

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 13/02/2019 3:27:10 PM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

### Filing and Hearing Details

Document Lodged: Originating Application - Form 15 - Rule 8.01(1)  
File Number: NSD219/2019  
File Title: INTERNATIONAL MEDIA DISTRIBUTION (LUXEMBOURG) S.A.R.L & ORS v TELSTRA CORPORATION LIMITED ABN 33 051 775 556 & ORS  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: First Case Management Hearing  
Time and date for hearing: 22/03/2019, 9:30 AM  
Place: Court Room Not Assigned, Level 17, Law Courts Building 184 Phillip Street Queens Square, Sydney



A handwritten signature in blue ink that reads 'Warwick Soden'.

Dated: 20/02/2019 8:38:56 AM AEDT

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



# Originating Application

Federal Court of Australia

No.

District Registry: New South Wales

Division: General

**INTERNATIONAL MEDIA DISTRIBUTION (LUXEMBOURG) S.à.r.l** and others named in Schedule 1

Applicants

**TELSTRA CORPORATION LIMITED (ACN 051 775 556)** and others named in Schedule 1

Respondents

To the Respondents

The Applicants apply for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**Time and date for hearing:**

**Place:** Level 17, Law Courts Building, Queens Square, Sydney in the State of New South Wales

Dated: 2019

Signed by an officer acting with the authority  
of the District Registrar

Filed on behalf of

The Applicants

Prepared by

Andrew Gavin Stewart

Law firm

Baker McKenzie

Tel (02) 8922 5117

Fax (02) 9225 1595

Email andrew.stewart@bakermckenzie.com

**Address for service**  
(include state and  
postcode)

**Baker McKenzie**, Solicitors  
Level 46, 100 Barangaroo Ave, Sydney NSW 2000



## Details of claim

In this Application, 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 5.
- c) **IP Address** means an Internet Protocol address.
- d) **Optus** means the fourth to thirteenth Respondents.
- e) **Target Online Locations** means the online locations as referred to in Schedule 2 and that are or were accessible:
  - (i) at the URLs listed in Schedule 2 to this Order (together, the **Target URLs**);
  - (ii) at the IP Addresses listed in Schedule 2 to this Order (together, the **Target IP Addresses**); and
  - (iii) at the Domain Names listed in Schedule 2 to this Order (together, the **Target Domain Names**).
- f) **Telstra** means the first to third Respondents.
- g) **TPG** means the thirty-second to the forty-ninth Respondents.
- h) **URL** means a Uniform Resource Locator.
- i) **Vocus** means the fourteenth to thirty-first Respondents.
- j) **Vodafone** means the fiftieth to fifty-second Respondents.

On the grounds stated in the statement of claim, the Applicants claim:

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 Location as agreed in writing between the Applicants and a Respondent.
4. If a Respondent in complying with Order 2 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 any of 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 online location 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 6 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 online location 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 a 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:

- (a) 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



- (b) 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 online location 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 online location; and
  - (b) be supported by evidence as to:
    - (i) the status of the owner or operator of the Target Online Locations or affected online location; 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 an online location 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; and



- (B) states that, in the good faith belief of the deponent, the online location 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; 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 in accordance with Order 17(d) of the Orders as made.
14. These Orders are to operate for a period of 3 years from the date of these Orders.
15. Six 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 Locations continue 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 Order 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 Respondent gives 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', Vodafone's and TPG's compliance costs calculated at the rate of \$50 per Domain Name the subject of DNS Blocking undertaking for the purposes of complying with Order 2.
19. There be no order as to costs.

### **Applicants' address**

The Applicants' address for service is:

Place: Baker & McKenzie, Solicitors  
Level 46, 100 Barangaroo Ave  
Sydney NSW 2000  
DX 218 SYDNEY

Email: [andrew.stewart@bakermckenzie.com](mailto:andrew.stewart@bakermckenzie.com)

### **Service on the Respondents**

It is intended to serve this application on all Respondents.

Dated: 13 February 2019

A handwritten signature in black ink, appearing to read 'Andrew Stewart'.

.....  
Signed by Andrew Gavin Stewart  
Lawyer for the Applicants





## Schedule 1

Federal Court of Australia  
 District Registry: New South Wales  
 Division: General

No.

### Applicants

Second Applicant: New TV, (AL JADEED) a Company incorporated in accordance with the laws of Lebanon

### Respondents

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)  
 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 092 726 442)  
 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 (ACN 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)
Fifty-First Respondent:	Vodafone Australia Limited (ABCN 056 161 043)
Fifty-Second Respondent:	Vodafone Pty Limited (ACN 062 954 554)

Date: 13 February 2019



## Schedule 2

Target URLs	Target Domain Names	Target IP Addresses
https://reelplay.tv/	reelplay.tv	108.167.156.180
https://reelplay.co/	reelplay.co	104.27.177.206 104.27.176.206
http://hevent.atvapi.com	hevent.atvapi.com	115.28.139.5 118.190.46.17 115.28.91.133
http://event.atvapi.com	event.atvapi.com	47.88.33.126
http://clist.nuolook.nl	clist.nuolook.nl	104.24.121.58 104.24.120.58
http://hwss.atvapi.com	hwss.atvapi.com	47.88.65.121
http://hwapk.atvapi.com	hwapk.atvapi.com	47.88.65.121
http://hwoo.atvapi.com	hwoo.atvapi.com	47.88.65.121
http://resrc.atvapi.com	resrc.atvapi.com	47.88.47.43