

## NOTICE OF FILING

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### Details of Filing

Document Lodged: Concise Statement  
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



A handwritten signature in blue ink, reading 'Warwick Soden'.

Dated: 20/02/2019 8:39:00 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.

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## Concise Statement

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

### A. IMPORTANT FACTS GIVING RISE TO THE CLAIM

1. The Applicants are owners or exclusive licensees of copyright in Australia in television broadcasts of certain television channels (**Applicants' Copyright Broadcasts**).

#### Particulars

The Applicants' Copyright Broadcasts and each of their respective owners and exclusive licensees are identified in Annexure A.

2. In relation to certain of the Applicants' Copyright Broadcasts, the Applicants seek leave of the Court pursuant to section 120 of the *Copyright Act 1968* (Cth) (the **Act**) to proceed in this action without joining certain copyright owners as parties to this proceeding.

#### Particulars

These copyright owners of the relevant Applicants' Copyright Broadcasts are identified in Annexure B.

3. The Respondents are:
  - (a) carriage service providers which provide Internet access services to the public; and
  - (b) members of the five corporate groups indicated below:

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<b>Group</b>	<b>Respondents</b>
Telstra	First to Third Respondents
Optus	Fourth to Thirteenth Respondents
Vocus	Fourteenth to Thirty-First Respondents
TPG	Thirty-Second to Forty-Ninth Respondents
VHA	Fiftieth to Fifty-Second Respondents

4. The Target Online Locations (as set out in Schedule 2) are online locations that are currently or have recently been observed as accessible using the Respondents' carriage services which:
- (a) facilitate users of a set top box device known as 'Reel Play' (the **Reel Play Device**) connected to the Internet to have foreign television broadcasts streamed from online locations (**Streaming Locations**) to the Reel Play Device, using an application on that device (**Infringing Application**);
  - (b) facilitate the process described in (a) by providing one or more of the following functions:
    - (i) providing the Reel Play Device with access to locations from which the Infringing Application can be downloaded and updated to the latest version of the Infringing Application;
    - (ii) providing lists of infringing content available through the Infringing Application, including in the form of an electronic program guide;
    - (iii) providing a location from which content can be streamed to the Infringing Application; and
    - (iv) provide access to a website at which the Reel Play Device can be purchased, and which also provides a registration process which Reel Play Device users must complete in order to access broadcasts using the Infringing Application.
5. The broadcasts referred to in paragraph 4 above include the Applicants' Copyright Broadcasts as well as broadcasts of other television channels.
6. The Applicants have not licenced or otherwise authorised the owners or operators of the Reel Play Device, the Infringing Application or the Target Online Locations to engage in the activities described in paragraph 4 above.

7. The Applicants have liaised with the Respondents prior to the making of this application.

**B. THE RELIEF SOUGHT FROM THE COURT (AND AGAINST WHOM)**

8. The Applicants seek the relief set out in the accompanying Application, comprising:

- (a) an Order under section 115A(2) of the Act requiring the Respondents to take reasonable steps to disable access to the Target Online Locations; and
- (b) other ancillary orders which are in substantially the same form as those made by Nicholas J in the following proceedings which also concern set top boxes:
  - (i) *Roadshow Films Pty Limited v Telstra Corporation Limited* [2018] FCA 582; and
  - (ii) *Television Broadcasts Limited v Telstra Corporation Limited* [2018] FCA 1434.

**C. THE PRIMARY LEGAL GROUNDS (CAUSES OF ACTION) FOR THE RELIEF SOUGHT**

- 9. The Respondents, being carriage service providers as defined in the *Telecommunications Act 1997* (Cth), provide access to the Target Online Locations.
- 10. Pursuant to section 115A(5A) of the Act, for the purposes of this proceeding, the Target Online Locations are presumed to be outside Australia, unless the contrary is established.
- 11. Without the licence or other permission of the Applicants, the owners or operators of the Target Online Locations infringe, or facilitate infringement of, the copyright subsisting in the Applicants' Copyright Broadcasts by facilitating users of the Infringing Application on the Reel Play Device to access Streaming Locations that, without licence or other permission of the Applicants and communicate the Applicants' Copyright Broadcasts to Reel Play Device users being an act referred to in section 87 of the Act.
- 12. The primary purpose of the Target Online Locations is to infringe, or to facilitate the infringement of, copyright within the meaning of section 115A of the Act.
- 13. With respect to the matters set out in section 115A(5) of the Act:
  - (a) some of the Target Online Locations make available or contain directories, indexes or categories of the means to infringe, or facilitate an infringement of, copyright;
  - (b) the owners or operators of the Target Online Locations demonstrate a flagrant disregard for copyright generally, in that they provide easy access to the

protected copyright material of others, in exchange for fees, without the licence or authority of the copyright owner or exclusive licensee;

(c) disabling access to the Target Online Locations is a proportionate response in the circumstances; and

(d) disabling access to the Target Online Locations is in the public interest.

14. Accordingly, the Applicants seek orders in the form of the accompanying Original Application.

#### **Certificate of lawyer**

I, Andrew Gavin Stewart, certify to the Court that, in relation to the Concise Statement filed on behalf of the Applicants, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 13 February 2019



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Signed by Andrew Gavin Stewart  
Lawyer for the Applicant

## Annexure A

### Applicants' Copyright Broadcasts

Applicants' Copyright Broadcasts	Copyright Owner	Exclusive licensee	Country of origin
<b>MBC</b>	MBC FZ LLC, incorporated in Dubai Media City, Dubai, UAE	Overlook Management B.V., Second Applicant	UAE
<b>MBC Masr</b>	MBC FZ LLC, incorporated in Dubai Media City, Dubai, UAE	Overlook Management B.V., Second Applicant	UAE
<b>MBC Drama</b>	MBC FZ LLC, incorporated in Dubai Media City, Dubai, UAE	Overlook Management B.V., Second Applicant	UAE
<b>Al Arabiya</b>	MBC FZ LLC, incorporated in Dubai Media City, Dubai, UAE	Overlook Management B.V., Second Applicant	UAE
<b>MTV Lebanon HD</b>	MTV S.A.L, a company organized and existing under the laws of Lebanon	International Media Distribution (Luxembourg) S.a.r.l., First Applicant	Lebanon
<b>Al Jadeed</b>	New TV, (AL JADEED) a company incorporated in accordance with the laws of Lebanon, Third Applicant	International Media Distribution (Luxembourg) S.a.r.l., First Applicant	Lebanon
<b>LDC</b>	LDCW Limited, a company established under the laws of Cyprus	International Media Distribution (Luxembourg) S.a.r.l., First Applicant	Lebanon
<b>OTV Lebanon</b>	Al Lubnaniah Lil l'am, organized and existing under the laws of Lebanon	International Media Distribution (Luxembourg) S.a.r.l., First Applicant	Lebanon
<b>Future TV</b>	Future TV SAL, a company organised and existing under the laws of Lebanon	Overlook Management B.V., Second Applicant	Lebanon
<b>NBN HD</b>	National Broadcasting Network SAL NBN	International Media Distribution (Luxembourg) S.a.r.l., First Applicant	Lebanon
<b>Arabica TV</b>	Arabica Entertainment S.A.L	International Media Distribution (Luxembourg) S.a.r.l., First Applicant	UAE

<b>Aghani Aghani</b>	Aghani Aghani TV, a company organised and existing under the laws of Lebanon	International Media Distribution (Luxembourg) S.a.r.l., First Applicant	UAE
<b>Noursat</b>	Telelumiere S.A.L, organised and existing in accordance with the laws of Lebanon	International Media Distribution (Luxembourg) S.a.r.l., First Applicant	Lebanon
<b>BBC Arabic</b>	British Broadcasting Corporation, a company organised and existing under the laws of England	International Media Distribution (Luxembourg) S.a.r.l., First Applicant	UK
<b>Attica TV</b>	Attica Publications S.A., organised and existing under the laws of Greece	Overlook Management B.V., Second Applicant	Greece

**Annexure B**

**Section 120 Leave Sought**

<b>Copyright Owner</b>	<b>Applicants' Copyright Broadcasts</b>
MBC FZ LLC, incorporated in Dubai Media City, Dubai, UAE	MBC
MBC FZ LLC, incorporated in Dubai Media City, Dubai, UAE	MBC Masr
MBC FZ LLC, incorporated in Dubai Media City, Dubai, UAE	MBC Drama
MBC FZ LLC, incorporated in Dubai Media City, Dubai, UAE	Al Arabiya
MTV S.A.L, a company organized and existing under the laws of Lebanon	MTV Lebanon HD
LDCW Limited, a company established under the laws of Cyprus	LDC
Al Lubnaniah Lil I'lam, organized and existing under the laws of Lebanon	OTV Lebanon
Future TV SAL, a company organised and existing under the laws of Lebanon	Future TV
National Broadcasting Network SAL NBN organised and existing under the laws of Lebanon	NBN HD
Arabica Entertainment S.A.L	Arabica TV
Aghani Aghani TV, a company organised and existing under the laws of Lebanon	Aghani Aghani
Telelumiere S.A.L, organised and existing in accordance with the laws of Lebanon	Noursat
British Broadcasting Corporation, a company organised and existing under the laws of England	BBC Arabic
Attica Publications S.A., organised and existing under the laws of Greece	Attica TV



**Schedule 1**

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

No.

**Applicants**

Second Applicant: Overlook Management B. V., a company incorporated under the laws of The Netherlands

Third 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**

<b>Target URLs</b>	<b>Target Domain Names</b>	<b>Target IP Addresses</b>
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