

Federal Court



Cour fédérale

**Date: 20190808**

**Docket: T-1169-19**

**Ottawa, Ontario, August 8, 2019**

**PRESENT: The Honourable Madame Justice Kane**

**BETWEEN:**

**BELL MEDIA INC.  
GROUPE TVA INC.  
ROGERS MEDIA INC.**

**Plaintiffs**

**and**

**JOHN DOE 1 dba GOLDTV.BIZ  
JOHN DOE 2 dba GOLDTV.CA**

**Defendants**

**ORDER**

**UPON** motion made by the Plaintiffs for an Interlocutory Injunction Order pursuant to Rule 373 of the *Federal Courts Rules*, SOR/98-106;

**UPON** considering the Plaintiffs' undertaking to abide by any damage award made by the Court, or upon this Order being set aside;

**UPON** considering the Plaintiffs' motion record and oral submissions at the hearing of this motion;

**AND UPON** being satisfied that the Defendants have been served with the Notice of this Motion in accordance with the Order of Justice LeBlanc, dated July 25, 2019, which set out how service was to be effected on the Defendants;

**AND UPON** finding that the Plaintiffs have established each part of the three- part test for the issuance of this interlocutory injunction, as set out in *RJR-MacDonald Inc. v. Canada (Attorney-General)*, [1994] 1 S.C.R. 311, 111 D.L.R. (4th) 385, that: (1) there is a serious issue to be determined; (2) the moving party, in this case, the Plaintiffs, will suffer irreparable harm if the injunction is not granted; and (3) the balance of convenience, pending a decision on the merits, favours the granting of the injunction;

**AND UPON** being satisfied that the Order sought should issue, based on the evidence and argument presented to the Court;

**THE COURT ORDERS AS FOLLOWS:**

1. An Interlocutory Injunction Order is issued, to remain valid until a final determination of this proceeding on the merits:
  - (a) Ordering the Defendant John Doe 1, by itself or by its employees, representatives and agents, or by any company, partnership, trust, entity or person under its authority or control, or with which it is associated or

affiliated, to immediately disable the GoldTV.biz Service, as that term is defined at paragraph 5 of the Plaintiffs' Statement of Claim, and enjoining and restraining the Defendant John Doe 1 from directly or indirectly:

- (i) transferring access, control or custody over the assets and infrastructures of the GoldTV.biz Service, including its hosting servers and domains names, to any third party;
- (ii) developing, operating, maintaining, promoting, providing support, selling subscriptions, or authorizing anyone to sell subscriptions to the GoldTV.biz Service, or any other similar service;
- (iii) operating, accessing, maintaining, updating, hosting, or promoting the Internet domains and subdomains from which the GoldTV.biz Service is directly or indirectly made available, including the Internet domain goldtv.biz, or any other domain, subdomain or website hosting, promoting, or providing similar services;

Or otherwise:

- (iv) communicating cinematographic works for which the copyright is owned by the Plaintiffs (the "**Plaintiffs Programs**", examples of which are listed in Appendix 1 hereto) to the public by telecommunication, including by transmitting or otherwise making available the television stations that are owned and operated by the Plaintiffs on which they broadcast the Plaintiffs

Programs (“**Plaintiffs Stations**” examples of which are listed in Appendix 2 hereto); or

(v) making the Plaintiffs Programs available to the public by telecommunication in a way that allows members of the public to have access to them from a place and at a time individually chosen by them;

(b) Ordering the Defendant John Doe 2, by itself or by its employees, representatives and agents, or by any company, partnership, trust, entity or person under its authority or control, or with which it is associated or affiliated, to immediately disable the GoldTV.ca Service, as that term is defined at paragraph 6 of the Plaintiffs’ Statement of Claim, and enjoining and restraining the Defendant John Doe 2 from directly or indirectly:

(i) transferring access, control or custody over the assets and infrastructures of the GoldTV.ca Service, including its hosting servers and domains names, to any third party;

(ii) developing, operating, maintaining, promoting, providing support, selling subscriptions, or authorizing anyone to sell subscriptions to the GoldTV.ca Service, or any other similar service;

(iii) operating, accessing, maintaining, updating, hosting, or promoting the Internet domains and subdomains from which the GoldTV.ca Service is directly or indirectly made available, including the Internet domains goldtv.ca, goldtv.info, hostcenter.ca, or any other

domain, subdomain or website hosting, promoting, or providing similar services;

Or otherwise:

(iv) communicating the Plaintiffs Programs to the public by telecommunication, including by transmitting or otherwise making available the Plaintiffs Stations; or

(v) making the Plaintiffs Programs available to the public by telecommunication in a way that allows members of the public to have access to them from a place and at a time individually chosen by them;

2. **COSTS** on this motion and on the Plaintiffs' motion for an Interim Injunction Order are awarded to the Plaintiffs as against the Defendants. If and once the Plaintiffs have identified the Defendants , the Plaintiffs may address the Court by way of a motion for a determination of the amount of the costs awarded and the parameters of payment.

"Catherine M. Kane"

Judge

**Appendix 1 – Tables of the Plaintiffs Programs per Plaintiff**

| <b>Bell Media Inc.'s Programs (Television Broadcast)</b> |                               |            |                                  |
|--|-------------------------------|------------|----------------------------------|
| <b>1.</b>  | The Big Bang Theory           | <b>2.</b>  | Keeping Up With The Kardashians  |
| <b>3.</b>  | How to Get Away with Murder   | <b>4.</b>  | Highway Thru Hell                |
| <b>5.</b>  | Marvel's Agents of SHIELD     | <b>6.</b>  | Killjoys                         |
| <b>7.</b>  | Blue Bloods                   | <b>8.</b>  | Letterkenny                      |
| <b>9.</b>  | The Goldbergs                 | <b>10.</b> | Orphan Black                     |
| <b>11.</b>   | Amazing Race Canada           | <b>12.</b> | SportsCentre                     |
| <b>13.</b>   | Masterchef Canada             | <b>14.</b> | That's Hockey                    |
| <b>15.</b>   | Whiskey Cavalier              | <b>16.</b> | Pardon The Interruption          |
| <b>17.</b>   | Magnum PI                     | <b>18.</b> | Sports 30                        |
| <b>19.</b>   | Daily Show                    | <b>20.</b> | L'Antichambre                    |
| <b>21.</b>   | Game of Thrones               | <b>22.</b> | CFL Football                     |
| <b>23.</b>   | Silicon Valley                | <b>24.</b> | ATP Major Championships          |
| <b>25.</b>   | Broad City                    | <b>26.</b> | World Junior Hockey Championship |
| <b>27.</b>   | Tosh.0                        | <b>28.</b> | FIFA World Cup                   |
| <b>29.</b>   | Jersey Shore: Family Vacation |            |                                  |

| <b>Bell Media Inc.'s Programs (Crave)</b> |                  |
|---|------------------|
| <b>1.</b>                                 | South Park       |
| <b>2.</b>                                 | Ray Donovan      |
| <b>3.</b>                                 | The Sopranos     |
| <b>4.</b>                                 | Sex and the City |
| <b>5.</b>                                 | Seinfeld         |
| <b>6.</b>                                 | Frasier          |
| <b>7.</b>                                 | Arrow            |
| <b>8.</b>                                 | 19-2             |

| <b>Rogers Media Inc.'s Programs<br/>(Non-Sports)</b> |   |            |                                  |
|--|---|------------|----------------------------------|
| <b>1.</b>  | CityNews Calgary /<br>Edmonton / Montreal / Toronto<br>/ Vancouver / Winnipeg | <b>2.</b>  | Storage Wars Canada              |
| <b>3.</b>  | Breakfast Television Toronto<br>/ Montreal / Calgary /<br>Vancouver           | <b>4.</b>  | The Bachelorette                 |
| <b>5.</b>  | Italian Edition/ Punjabi<br>Edition/ Cantonese<br>Edition/Mandarin Edition    | <b>6.</b>  | Family Feud                      |
| <b>7.</b>  | Focus Punjabi/ Focus<br>Portuguese/Focus Mandarin                             | <b>8.</b>  | Price is Right                   |
| <b>9.</b>  | CityLine  | <b>10.</b> | Let's Make a Deal                |
| <b>11.</b>   | The Bachelor  | <b>12.</b> | Shameless                        |
| <b>13.</b>   | Between   | <b>14.</b> | Close Up Kings                   |
| <b>15.</b>   | Meet the Family   | <b>16.</b> | Fail Army                        |
| <b>17.</b>   | Mother Up!  | <b>18.</b> | Illusions of Grandeur            |
| <b>19.</b>   | Seed  | <b>20.</b> | The Liquidator                   |
| <b>21.</b>   | Blood & Water (Season 1 &2)   | <b>22.</b> | Sex and Drugs and Rock<br>& Roll |
| <b>23.</b>   | Sunnyside   | <b>24.</b> | Atlanta                          |
| <b>25.</b>   | Baskets   | <b>26.</b> | Survivorman                      |
| <b>27.</b>   | The People Vs. OJ Simpson   | <b>28.</b> | Entourage Korea                  |
| <b>29.</b>   | American Horror Story   | <b>30.</b> | Polar Bear Town                  |
| <b>31.</b>   | Strain  | <b>32.</b> | Wild Things                      |
| <b>33.</b>   | The Americans   | <b>34.</b> | GRAMMY Awards &<br>Specials      |
| <b>35.</b>   | It's Always Sunny in<br>Philadelphia  | <b>36.</b> | Gong Show                        |
| <b>37.</b>   | Fargo   | <b>38.</b> | Future Man                       |
| <b>39.</b>   | Tyrant  | <b>40.</b> | 24: India                        |
| <b>41.</b>   | Man Seeking Woman   | <b>42.</b> | Hell's Kitchen                   |
| <b>43.</b>   | You're the Worst  | <b>44.</b> | The Cool Kids                    |
| <b>45.</b>   | Feud: Bette and Joan  | <b>46.</b> | The Gifted                       |
| <b>47.</b>   | Better Things   | <b>48.</b> | The Orville                      |

|            |                       |            |   |
|------------|-----------------------|------------|---|
| <b>49.</b> | Legion                | <b>50.</b> | REL   |
| <b>51.</b> | Taboo                 | <b>52.</b> | Single Parents  |
| <b>53.</b> | Modern Family         | <b>54.</b> | Michael Buble Special                                 |
| <b>55.</b> | Scorpion              | <b>56.</b> | Hudson & Rex  |
| <b>57.</b> | 2 Broke Girls         | <b>58.</b> | The Murders   |
| <b>59.</b> | Brooklyn Nine Nine    | <b>60.</b> | Cool Black North                                      |
| <b>61.</b> | Mom                   | <b>62.</b> | Cats Under the Influence                              |
| <b>63.</b> | New Girl              | <b>64.</b> | Shelter from the Storm                                |
| <b>65.</b> | Family Guy            | <b>66.</b> | What We Do in the Shadows                             |
| <b>67.</b> | Black-ish             | <b>68.</b> | Mr. In-Between  |
| <b>69.</b> | Bob's Burgers         | <b>70.</b> | Mayans MC   |
| <b>71.</b> | America's Got Talent  | <b>72.</b> | Snowfall  |
| <b>73.</b> | Bachelor in Paradise  | <b>74.</b> | Pose  |
| <b>75.</b> | Bad Blood (1)         | <b>76.</b> | Trust   |
| <b>77.</b> | Celebrity Family Feud | <b>78.</b> | American Crime Story: Assassination of Gianni Versace |
| <b>79.</b> | The Doctors           | <b>80.</b> | Mental Samurai  |
| <b>81.</b> | General Hospital      | <b>82.</b> | The Bletchley Circle                                  |
| <b>83.</b> | Last Man on Earth     | <b>84.</b> | Manifest  |
| <b>85.</b> | Lethal Weapon         | <b>86.</b> | Murphy Brown  |
| <b>87.</b> | Life in Pieces        | <b>88.</b> | World's Best  |
| <b>89.</b> | Little Big Shots      | <b>90.</b> | Good Morning TSC                                      |
| <b>91.</b> | The Mindy Project     | <b>92.</b> | Style Matters with Jeanne Beker                       |
| <b>93.</b> | The Mick              | <b>94.</b> | Hello Gorgeous  |
| <b>95.</b> | The Middle            | <b>96.</b> | The Vault   |
| <b>97.</b> | Second Jen            | <b>98.</b> | Happy Healthy You                                     |



| <b>Rogers Media Inc.'s Programs (Sports Rights As of March 2019)</b> |  |     |  |
|--|--|-----|--|
| 1.   | Hockey Central   | 2.  | NBA basketball (non-Toronto Raptors) (shared with TSN) |
| 3.   | Blue Jays Central  | 4.  | WWE  |
| 5.   | Sportsnet Central  | 6.  | Premier League soccer (shared with TSN)                |
| 7.   | Prime Time Sports  | 8.  | Tour de France   |
| 9.   | Tim & Sid  | 10. | CHL national package                                   |
| 11.  | Aftermath  | 12. | Rogers Cup   |
| 13.  | NHL National Package   | 14. | Indycar  |
| 15.  | NHL regional hockey (Vancouver Canucks, Calgary Flames, Edmonton Oilers, 50% of Toronto Maple Leafs) | 16. | Grand Slam of Curling                                  |
| 17.  | Toronto Blue Jays  | 18. | Bundesliga   |
| 19.  | MLB baseball (non-Toronto Blue Jays)   | 20. | FA Cup   |
| 21.  | Toronto Raptors (shared with TSN)  | 22. | Gallagher Premiership Rugby                            |

| <b>Rogers Media Inc.'s Programs (Sports Rights as of July 2019)</b> |                   |
|---|-------------------|
| 1.  | Hockey Central    |
| 2.  | Blue Jays Central |
| 3.  | Sportsnet Central |

| <b>Groupe TVA Inc.'s Programs</b> |                                |     |                                     |
|-----------------------------------|--------------------------------|-----|-------------------------------------|
| 1.                                | ARRIVE EN CAMPAGNE             | 2.  | ÉQUIPES DE RÊVE                     |
| 3.                                | ARTIS, LE GALA                 | 4.  | JiC                                 |
| 5.                                | ÇA FINIT BIEN LA SEMAINE       | 6.  | LA QUESTION QUI TUE                 |
| 7.                                | CHICAGO FIRE : CASERNE 51      | 8.  | LE KEVIN RAPHAEL SHOW               |
| 9.                                | DEUX FILLES LE MATIN           | 10. | LE TVA SPORTS                       |
| 11.                               | DU COEUR ET DES BRAS           | 12. | LES PARTANTS                        |
| 13.                               | DU TALENT À REVENDRE           | 14. | L'IMPACT CETTE SEMAINE              |
| 15.                               | FUGUEUSE                       | 16. | QUÉBEC À VOL D'OISEAU               |
| 17.                               | LA LISTE NOIRE: RÉDEMPTION     | 18. | RED BULL XTREME COLLXTION           |
| 19.                               | LA POULE AUX OEUFS D'OR        | 20. | TOP LNH                             |
| 21.                               | LA RECRUE                      | 22. | WILDCATS - PÊCHE À LA MOUCHE        |
| 23.                               | LA VOIX                        | 24. | 100% NOUVELLES                      |
| 25.                               | LA VRAIE NATURE                | 26. | DENIS LÉVESQUE                      |
| 27.                               | L'APPÂT                        | 28. | LA JOUTE                            |
| 29.                               | LE TRICHEUR                    | 30. | LCN/MAINTENANT                      |
| 31.                               | LOL:-)                         | 32. | LE QUÉBEC MATIN                     |
| 33.                               | PILOTE ACADEMIE EN VIRAGE VERT | 34. | MARIO DUMONT                        |
| 35.                               | REFUGE ANIMAL                  | 36. | CASTLE ROCK                         |
| 37.                               | ROUE DE FORTUNE CHEZ VOUS      | 38. | CORONER                             |
| 39.                               | SALUT BONJOUR                  | 40. | FLASH                               |
| 41.                               | SALUT BONJOUR WEEK-END         | 42. | LE TRÔNE DE FER                     |
| 43.                               | SUCRÉ SALÉ                     | 44. | LES ENQUÊTES DE MURDOCH             |
| 45.                               | TVA NOUVELLES                  | 46. | NATION Z                            |
| 47.                               | VLOG                           | 48. | RÊVES ÉLECTRIQUES DE PHILIP K. DICK |

|            |                                  |            |  |
|------------|----------------------------------|------------|--|
| <b>49.</b> | WORLD OF DANCE LA<br>COMPÉTITION | <b>50.</b> | SANS REGRET                              |
| <b>51.</b> | AVANT-MATCH IMPACT               | <b>52.</b> | SHOOTER - TIREUR D'ÉLITE                 |
| <b>53.</b> | AVANT-MATCH LNH                  | <b>54.</b> | VICTOR LESSARD -<br>VIOLENCE À L'ORIGINE |
| <b>55.</b> | DAVE MORISSETTE EN<br>DIRECT     |            |  |

## Appendix 2 – Tables of the Plaintiffs Stations per Plaintiff

|     | Bell Media Inc.'s Stations |
|-----|----------------------------|
| 1.  | Animal Planet              |
| 2.  | BNN Bloomberg              |
| 3.  | Book Television            |
| 4.  | Bravo!                     |
| 5.  | Canal D                    |
| 6.  | Canal Vie                  |
| 7.  | Cinépop                    |
| 8.  | The Comedy Network         |
| 9.  | Comedy Gold                |
| 10. | Crave                      |
| 11. | CP24                       |
| 12. | CTV                        |
| 13. | CTV Two                    |
| 14. | CTV News Channel           |
| 15. | Discovery Channel          |
| 16. | Discovery Science          |
| 17. | Discovery Velocity         |
| 18. | E!                         |
| 19. | ESPN Classic               |
| 20. | Fashion Television         |
| 21. | Gusto                      |
| 22. | HBO Canada                 |
| 23. | Investigation              |
| 24. | Investigation Discovery    |
| 25. | MTV                        |
| 26. | MTV2                       |
| 27. | Much                       |
| 28. | RDS                        |
| 29. | RDS Info                   |
| 30. | RDS 2                      |

|            | <b>Rogers Media Inc.'s City Stations</b>   |            | <b>Rogers Media Inc.'s OMNI Stations</b>  |
|------------|--|------------|---|
| <b>1.</b>  | CJNT-DT Montréal, QC (City Montreal)   | <b>16.</b> | CFMT-DT Toronto, ON (OMNI.1) and its transmitters CFMT-DT-1 London and CFMT-DT-2 Ottawa |
| <b>2.</b>  | CITY-DT Toronto, ON and its transmitters CITY-DT-2 Woodstock and CITY-DT-3 Ottawa (City Toronto) | <b>17.</b> | CJMT-DT Toronto, ON (OMNI.2) and its transmitters CJMT-DT-1 London and CJMT-DT-2 Ottawa |
| <b>3.</b>  | CHMI-DT Portage La Prairie, MB (City Winnipeg)   | <b>18.</b> | CJCO-DT Calgary, AB (OMNI AB)   |
| <b>4.</b>  | CKAL-DT Calgary, AB and its transmitter CKAL-DT-1 Lethbridge (City Calgary)                      | <b>19.</b> | CJEO-DT Edmonton, AB (OMNI AB)  |
| <b>5.</b>  | CKEM-DT Edmonton, AB and its transmitter CKEM-TV-1 Red Deer (City Edmonton)                      | <b>20.</b> | CHNM-DT Vancouver, BC (OMNI BC) and its transmitter CHNM-DT-1 Victoria                  |
| <b>6.</b>  | CKVU-DT Vancouver, BC and its transmitter CKVU-DT-2 Victoria (City Vancouver)                    |            |   |
| <b>7.</b>  | CSCN-DT, Provincial Educational Broadcaster for Saskatchewan (City Saskatchewan)                 |            |   |
|            | <b>Rogers Media Inc.'s Discretionary Services</b>  |            | <b>Rogers Media Inc.'s Exempt Services</b>  |
| <b>8.</b>  | Outdoor Life Network (OLN)   | <b>21</b>  | TSC (Today's Shopping Choice)   |
| <b>9.</b>  | Sportsnet 360  |            |   |
| <b>10.</b> | FX (through a subsidiary)  |            |   |
| <b>11.</b> | FXX (through a subsidiary)   |            |   |
| <b>12.</b> | Sportsnet World  |            |   |
| <b>13.</b> | Sportsnet  |            |   |
| <b>14.</b> | Sportsnet One  |            |   |
| <b>15.</b> | Omni Regional  |            |   |

| <b>Groupe TVA Inc.'s Stations</b> |   |
|-----------------------------------|---|
| <b>1.</b>                         | CFTM-TV (TVA Montreal)                  |
| <b>2.</b>                         | CFCM-TV (TVA Québec)                    |
| <b>3.</b>                         | CHLT-TV (TVA Sherbrooke)                |
| <b>4.</b>                         | CHEM-TV (TVA Trois-Rivières)            |
| <b>5.</b>                         | CFER-TV (TVA Rimouski-Matane-Sept-Îles) |
| <b>6.</b>                         | CJPM-TV (TVA Saguenay-Lac-Saint-Jean)   |
| <b>7.</b>                         | Addik TV                                |
| <b>8.</b>                         | CASA                                    |
| <b>9.</b>                         | Évasion                                 |
| <b>10.</b>                        | LCN                                     |
| <b>11.</b>                        | Moi & Cie                               |
| <b>12.</b>                        | Prise 2                                 |
| <b>13.</b>                        | TVA Sports                              |
| <b>14.</b>                        | Yoopu                                   |
| <b>15.</b>                        | Zeste                                   |