

IN THE FEDERAL COURT OF AUSTRALIA

DISTRICT REGISTRY

NOTICE OF FILING AND HEARING

This application was filed electronically in the Federal Court of Australia on

CASE DETAILS

Case Number:

Case Description:

District Registry:

Time and date for hearing:

Place:



Warwick Soden

Dated:

Registrar

Note

This Notice forms part of the application and contains information that might otherwise appear elsewhere in the application. The Notice must be included in the application served on each party to the proceeding.



ROADSHOW FILMS PTY LTD (ACN 100 746 870)

First Applicant

UNIVERSAL CITY STUDIOS LLLP

Second Applicant

PARAMOUNT PICTURES CORPORATION

Third Applicant

WARNER BROS. ENTERTAINMENT INC

Fourth Applicant

DISNEY ENTERPRISES, INC

Fifth Applicant

COLUMBIA PICTURES INDUSTRIES, INC

Sixth Applicant

**TWENTIETH CENTURY FOX FILM
CORPORATION**

Seventh Applicant

THE OTHER PARTIES LISTED IN SCHEDULE 1

Eighth to Thirty-Fourth Applicants

IINET LIMITED (ACN 068 628 937)

Respondent

APPLICATION

(Order 4 rule 1)

This Application seeks relief under sections 115 and 116 of the *Copyright Act 1968 (Cth)* (the **Act**). The Court has jurisdiction to hear the matter under section 131C of the Act. (In this Application, the capitalised terms listed in Schedule 2 have the meanings set out in the Statement of Claim.)

Filed on behalf of the Applicants by:

GILBERT + TOBIN

Lawyers

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Sydney NSW 2000

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Ref Michael Williams: 1002258



A. DETAILS OF CLAIM

On the grounds appearing in the accompanying Statement of Claim, the applicants claim:

Declarations

- 1 A declaration that the respondent has infringed the copyright in cinematograph films contained in the Roadshow Film Catalogue, including the Roadshow Films, by:
 - (a) authorising the making in Australia of copies of; and
 - (b) authorising the communication in Australia to the public of,the whole or a substantial part of those cinematograph films, without the licence of the Roadshow Applicants or the owner(s) of copyright.

- 2 A declaration that the respondent has infringed the copyright in cinematograph films contained in the Universal Film Catalogue, including the Universal Films, by:
 - (a) authorising the making in Australia of copies of; and
 - (b) authorising the communication in Australia to the public of,the whole or a substantial part of those cinematograph films, without the licence of the Universal Applicants or the owner(s) of copyright.

- 3 A declaration that the respondent has infringed the copyright in cinematograph films contained in the Paramount Film Catalogue, including the Paramount Films, by:
 - (a) authorising the making in Australia of copies of; and
 - (b) authorising the communication in Australia to the public of,the whole or a substantial part of those cinematograph films, without the licence of the Paramount Applicants or the owner(s) of copyright.

- 4 A declaration that the respondent has infringed the copyright in cinematograph films contained in the Warner Bros Film Catalogue, including the Warner Bros Films, by:
 - (a) authorising the making in Australia of copies of; and
 - (b) authorising the communication in Australia to the public of,the whole or a substantial part of those cinematograph films, without the licence of the Warner Bros Applicants or the owner(s) of copyright.



- 5 A declaration that the respondent has infringed the copyright in cinematograph films contained in the Disney Film Catalogue, including the Disney Films, by:
- (a) authorising the making in Australia of copies of; and
 - (b) authorising the communication in Australia to the public of,
- the whole or a substantial part of those cinematograph films, without the licence of the Disney Applicants or the owner(s) of copyright.
- 6 A declaration that the respondent has infringed the copyright in cinematograph films contained in the Columbia Film Catalogue, including the Columbia Films, by:
- (a) authorising the making in Australia of copies of; and
 - (b) authorising the communication in Australia to the public of,
- the whole or a substantial part of those cinematograph films, without the licence of the Columbia Applicants or the owner(s) of copyright.
- 7 A declaration that the respondent has infringed the copyright in cinematograph films contained in the Fox Film Catalogue, including the Fox Films, by:
- (a) authorising the making in Australia of copies of; and
 - (b) authorising the communication in Australia to the public of,
- the whole or a substantial part of those cinematograph films, without the licence of the Fox Applicants or the owner(s) of copyright.
- 8 A declaration that the respondent did the infringing acts referred to in paragraphs 1 to 7 above flagrantly.
- 9 A declaration that the infringements referred to in paragraphs 1 to 7 above, taken together with other likely infringements by the respondent, were on a commercial scale for the purposes of section 115(5)(d) of the Act.

Permanent Injunctions

- 10 An order that the respondent, whether by itself, its servants, agents or otherwise, be permanently restrained from infringing the copyright in any of the cinematograph films contained in the Roadshow Film Catalogue, including the Roadshow Films, by:
- (a) making in Australia copies of;
 - (b) authorising the making in Australia of copies of;



- (c) communicating in Australia to the public;
- (d) authorising the communication in Australia to the public of,

the whole or a substantial part of those cinematograph films, without the licence of the Roadshow Applicants or the owner(s) of copyright.

- 11 An order that the respondent, whether by itself, its servants, agents or otherwise, be permanently restrained from infringing the copyright in any of the cinematograph films contained in the Universal Film Catalogue, including the Universal Films, by:

- (a) making in Australia copies of;
- (b) authorising the making in Australia of copies of;
- (c) communicating in Australia to the public;
- (d) authorising the communication in Australia to the public of,

the whole or a substantial part of those cinematograph films, without the licence of the Universal Applicants or the owner(s) of copyright.

- 12 An order that the respondent, whether by itself, its servants, agents or otherwise, be permanently restrained from infringing the copyright in any of the cinematograph films contained in the Paramount Film Catalogue, including the Paramount Films, by:

- (a) making in Australia copies of;
- (b) authorising the making in Australia of copies of;
- (c) communicating in Australia to the public;
- (d) authorising the communication in Australia to the public of,

the whole or a substantial part of those cinematograph films, without the licence of the Paramount Applicants or the owner(s) of copyright.

- 13 An order that the respondent, whether by itself, its servants, agents or otherwise, be permanently restrained from infringing the copyright in any of the cinematograph films contained in the Warner Bros Film Catalogue, including the Warner Bros Films, by:

- (a) making in Australia copies of;
- (b) authorising the making in Australia of copies of;



- (c) communicating in Australia to the public;
- (d) authorising the communication in Australia to the public of,

the whole or a substantial part of those cinematograph films, without the licence of the Warner Bros Applicants or the owner(s) of copyright.

- 14 An order that the respondent, whether by itself, its servants, agents or otherwise, be permanently restrained from infringing the copyright in any of the cinematograph films contained in the Disney Film Catalogue, including the Disney Films, by:

- (a) making in Australia copies of;
- (b) authorising the making in Australia of copies of;
- (c) communicating in Australia to the public;
- (d) authorising the communication in Australia to the public of,

the whole or a substantial part of those cinematograph films, without the licence of the Disney Applicants or the owner(s) of copyright.

- 15 An order that the respondent, whether by itself, its servants, agents or otherwise, be permanently restrained from infringing the copyright in any of the cinematograph films contained in the Columbia Film Catalogue, including the Columbia Films, by:

- (a) making in Australia copies of;
- (b) authorising the making in Australia of copies of;
- (c) communicating in Australia to the public;
- (d) authorising the communication in Australia to the public of,

the whole or a substantial part of those cinematograph films, without the licence of the Columbia Applicants or the owner(s) of copyright.

- 16 An order that the respondent, whether by itself, its servants, agents or otherwise, be permanently restrained from infringing the copyright in any of the cinematograph films contained in the Fox Film Catalogue, including the Fox Films, by:

- (a) making in Australia copies of;
- (b) authorising the making in Australia of copies of;



- (c) communicating in Australia to the public;
- (d) authorising the communication in Australia to the public of,

the whole or a substantial part of those cinematograph films, without the licence of the Fox Applicants or the owner(s) of copyright.

Access and termination

- 17 An order requiring the respondent to take all reasonable steps to disable access to any online location outside Australia, which access is provided by means of the iiNet Internet Services, containing copies of the whole or a substantial part of any of the cinematograph films referred to in paragraphs 10 to 16 above.
- 18 An order requiring the respondent to terminate specified accounts of iiNet Customers.

Other orders

- 19 Damages or, in the alternative, at the election of the applicants, an account of profits, pursuant to section 115(2) of the Act.
- 20 Additional damages pursuant to section 115(4) of the Act.
- 21 Relief pursuant to, or having regard to the matters referred to in, section 115(6) of the Act.
- 22 Damages pursuant to section 116(1A) of the Act.
- 23 Costs.
- 24 Interest pursuant to section 51A of the *Federal Court Act 1976* (Cth).
- 25 Such further or other orders or relief as the Court sees fit.

B. Claim For Interlocutory Relief

Not applicable.

Date: 20 November 2008

A handwritten signature in black ink, appearing to read 'M. J. Williams', written over a horizontal dotted line.

MICHAEL JOHN WILLIAMS

GILBERT + TOBIN

**Solicitor for the applicants
by his partner, Siabon Seet**



C. Notice to the respondent

To the Respondent:

iiNet Limited
(ACN 068 628 937)
Level 5, 233 Adelaide Terrace
Perth, WA 6000
Australia

This application has been set down for the time and place stated below. If you or your legal representative do not attend the Court at that time, the application may be dealt with and judgment may be given, or an order made, in your absence. As soon after the time mentioned as the business of the court will allow, any of the following may happen:

- 1 the application may be heard;
- 2 directions may be given for the further conduct of the proceeding;
- 3 any application for interlocutory relief may be heard.

Before any attendance at Court, you must file an appearance in the Registry.

Time and date for hearing:

Place: Queens Square, Sydney

D. Abridgment of service

The time by which this application is to be served has been abridged by order made on to .

Date:

.....
Registrar

E. Filing and Service

This application is filed by Gilbert + Tobin, for the applicants whose address for service is Level 37, 2 Park Street, Sydney, NSW 2000.

The applicants' address details are listed in the attached Schedule 1.

It is intended to serve this application on the company listed below:

The respondent:

iiNet Limited
(ACN 068 628 937)
Level 5, 233 Adelaide Terrace
Perth, WA 6000
Australia



SCHEDULE 1

APPLICANTS

First applicant

Roadshow Films Pty Ltd
ACN 100 746 870
Level 14, 440 Collins Street
Melbourne, Victoria 3000
Australia

Second applicant

Universal City Studios LLLP
100 Universal City Plaza
Universal City, California 91608
United States of America

Third applicant

Paramount Pictures Corporation
5555 Melrose Avenue
Hollywood, California 90038
United States of America

Fourth applicant

Warner Bros. Entertainment Inc.
4000 Warner Boulevard Burbank,
California 91522
United States of America

Fifth applicant

Disney Enterprises, Inc.
500 S. Buena Vista St
Burbank, California, 91521
United States of America

Sixth applicant

Columbia Pictures Industries, Inc.
10202 W Washington Blvd,
Culver City, California, 90232-3195
United States of America

Seventh applicant

Twentieth Century Fox Film Corporation
10201 W. Pico Blvd
Los Angeles California, 90064
United States of America

Eighth applicant

Paramount Home Entertainment (Australasia)
Pty Ltd
ACN 003 914 609
"Tower A the Zenith" level 21,
821 Pacific Highway
Chatswood NSW 2067

Ninth applicant

Buena Vista Home Entertainment, Inc.
500 S Buena Vista Street
Burbank, California 91521
United States of America

Tenth applicant

Twentieth Century Fox Film Corporation
(Australia) Pty Limited
ACN 000 007 036
Level 5, Frank Hurley Grandstand
Fox Studios, Driver Avenue
Moore Park, NSW 2021
Australia

Eleventh applicant

Universal Pictures (Australasia) Pty Ltd
ACN 087 513 620
3 Munn Reserve
Millers Point NSW 2000
Australia

Twelfth applicant

Village Roadshow Films (BVI) Ltd
c/- Tricolor Services
PO Box 3340, 2nd Floor
Palm Grove House
Wickhams Cay, Road Town, Tortola
British Virgin Islands

Thirteenth applicant

Universal Pictures International B.V
Hagedoorplein 2
1031 BV Amsterdam
Netherlands

Fourteenth applicant

Universal City Studios Productions LLLP
100 Universal City Plaza
Universal City, California 91608
United States of America

Fifteenth applicant

Ringerike GmbH & Co KG
Luftfahrtbeteiligungs, KG Zeppelinstrasse 3
15732 Schonefeld OT
Waltersdorf
Germany

Sixteenth applicant

Internationale Filmproduktion Blackbird Vierte
GmbH & Co KG
Wolfratshauser Str. 49, 82049 Pullach
Germany

Seventeenth applicant

MDBF Zweite Filmgesellschaft mbH & Co KG
Wolfratshauser Strasse. 49, 82049 Pullach
Germany

**Eighteenth applicant**

Internationale Filmproduktion Richter GmbH & Co KG
Wolfratshauer Strasse. 49, 82049 Pullach
Germany

Nineteenth applicant

NBC Studios, Inc
3000W Alameda Avenue
Burbank, California 91523
United States of America

Twentieth applicant

DreamWorks Films L.L.C.
100 Universal City Plaza
Universal City, California 91608
United States of America

Twenty-first applicant

Warner Bros International Television
Distribution Inc
4000 Warner Boulevard
Burbank, California 91522
United States of America

Twenty-second applicant

Twentieth Century Fox Home Entertainment
International Corporation
c/- 2121 The Avenue of the Stars
11th Floor
Los Angeles, California 90067
United States of America

Twenty-third applicant

Warner Home Video Pty Ltd
ACN 002 939 808
Level 6, 116 Military Road
Neutral Bay, New South Wales 2089
Australia

Twenty-fourth applicant

Patalex III Productions Limited
The Quadrangle, The Promenade,
Cheltenham, Gloucestershire,
GL50 1PX, England
United Kingdom

Twenty-fifth applicant

Lonely Film Productions GmbH & Co KG
Bavariafilmpfad 7, D 82031
Geiselgasteig
Germany

Twenty-sixth applicant

Sony Pictures Animation Inc
10202 W Washington Blvd,
Culver City, California 90232-3195
United States of America

Twenty-seventh applicant

Universal Studios International B.V.
Hagedoorplein 2
1031 BV Amsterdam
Netherlands

Twenty-eighth applicant

Sony Pictures Home Entertainment Pty Ltd
ACN 002 489 554
Level 30, BT Tower
1 Market Street
Sydney NSW 2000
Australia

Twenty-ninth applicant

GH One LLC
C/- Sony Pictures Home Entertainment Inc
10202 W Washington Blvd,
Culver City, California 90232-3195
United States of America

Thirtieth applicant

GH Three LLC
c/- Sony Pictures Home Entertainment Inc
10202 W Washington Blvd,
Culver City, California 90232-3195
United States of America

Thirty-first applicant

Beverly Blvd LLC
c/- Sony Pictures Home Entertainment Inc
10202 W Washington Blvd,
Culver City, California 90232-3195
United States of America

Thirty-second applicant

Warner Bros Entertainment Australia Pty Ltd
ACN 003 773 411
Level 6, Connell Wagner
116 Military Road
Neutral Bay NSW 2089
Australia

Thirty-third applicant

Twentieth Century Fox Home Entertainment
LLC
2121 Avenue of the Stars, 11th Fl.
Los Angeles, California 90067
United States of America

Thirty-fourth applicant

Seven Network (Operations) Limited
ACN 052 845 262
Level 2, 38-42 Pirrama Road
Pyrmont NSW 2009
Australia



SCHEDULE 2

TERMS DEFINED IN STATEMENT OF CLAIM

Term	Paragraph in Statement of Claim
Additional Universal Applicants	26
Columbia Applicants	45
Columbia Film Catalogue	45
Columbia Films	45
Disney Applicants	39
Disney Film Catalogue	39
Disney Films	39
Fox Applicants	51
Fox Films	51
Fox Film Catalogue	51
iiNet Customers	57
iiNet Internet Services	57
Paramount Applicants	27
Paramount Film Catalogue	27
Paramount Films	27
Roadshow Applicants	15
Roadshow Film Catalogue	15
Roadshow Films	15
Universal Applicants	21
Universal Film Catalogue	21
Universal Films	21
Warner Bros Applicants	33
Warner Bros Film Catalogue	33
Warner Bros Films	33