasons for requiring that process to be followed. The applicants contend that the new form of order they have proposed is necessary and appropriate to give effect to the legislative intention underlying s 115A. Subject to some adjustments to the form of order proposed, I agree, for the following reasons.

74 First, the evidence of Mr Stewart, who has had considerable recent experience in s 115A applications, and applications to amend existing s 115A orders, is that frequently, if not invariably, target online locations engaged in the facilitation of copyright infringement employ measures to circumvent the operation of orders. One example is by target online locations actively redirecting internet users who seek access to a domain name, URL or IP Address the subject of orders to a new version of the same online location using domain names, URLs or IP Addresses not the subject of orders. Another is by creating the same website at a new domain name, URL or IP Address, but without actively redirecting the user to the new domain name, URL or IP Address. Target online locations often commence using new domain names, URLs or IP Addresses immediately after orders are made, or sometimes even after the initiating process has been served such that by the date that the orders are made, they are somewhat out of date.

75 Secondly, the expense of filing affidavits and seeking orders from the Court is considerable and serves as a deterrent to applicants from seeking amendments. As a consequence, they tend to wait for the accumulation of a number of different URLs, domain names and IP Addresses

to begin to provide access to target online locations before bringing any amendment application. To some extent this frustrates the objective of s 115A.

76 Thirdly, recent amendments to the Act indicate that Parliament intends to implement a more liberal approach to enabling amendments to orders than was the position when *Roadshow No. 1* was decided. Section 115A has been amended to introduce subsections (2A) and (2B), which relevantly provide (emphasis added):

- (2A) The Court may grant the injunction in the terms, and subject to the conditions, that the Court considers appropriate.
- (2B) Without limiting subsection (2A), the injunction may:
  - (a) require the carriage service provider to take reasonable steps to do either or both of the following:
    - (i) block domain names, URLs and IP addresses that provide access to the online location and that are specified in the injunction;
    - (ii) block domain names, URLs and IP addresses *that the carriage service provider and the owner of copyright agree, in writing, have started to provide access to the online location after the injunction is made; [...]*

...

77 In the Second Reading Speech to the Copyright Amendment (Online Infringement Bill) 2018 (18 October 2018) Paul Fletcher MP relevantly said of these amendments:

Australia's piracy rate still remains higher than in countries with strong copyright enforcement frameworks, such as the United Kingdom and Canada. There is still a proportion of Australian users who seek out infringing sites, and there are still pathways for them to get to these sites, including blocked sites.

In February this year, the government reviewed the existing scheme to determine whether it was operating effectively. In general, this assessment found that the scheme is working well and that blocking arrangements have been implemented by carriage service providers with minimum disruption. However, there are some clear pressure points...new pathways to the blocked sites appear after the initial blocking, and these new pathways can't be blocked because they are not part of the original court order...

...

The bill will make clear that the Federal Court has the power to issue responsive and adaptive injunctions, without the need for the copyright owner to go back to the court. This will give the court the power to grant injunctions on terms that allow the copyright owner and carriage service provider, by agreement, to apply the injunction to block other pathways that start to provide access to an infringing site.

78 It is apparent that the legislative intention is to facilitate, in appropriate cases, a more expeditious and less expensive means by which orders may be amended. Importantly,

parliament did not intend, and the orders I propose to make do not permit, the applicants to bring new target online locations within the scope of the orders. Rather, the applicants may only seek to bring within the scope of the orders new domain names, IP Addresses or URLs for the 86 target online locations which are in issue in these proceedings. Should the applicants wish to block access to a new target online location, a separate application will need to be brought.

79 Having regard to these matters, in my view the appropriate form of Order 12 is as follows. It is marked up to reflect changes from the form sought by the applicants:

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 states 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 ~~outside Australia~~ for the Target Online Locations the subject of these Orders and brief reasons therefore;
- (b) Within ~~7~~ 14 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~~ agree 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 Respondents does not agree to disable a Domain Name, IP Address or URL notified in accordance with Order 12(a) give notice of any objection, or the Court otherwise considers it appropriate to do so ~~thinks fit~~, the proceeding will be relisted for further directions; and
- (d) If any ~~no~~ Respondent agrees to disable access to any Domain Name, IP Address or URL notified in accordance with Order 12(a) gives notice of any objection 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, ~~no objection has been raised, the~~ that Respondents must

take steps pursuant to Order 1 to disable access to the Domain Name, IP Address or URL the subject of the agreement ~~notified in accordance with Order 13(a)~~.

80 The first alteration I have made to the form of order proposed by the applicants is to require the applicants by their solicitor to certify the matters set out in (b)(ii). It is appropriate that an officer of the Court give such a certification. The second alteration is to remove the requirement to specify that the online location is outside Australia, since that fact is now presumed: see s 115A(5A). The third alteration is to oblige the respondents to notify the applicants in writing whether they agree with the proposed amendment to the orders, thereby satisfying the requirements of s 115A(2B)(ii) of the Act. The fourth alteration is to permit the respondents 14 days in which to respond to the notice. This addresses a concern raised by the some of the respondents that the time period should accommodate both the respondents and the Court's workload.

81 Before concluding upon the form of these orders, I will give the parties a further opportunity to address their form.

82 Accordingly, the orders that I will make are:

- (1) Leave be granted to the Eleventh Applicant to proceed with this application without joining the copyright owner of the cinematograph film of which it is the exclusive licensee.
- (2) The Applicants be granted leave to amend their Originating Application and Concise Statement in the form filed on 13 February 2020.
- (3) The requirement under s 115A(4) of the *Copyright Act 1968* (Cth) that the Applicants give notice of their application to the persons who operate the Target Online Locations be dispensed with in so far as any such notice has not already been given.
- (4) Any party who wishes to address the terms of draft Order 12 set out in Annexure A to the Reasons for Judgment delivered on 20 April 2020 may do so in a written submission of no more than 3 pages in length, to be filed and served on all other parties within 14 days of the date of this order. Any party seeking to be heard on the form of order should indicate so in their written submission. Otherwise, the form of order will be finalised on the papers.

## ANNEXURE A

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 14 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 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 does not agree to disable 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 any Respondent agrees to disable 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 Respondents must take steps pursuant to Order 1 to disable access to the Domain Name, IP Address or URL the subject of the agreement.
- 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.

## SCHEDULE

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
				104.31.16.3 104.31.17.3
11.	kikass.to	https://kikass.to/	kikass.to	104.27.150.245 104.27.151.245
				104.31.16.3 104.31.17.3
12.	kat.sx/	https://kat.sx/	kat.sx	104.31.16.3 104.31.17.3
				104.31.18.30 104.31.19.30
13.	kickass.sx	https://kickass.sx/	kickass.sx	104.31.18.30 104.31.19.30
				104.31.18.30 104.31.19.30
14.	kickass1.to	https://kickass1.to/	kickass1.to	104.31.18.30 104.31.19.30
				104.31.18.30 104.31.19.30

		<a href="https://kat.ag">https://kat.ag</a>	kat.ag	104.31.18.30 104.31.19.30
15.	ibit	<a href="https://ibit.to">https://ibit.to</a>	ibit.to	104.31.94.163 104.31.95.163
16.	onionplay	<a href="https://onionplay.eu">https://onionplay.eu</a>	onionplay.eu	104.18.50.237 104.18.51.237
		<a href="https://onionplay-network.xyz/">https://onionplay-network.xyz/</a>	onionplay-network.xyz	104.28.12.127 104.28.13.127
		<a href="https://onionplay.co/">https://onionplay.co/</a>	onionplay.co	104.27.180.32 104.27.181.32
		<a href="https://proxyportal.org">https://proxyportal.org</a>	proxyportal.org	104.31.82.250 104.31.83.250
		<a href="https://proxyportal.ws/">https://proxyportal.ws/</a>	proxyportal.ws	104.28.14.239 104.28.15.239
17.	p30download	<a href="https://p30download.com">https://p30download.com</a>	p30download.com	5.144.130.116
18.	torrentquest	<a href="https://torrentquest.com/">https://torrentquest.com/</a>	torrentquest.com	104.27.156.51 104.27.157.51
19.	rutor	<a href="http://rutor.info/">http://rutor.info/</a>	rutor.info	91.132.60.13
20.	btbtdy	<a href="http://btbtdy.me/">http://btbtdy.me/</a>	btbtdy.me	203.186.25.59 103.113.156.70 116.92.208.79
				104.31.112.70 104.31.113.70
				104.25.34.28 104.25.35.28
21.	lookmovie	<a href="https://lookmovie.ag/">https://lookmovie.ag/</a>	lookmovie.ag	104.31.112.70 104.31.113.70
22.	037hdd	<a href="https://www.037hdd.com/">https://www.037hdd.com/</a>	037hdd.com	104.25.34.28 104.25.35.28
23.	cuevana3	<a href="https://cuevana3.io/">https://cuevana3.io/</a>	cuevana3.io	172.64.100.14 172.64.101.14
		<a href="https://cuevana3.co/">https://cuevana3.co/</a>	cuevana3.co	104.27.156.231 104.27.157.231
				104.18.36.250 104.18.37.250
24.	exsite24	<a href="https://exsite24.pl/">https://exsite24.pl/</a>	exsite24.pl	104.18.36.250 104.18.37.250
25.	downduck	<a href="http://www.downduck.com/">http://www.downduck.com/</a>	downduck.com	104.28.10.121 104.28.11.121
26.	downloadha	<a href="https://www.downloadha.com/">https://www.downloadha.com/</a>	downloadha.com	79.127.127.25
27.	emotionvideo-tv	<a href="http://emotionvideo-tv.com/">http://emotionvideo-tv.com/</a>	emotionvideo-tv.com	51.15.22.226
28.	movieon21	<a href="http://movieon21.biz/">http://movieon21.biz/</a>	movieon21.biz	103.194.171.190 104.27.142.143 104.27.143.143
		<a href="http://movieon21.xyz/">http://movieon21.xyz/</a>	movieon21.xyz	
29.	modufree	<a href="http://m6.modufree.net">http://m6.modufree.net</a>	modufree.net	104.27.140.55 104.27.141.55
		<a href="https://j20.hitjjal.com/">https://j20.hitjjal.com/</a>	j20.hitjjal.com	104.27.160.54 104.27.161.54
				104.18.48.232 104.18.49.232
30.	phim33	<a href="https://phim33.com/">https://phim33.com/</a>	phim33.com	104.18.48.232 104.18.49.232
31.	tfpdl	<a href="https://www.tfp.is/">https://www.tfp.is/</a>	tfp.is	104.24.115.4 104.24.114.4
32.	tvsubtitles	<a href="http://www.tvsubtitles.net/">http://www.tvsubtitles.net/</a>	tvsubtitles.net	91.226.212.44
33.	msubs	<a href="http://www.msubs.net">http://www.msubs.net</a>	msubs.net	91.234.33.166

34.	dytt series	<a href="https://dytt8.net/">https://dytt8.net/</a>	dytt8.net	127.66.100.10
35.	ttdytt	<a href="https://www.ttdytt.cc/">https://www.ttdytt.cc/</a>	ttdytt.cc	113.52.134.110
		<a href="https://www.ttdytt.net/">https://www.ttdytt.net/</a>	ttdytt.net	113.52.134.110
36.	fast-torrent	<a href="http://fast-torrent.ru/">http://fast-torrent.ru/</a>	fast-torrent.ru	5.45.71.49
37.	heroturko	<a href="http://www.heroturko.net/">http://www.heroturko.net/</a>	heroturko.net	104.27.128.189
				104.27.129.189
38.	imovies	<a href="https://www.imovies.cc">https://www.imovies.cc</a>	imovies.cc	188.93.90.62
		<a href="https://www.imovies.ge">https://www.imovies.ge</a>	imovies.ge	188.93.90.62
39.	getpopcorntime	<a href="https://getpopcorntime.is/">https://getpopcorntime.is/</a>	getpopcorntime.is	185.198.57.17
				81.17.30.43
				185.248.160.75
				62.141.46.79
40.	toxicwap	<a href="http://toxicwap.com">http://toxicwap.com</a>	toxicwap.com	104.27.240.249
				104.27.241.249
41.	english-films	<a href="https://english-films.com/">https://english-films.com/</a>	english-films.com	51.77.244.43
42.	topeuropix	<a href="https://topeuropix.net/">https://topeuropix.net/</a>	topeuropix.net	172.64.134.3
		<a href="https://topeuropix.com/">https://topeuropix.com/</a>	topeuropix.com	172.64.135.3
				104.27.164.14
43.	poseidonhd	<a href="https://poseidonhd.me/">https://poseidonhd.me/</a>	poseidonhd.me	104.27.165.14
				172.64.175.12
				172.64.174.12
				172.64.136.36
44.	anakbnet	<a href="http://www.anakbnet.com/">http://www.anakbnet.com/</a>	anakbnet.com	172.64.137.36
				104.25.151.16
45.	moviesjoy	<a href="https://www.moviesjoy.net/">https://www.moviesjoy.net/</a>	moviesjoy.net	104.25.150.16
				104.28.20.245
46.	filmlicious	<a href="https://www.filmlicious.net/">https://www.filmlicious.net/</a>	filmlicious.net	104.28.21.245
				104.27.174.37
47.	proxybit	<a href="https://proxybit.fun/">https://proxybit.fun/</a>	proxybit.fun	104.27.175.37
				104.24.113.183
				104.24.112.183
48.	123movies.love	<a href="https://www.123movies.love/">https://www.123movies.love /</a>	123movies.love	104.27.180.73
				104.27.181.73
49.	movies.cab	<a href="https://1primewire.com/">https://1primewire.com/</a>	1primewire.com	104.28.10.159
				104.28.11.159
				104.24.117.75
				104.24.116.75
50.	solarmoviefree	<a href="http://www6.solarmoviefree.net/">http://www6.solarmoviefree.net/</a>	solarmoviefree.net	104.27.157.142
				104.27.156.142
51.	solarmovie.net	<a href="http://www1.solarmovie.net/">http://www1.solarmovie.net/</a>	solarmovie.net	104.24.110.101
				104.24.111.101
52.	yifyddl.movie/yify.yt	<a href="https://yifyddl.movie/">https://yifyddl.movie/</a>	yifyddl.movie	104.31.70.113
		<a href="https://yify.yt/">https://yify.yt/</a>	yify.yt	104.31.71.113
53.	yifymovietorrent.com	<a href="https://yifymovietorrent.com/">https://yifymovietorrent.com /</a>	yifymovietorrent.com	104.26.5.191
				104.26.4.191
52.	yifyddl.movie/yify.yt	<a href="https://yifyddl.movie/">https://yifyddl.movie/</a>	yifyddl.movie	104.28.7.57
				104.28.6.57
53.	yifymovietorrent.com	<a href="https://yifymovietorrent.com/">https://yifymovietorrent.com /</a>	yifymovietorrent.com	104.31.65.120
				104.31.64.120
53.	yifymovietorrent.com	<a href="https://yifymovietorrent.com/">https://yifymovietorrent.com /</a>	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.wat ch/	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/ https://1watchfree.me/	2watchfree.me 1watchfree.me	162.251.108.146 162.251.108.146
63.	putlockerstoworld2.com	https://putlockerstoworld2.co m/	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/ http://www.zmz2019.com/	rrys2019.com zmz2019.com	96.44.183.197 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/ https://yesmovies.ai/	yesmovies.gg yesmovies.ai	104.25.206.11 104.25.207.11 104.26.5.144 104.26.4.144
70.	yesmovies.cloud	https://www3.yesmovies.clo ud	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.vid eo/ https://www1.dramacool.mo vie/	dramacool.video dramacool.movie	104.26.12.197 104.26.13.197 104.26.9.156 104.26.8.156
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
	Tokyotosho	http://tokyotosho.info/	Tokyotosho.info	104.27.138.240

78.				104.27.139.240
79.	animetosho	<a href="https://animetosho.org/">https://animetosho.org/</a>	animetosho.org	185.22.172.173
80.	animebam	<a href="https://www.animebam.net/">https://www.animebam.net/</a>	animebam.net	104.26.12.60
		<a href="https://www.animebam.se/">https://www.animebam.se/</a>	animebam.se	104.26.13.60
81.	animelon	<a href="https://animelon.com/">https://animelon.com/</a>	animelon.com	104.31.76.148
				104.31.77.148
82.	animejolt	<a href="https://ww5.animejolt.com/">https://ww5.animejolt.com/</a>	animejolt.com	104.27.155.10
				104.27.154.10
83.	project-gxs	<a href="https://project-gxs.com/">https://project-gxs.com/</a>	project-gxs.com	104.18.39.84
				104.18.38.84
84.	eyeonanime	<a href="https://eyeonanime.tv/">https://eyeonanime.tv/</a>	eyeonanime.tv	185.62.190.8
				104.31.75.173
85.	animehd47	<a href="https://animehd47.com/">https://animehd47.com/</a>	animehd47.com	104.31.74.173
				104.28.24.254
86.	animereborn	<a href="http://animereborn.io/">http://animereborn.io/</a>	animereborn.io	104.28.25.254
				104.24.118.26
				104.24.119.26