



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD753/2019

ROADSHOW FILMS PTY LIMITED and others named in the schedule
First Applicant

TELSTRA CORPORATION LIMITED ABN 33 051 775 556 and others named in the
schedule
First Respondent

ORDER

JUDGE: JUSTICE THAWLEY

DATE OF ORDER: 19 August 2019

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. 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.
2. Each Respondent must, within 15 business days of service of these orders, take reasonable steps to disable access to the Target Online Locations.
3. Order 2 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.
4. If a Respondent in complying with order 3 does not implement one of the steps referred to in order 3, that Respondent must, within 15 business days of service of these Orders, notify the Applicants of the step or steps it has implemented.



5. 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 2 to a webpage established, maintained and hosted by either:

- (a) the Applicants, or their nominee, pursuant to order 6; or
- (b) that Respondent or its nominee.

The Applicants' obligations pursuant to orders 6 and 7 only arise if a Respondent notifies the Applicants that the Respondent will redirect a communication pursuant to order 5(a) and for so long as at least one Respondent redirects communications to that webpage.

6. 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 5 that access to the website has been disabled because this Court has determined that it infringes or facilitates the infringement of copyright.

7. 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 5 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 6.

8. If, in complying with order 5, 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.

9. 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 2 to disable access to the relevant Target URL, Target IP Address or Target Domain Name that is the subject of the notice.

10. A Respondent will not be in breach of order 2 if it temporarily declines or temporarily ceases to take the steps ordered in order 2 (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.

11. 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.
- 12. 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.
- 13. 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:
 - (a) the Applicants may file and serve:
 - (i) an affidavit which:
 - (A) identifies the different Domain Name, IP Address or URL;
 - (B) states that, in the good faith belief of the deponent, 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 therefor; and
 - (ii) proposed short minutes of order to the effect that:
 - (A) the definition of Target Online Locations in these orders is amended to include the different Domain Name, IP Address or URL; and



- (B) the time period in order 2 of these Orders starts to run in relation to the different Domain Name, IP Address or URL upon service of the orders in accordance with order 17(d) below.
14. These orders are to operate for a period of 3 years from the date of these orders.
15. 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 17 shall apply.
16. The affidavit referred to in orders 13 and 15 is to be given by a deponent duly authorised to give evidence on behalf of the Applicants and may be given by their solicitor.
17. If an affidavit and short minutes of order are filed and served in accordance with orders 13 or 15:
- (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.



18. 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 2.
19. There be no order as to costs.

Date that entry is stamped:

Warrick Soden
Registrar



Schedule

No: NSD753/2019

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Second Applicant	VILLAGE ROADSHOW FILMS (BVI) LTD
Third Applicant	DISNEY ENTERPRISES, INC.
Fourth Applicant	PARAMOUNT PICTURES CORPORATION
Fifth Applicant	COLUMBIA PICTURES INDUSTRIES, INC.
Sixth Applicant	UNIVERSAL CITY STUDIOS LLC.
Seventh Applicant	WARNER BROS. ENTERTAINMENT INC.
Eighth Applicant	NETFLIX STUDIOS, LLC
Ninth Applicant	TELEVISION BROADCASTS LIMITED
Tenth Applicant	TVBO PRODUCTION LIMITED
Eleventh Applicant	MADMAN ANIME GROUP PTY LTD
Second Respondent	PACNET INTERNET (A) PTY LTD (ACN 085 213 690)
Third Respondent	PACNET SERVICES (A) PTY. LTD. (ACN 056 783 852)
Fourth Respondent	OPTUS MOBILE PTY LIMITED (ACN 054 365 696)
Fifth Respondent	OPTUS NETWORKS PTY LIMITED (ACN 008 570 330)
Fifth Respondent	OPTUS NETWORKS PTY LIMITED ACN 008 570 330
Sixth Respondent	OPTUS ADSL PTY LIMITED (ACN 138 676 356)
Seventh Respondent	OPTUS SATELLITE PTY LIMITED (ACN 091 790 313)
Eighth Respondent	UECOMM OPERATIONS PTY LIMITED (ACN 093 504 100)
Ninth Respondent	VIVIDWIRELESS PTY LIMITED (ACN 137 696 461)
Tenth Respondent	OPTUS INTERNET PTY LIMITED (ACN 083 164 532)
Eleventh Respondent	VIRGIN MOBILE (AUSTRALIA) PTY LIMITED (ACN 092 726



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Twelfth Respondent	ALPHAWEST SERVICES PTY LIMITED (ACN 009 196 347)
Thirteenth Respondent	OPTUS WHOLESALE PTY LIMITED (ACN 092 227 551)
Fourteenth Respondent	M2 WHOLESALE PTY LTD (ABN 99 119 220 843)
Fifteenth Respondent	M2 WHOLESALE SERVICES PTY LTD (ACN 119 220 843)
Sixteenth Respondent	M2 COMMANDER PTY LTD (ACN 136 950 082)
Seventeenth Respondent	PRIMUS NETWORK (AUSTRALIA) PTY LTD (ACN 109 142 216)
Eighteenth Respondent	PRIMUS TELECOMMUNICATIONS PTY LTD (ACN 071 191 396)
Nineteenth Respondent	PRIMUS TELECOMMUNICATIONS (AUSTRALIA) PTY LTD (ACN 061 754 943)
Twentieth Respondent	DODO SERVICES PTY LTD (ACN 158 289 331)
Twenty First Respondent	ENGIN PTY LTD (ACN 080 250 371)
Twenty Second Respondent	EFTEL CORPORATE PTY LTD (154 634 054)
Twenty Third Respondent	EFTEL RETAIL PTY LTD (ACN 092 667 126)
Twenty Fourth Respondent	EFTEL WHOLESALE PTY LTD (ACN 123 409 058)
Twenty Fifth Respondent	CLUBTELCO PTY LTD (ACN 144 488 620)
Twenty Sixth Respondent	WHOLESALE COMMUNICATIONS GROUP PTY LTD (ACN 109 626 011)
Twenty Seventh Respondent	2TALK PTY LTD (ACN 161 656 499)
Twenty Eighth Respondent	VOCUS PTY LTD (ACN 127 842 853)
Twenty Ninth Respondent	AMCOM IP TEL PTY LTD (ACN 065 092 962)



Thirtieth Respondent	AMNET BROADBAND PTY LTD (ACN 092 472 350)
Thirty First Respondent	NEXTGEN NETWORKS PTY LTD (ACN 094 147 403)
Thirty Second Respondent	TPG INTERNET PTY LTD (ACN 068 383 737)
Thirty Third Respondent	TPG NETWORK PTY LTD (ACN 003 064 328)
Thirty Fourth Respondent	FTTB WHOLESALE PTY LTD (ACN 087 533 328)
Thirty Fifth Respondent	CHARIOT PTY LTD (ACN 088 377 860)
Thirty Sixth Respondent	SOUL PATTINSON TELECOMMUNICATIONS PTY LIMITED (ACN 001 726 192)
Thirty Seventh Respondent	SPT TELECOMMUNICATIONS PTY LIMITED (ACN 099 173 770)
Thirty Eighth Respondent	SPTCOM PTY LIMITED (ACN 111 578 897)
Thirty Ninth Respondent	SOUL COMMUNICATIONS PTY LTD (ACN 085 089 970)
Fortieth Respondent	PIPE NETWORKS PTY LIMITED (ACN 099 104 122)
Forty First Respondent	INTRAPOWER TERRESTRIAL PTY LTD (ACN 081 193 259)
Forty Second Respondent	IINET LIMITED (ACN 068 628 937)
Forty Third Respondent	INTERNODE PTY LTD (ABN 82 052 008 581)
Forty Fourth Respondent	TRANSACT CAPITAL COMMUNICATIONS PTY LTD (ACN 093 966 888)
Forty Fifth Respondent	TRANSACT VICTORIA COMMUNICATIONS PTY LTD (ACN 063 024 475)
Forty Sixth Respondent	WESTNET PTY LTD (ACN 086 416 908)
Forty Seventh Respondent	ADAM INTERNET PTY LTD (ACN 055 495 853)



Forty Eighth Respondent	AAPT LIMITED (ACN 052 082 416)
Forty Ninth Respondent	REQUEST BROADBAND PTY LTD (ACN 091 530 586)
Fiftieth Respondent	VODAFONE HUTCHISON AUSTRALIA PTY LIMITED (ACN 096 304 620)
Fiftieth Respondent	VODAFONE HUTCHISON AUSTRALIA PTY LIMITED (ACN 096 304 620)
Fifty First Respondent	VODAFONE NETWORK PTY LIMITED (ACN 081 918 461)
Fifty Second Respondent	VODAFONE PTY LIMITED (ACN 062 954 554)