

FEDERAL COURT

BETWEEN:

**ROGERS MEDIA INC.
ROGERS COMMUNICATIONS INC.
BCE INC.
BELL MEDIA INC.
CTV SPECIALTY TELEVISION ENTERPRISES INC.
THE SPORTS NETWORK INC.
LE RESEAU DES SPORTS (RDS) INC.
GROUPE TVA INC.
FUBOTV INC.**

Applicants

and

**JOHN DOE 1
JOHN DOE 2
JOHN DOE 3
OTHER UNIDENTIFIED PERSONS WHO OPERATE UNAUTHORIZED STREAMING
SERVERS THAT PROVIDE OR WILL PROVIDE ACCESS TO CONTENT OWNED
OR EXCLUSIVELY LICENSED BY THE APPLICANTS IN CANADA**

Respondents

and

**BELL CANADA
BRAGG COMMUNICATIONS INC. dba EASTLINK
COGECO CONNEXION INC.
FIDO SOLUTIONS INC.
ROGERS COMMUNICATIONS CANADA INC.
SASKATCHEWAN TELECOMMUNICATIONS
TEKSAVVY SOLUTIONS INC.
TELUS COMMUNICATIONS INC.
VIDEOTRON LTD.
2251723 ONTARIO INC. dba VMEDIA**

Third Party Respondents

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicants. The relief claimed by the applicants appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicants. The applicants request that this application be heard by videoconference, pursuant to paragraphs 61, 62 and 65 of the Federal Court's Amended Consolidated General Practice Guidelines (December 20, 2023), or in-person at the Federal Court in Montreal or Ottawa.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicants' solicitor WITHIN 10 DAYS after being served with this notice of application.

Copies of the Federal Courts Rules, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

April 5, 2024

**L'ORIGINAL A ÉTÉ SIGNÉ PAR
FRANCESCA LAVICTOIRE
HAS SIGNED THE ORIGINAL**
(Registry Officer)

**30 McGill St.
Montreal, Quebec H2Y 3Z7
Tel.: (514) 283-4820
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30 McGill Street
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TO: The Administrator
FEDERAL COURT

TO: **JOHN DOE 1**
Unknown address
Served by e-mail at: info@serde.ch and abuse@serde.ch

TO: **JOHN DOE 2**
Unknown address
Served by e-mail at: abuse@cogentco.com, noc@cogentco.com and ipalloc@cogentco.com

TO: **JOHN DOE 3**
Unknown address
Served by e-mail at: contact@zetservers.com, noc@zet.net and abuse@zetservers.com

TO: **BELL CANADA**
1 Carrefour Alexander-Graham-Bell, A-7
Verdun, Québec
H3E 3B3

TO: **BRAGG COMMUNICATIONS INC. dba EASTLINK**
4881 Main Street
Oxford, Nova Scotia
B0M 1P0

TO: **COGECO CONNEXION INC.**
1 Place Ville-Marie
Suite 3301
Montréal, Québec
H3B 3N2

TO: **FIDO SOLUTIONS INC.**
2900 - 550 Burrard Street
Vancouver, British Columbia
V6C 0A3

TO: **ROGERS COMMUNICATIONS CANADA INC.**
333 Bloor Street East, 10th Floor
Toronto, Ontario
M4W 1G9

TO: **SASKATCHEWAN TELECOMMUNICATIONS**
2121 Saskatchewan Drive
Regina, Saskatchewan
S4P 3Y2

- TO: **TEKSAVVY SOLUTIONS INC.**
800 Richmond Street
Chatham, Ontario
N7M 5J5
- TO: **TELUS COMMUNICATIONS INC.**
7th Floor
510 West Georgia Street
Vancouver, British Columbia
V6B 0M3
- TO: **VIDEOTRON LTD.**
612 Saint-Jacques Street, 18th Floor
Montreal, Quebec
H3C 4M8
- TO: **2251723 ONTARIO INC. DBA VMEDIA**
12 – 220 RD Viceroy
Vaughan, Ontario
L4K 3C2

APPLICATION

THE APPLICANTS MAKE APPLICATION FOR:

1. **AN ORDER** in the form of the Draft Order attached hereto as **Schedule “A”**:
 - a. For a permanent injunction, pursuant to Sections 34(1) and 39.1 of the *Copyright Act*, Section 44 of the *Federal Courts Act* and Rule 300(b) of the *Federal Courts Rules* (the “**Rules**”), ordering the John Doe Respondents, by themselves or by their employees, representatives and agents, or by any company, partnership, trust, entity or person under their authority or control, or with which they are associated or affiliated, to immediately cease providing unauthorized access to live streams of Protected Live Content (as defined at paragraph 16 below) owned or exclusively licensed by the Applicants in Canada, including by directly or indirectly operating, maintaining, and/or promoting unauthorized streaming servers that provide or facilitate access to live streams of Protected Live Content in Canada, and to refrain from otherwise, directly or indirectly:
 - i. communicating Protected Live Content to the public by telecommunication in Canada, including transmitting or otherwise making available Protected Live Content to the public by telecommunication in a way that allows members of the public to have access to them from a place individually chosen by them; or
 - ii. inducing and/or authorizing anyone to infringe the Applicants’ right to communicate Protected Live Content to the public by telecommunication in Canada.
 - b. Validating service of this Notice of Application and of the Applicants’ filing letter addressed to the Court dated April 5, 2024, upon the John Doe Respondents pursuant to Rule 147, by e-mail at the addresses set out in Schedule A.
2. **AN ORDER** pursuant to Sections 34(1) and 39.1 of the *Copyright Act*, Section 44 of the *Federal Courts Act* and Rule 300(b) of the *Rules*, in the form of the draft Order attached

hereto as **Schedule “B”** (and **Confidential Schedule “B”**, which the Applicants will file separately under seal), for an injunction ordering the Third Party Respondents to, *inter alia*, temporarily and dynamically block or attempt to block access by at least their residential wireline Internet service customers to Unauthorized Streaming Servers (as defined below) identified by the Applicants or their appointed agent as providing or facilitating unauthorized access to Protected Live Content in Canada for a period of two (2) years;

3. **AN ORDER** pursuant to Rule 151(1) of the *Rules*, allowing the Applicants to file under seal their confidential materials in support of the Application and that this information be treated as confidential by the Registry, the Applicants, and the Third Party Respondents on the same terms set out in the draft Order attached hereto as **Schedule “B”**;
4. **AN ORDER** pursuant to Rules 70 and 309 of the *Rules*, dispensing the Applicants from complying with the requirement of filing a Memorandum of Fact and Law of a maximum of 30 pages, and granting them leave to file Written Representations in excess of 30 pages in support of this Application;
5. **AN ORDER** pursuant to Rule 8 abridging the following deadlines of the application process to dates to be discussed in the context of a case management conference that will be requested at the time of filing of this Notice of Application.
6. **WITHOUT COSTS** against the Respondents or the Third Party Respondents, unless contested, in which case the Applicants seek costs against the contesting Respondent(s) or Third Party Respondent(s) in the form of a lump sum payment in an amount to be determined by the Court depending on the complexity and merits of the contestation, payable forthwith; and
7. **SUCH FURTHER AND OTHER ORDER** as to this Court may seem just.

THE GROUNDS FOR THE APPLICATION ARE:

I. The Parties

1. The Applicant Rogers Media Inc. (“**Rogers Media**”), operating as Rogers Sports and Media, is a corporation incorporated and subsisting under the laws of Canada, having a registered office at 333 Bloor Street East, 10th Floor, Toronto, Ontario.
2. The Applicant Rogers Communications Inc. is a corporation incorporated and subsisting under the laws of British Columbia, having a registered office at 2900 - 550 Burrard Street, Vancouver, British Columbia, and is the parent of Rogers Media (collectively referred to as “**Rogers**”).
3. The Applicant BCE Inc., is a corporation incorporated and subsisting under the laws of Canada, having a registered office at 1 Carrefour Alexander-Graham-Bell, Verdun, Quebec
4. The Applicants Bell Media Inc., CTV Specialty Television Enterprises Inc., and The Sports Network Inc. are corporations incorporated and subsisting under the laws of Canada, all having a registered office at 299 Queen Street West, Toronto, Ontario.
5. The Applicant Le Réseau des Sports (RDS) Inc. is a corporation incorporated and subsisting under the laws of Canada, having a registered office at 1755 Boulevard Rene-Levesque E., Suite 300, Montreal, Quebec.
6. The Applicant BCE Inc. is the parent company of Bell Canada, which is in turn the parent company of Bell Media Inc. CTV Specialty Television Enterprises Inc., a subsidiary of Bell Media Inc., is the parent company of The Sports Network Inc. and Le Réseau des Sports (RDS) Inc. (collectively referred to as “**Bell**”).
7. The Applicant Groupe TVA Inc. (“**Groupe TVA**”) is a corporation incorporated and subsisting under the laws of Quebec, having a registered office at 612 Saint-Jacques Street, 18th Floor South, Montreal, Quebec..
8. The Applicant FuboTV Inc. (“**Fubo**”) is a corporation incorporated in the State of Florida, having a registered office at 1290 Avenues of America, 9th Floor, New York, NY, USA.

9. As described at paragraph 16 below, together the Applicants hold the exclusive Canadian rights to communicate the full live event footage and/or full live telecast of certain live events produced and/or broadcast by some or all of the Applicants (“**Protected Live Content**”), including the footage and telecast for National Hockey League (“**NHL**”) and National Basketball Association (“**NBA**”) games, and Premier League football (“**Premier League**”) matches.
10. The Respondent John Doe 1 is an unidentified person, whose address is unknown to the Applicants, who operates, or has operated, a streaming infrastructure containing at least the Unauthorized Streaming Server (as defined below) located at Internet Protocol (“**IP**”) address 77.247.109.159, at least on October 28, 2023, and/or January 24-25, 2024, which provides unauthorized access to Protected Live Content in Canada.
11. The Respondent John Doe 2 is an unidentified person, whose address is unknown to the Applicants, who operates, or has operated, a streaming infrastructure containing at least the Unauthorized Streaming Servers located at IP address 154.61.83.28, at least on October 29, 2023, and/or January 24-25, 2024, which provides unauthorized access to Protected Live Content in Canada.
12. The Respondent John Doe 3 is an unidentified person, whose address is unknown to the Applicants, who operates, or has operated, a streaming infrastructure containing at least the Unauthorized Streaming Servers located at IP address 89.41.180.10, at least on June 7, 2023 and/or January 30, 2024, which provides unauthorized access to Protected Live Content in Canada.
13. The other John Doe Respondents are other unidentified persons unknown to the Applicants who operate Unauthorized Streaming Servers providing unauthorized access in Canada to Protected Live Content, and that are located at a large number of IP addresses that change continuously, as explained below.
14. In addition to the Protected Live Content specifically identified in this application, the John Doe Respondents also provide access to a virtually unlimited supply of pirated content, including baseball (Major League Baseball (“**MLB**”), NCAA), football (National Football

League, NCAA), soccer from various leagues (UEFA Champions League, German Bundesliga), combat sports (boxing, UFC mixed martial arts, WWE wrestling), tennis (ATP), rugby (Six Nations Championship), lacrosse, cricket, motorsports, and many others.

II. The Business and Rights of the Applicants

15. The Applicants are well-known entities that own and operate a number of television stations (the “**Applicants’ Stations**”) and online subscription services (the “**Applicants’ Online Services**”) in Canada, on which they broadcast a wide variety of television programs, including sports programs and live sports events, for which they own or exclusively licence the Canadian rights to communicate to the public by telecommunication.
16. The Applicants notably hold the exclusive rights to communicate the following content to the public in Canada:
 - a. Rogers, Bell and Groupe TVA collectively: All national and regional live NHL games (“**NHL Live Games**”) for the 2023-2024 season (and in many cases beyond).
 - b. Rogers and Bell collectively: The following live NBA games (“**NBA Live Games**”) for the 2023-2024 through the 2025-2026 seasons:
 - i. All pre-season and regular season NBA Live Games played by the Toronto Raptors.
 - ii. All regular season NBA Live Games involving one or more NBA teams - other than the Toronto Raptors - that are broadcast on the Sportsnet or TSN stations (as defined at paragraph 22 below); and
 - iii. All playoff NBA Lives Games.
 - c. Fubo: All live Premier League matches (“**Premier League Live Games**”) for the 2023-2024 and the 2024-2025 seasons.

(collectively “**Protected Live Content**”)

17. The NHL is a professional ice hockey league operating in Canada and the United States. It is comprised of 32 teams, including seven Canadian teams, which compete for the Stanley Cup. The NHL season runs from approximately the last two weeks of September until mid-June of the following year.
18. The NBA is a professional basketball league in North America and the premier basketball league in the world. It comprises a total of thirty teams, including twenty-nine teams in the United States and one Canadian team, the Toronto Raptors, which compete for the title of World Champions. The NBA season runs from approximately the first week of October until mid-June of the following year.
19. The Premier League is the highest level of the English football (referred to as “soccer” in Canada) league system, and the most watched football league in the world. It is comprised of 20 member clubs that compete over the course of the season for the title of Premier League Champion. The Premier League season runs from approximately August until May of the following year.
20. Pursuant to s. 53(2.2) of the *Copyright Act*, the fact that the Applicants have registered their exclusive copyright licenses is proof that they hold the interests granted by these licenses.
21. Pursuant to Section 3 of the *Copyright Act*, and as exclusive licensees in Canada, the Applicants have the sole right to, *inter alia*:
 - a. communicate Protected Live Content to the public by telecommunication; and
 - b. authorize such acts.
22. The Applicants broadcast the Protected Live Content they have rights to in Canada as follows:
 - a. Rogers Media distributes NHL and NBA Live Games and various related sports news and highlight shows on Sportsnet-branded discretionary stations, which include four regional stations (Sportsnet East, Sportsnet Ontario, Sportsnet West and Sportsnet Pacific), two nationally distributed stations (Sportsnet One and Sportsnet 360) and three NHL team-central stations (SN Oilers, SN Flames and SN

Canucks), the FX and FXX discretionary stations, the Citytv and OMNI conventional stations, and the Sportsnet+ online services.

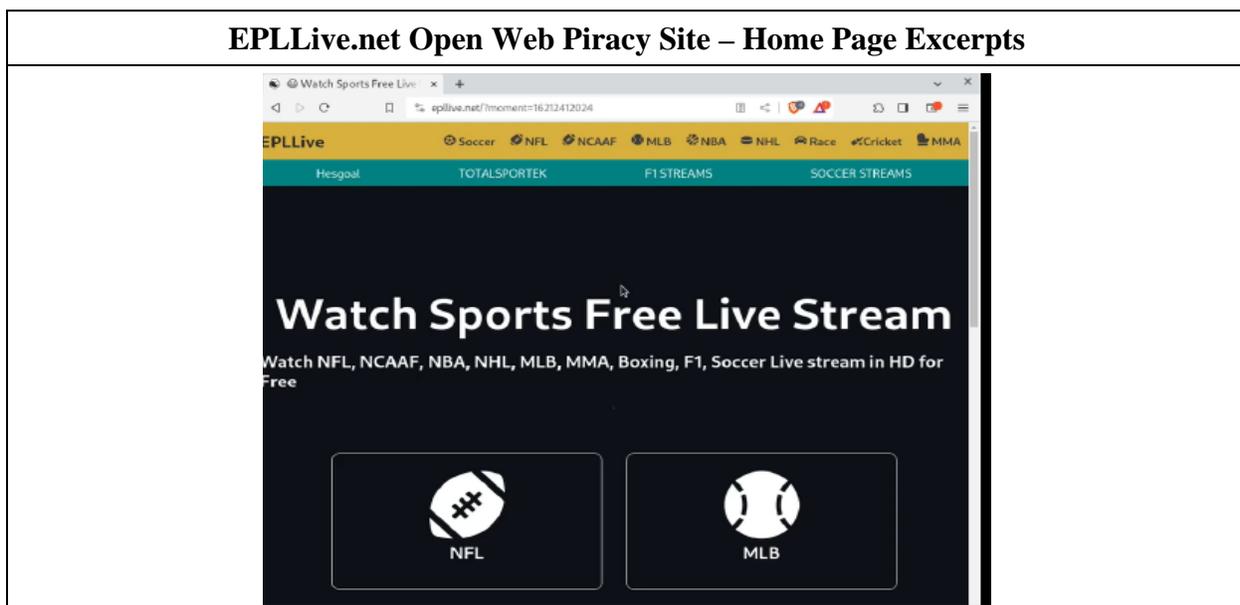
- b. Bell distributes NHL and NBA Live Games, and various related sports news and highlight shows on TSN-branded discretionary stations (TSN1, TSN2, TSN3, TSN4 and TSN5), RDS-branded discretionary stations (RDS and RDS2), and their corresponding online subscription services TSN and RDS.
 - c. Groupe TVA distributes NHL Live Games, and various related sports news and highlight shows, on its TVA conventional station and its TVA Sports-branded discretionary stations (TVA Sports, TVA Sports 2, and TVA Sports 3), and through its corresponding online service TVA SPORTS DIRECT.
 - d. Fubo is the sole source of Premier League matches in Canada, which it distributes through its FuboTV “Sports” and “Premier” paid subscription packages. On either of these services, subscribers can access all 380 Premier League matches played in a given season, both live and on-demand, in addition to daily sports news and highlight shows.
23. Live sports events such as Protected Live Content are particularly important for the Applicants. These events are very popular in Canada and the only legal way to watch most sports events live, other than attending in-person, is through the broadcaster holding the rights to the event in question (i.e., the Applicants in the case of Protected Live Content). The average viewership for authorized sources of Protected Live Content in Canada ranges from hundreds of thousands to millions.
24. Viewership of sports-related programs (e.g., talk and highlights shows) broadcast by the Applicants is also dependent on the viewership of related live sports events (including Protected Live Content), as viewers of live sports events are more likely to watch related pre- and post-game programs.
25. The Applicants therefore devote a significant amount of resources to the development, production, acquisition, distribution, and promotion of Protected Live Content and related programs.

26. The unauthorized communication to the public of Protected Live Content through acts of copyright infringement thus causes immense harm not only to the Applicants – jeopardising their viability in the entertainment and sports broadcasting industry – but also to the creative and sporting industries as a whole.
27. Considering the value of these rights, and the fact that they are generally acquired for substantial time periods (typically multiple consecutive years), negotiations for the acquisition of sports content take a significant amount of time and involve highly complex agreements.
28. In addition to the Protected Live Content already asserted, the Applicants own and broadcast on the same platforms and channels other highly valuable sports content and are always exploring opportunities to acquire new rights and renew existing rights in various types of content, including live sports. The nature, duration and complexity of these negotiations vary depending on the type of event being negotiated, and whether it takes the form of a completely new agreement or the renewal of an existing agreement.
29. The process to acquire rights typically includes a team of the Applicants’ employees in various fields (finance, sales, etc.) to support the analysis of the contemplated rights and the related negotiations. This process is lengthy and will often be concluded very shortly before the event being negotiated begins (e.g., right before the start of the relevant sports season). In some cases, final details will even be agreed upon after the start of the event.
30. The Applicants are currently in negotiations and will have renewed existing rights or acquired rights in content they currently do not hold in the coming years.

III. The John Doe Respondents' Unlawful Activities

A. *The Unauthorized Broadcast of Sports Content, Including Protected Live Content, by Unauthorized Streaming Servers*

31. A significant number of Canadian consumers are turning to unauthorized and user-friendly websites and services on the Internet (“**Piracy Streaming Platforms**”) to access infringing live television content, including NHL hockey, NBA basketball, Premier League football.
32. Some Piracy Streaming Platforms are freely and publicly available to all users as they are monetized through advertising and donations (“**Open Web Piracy Sites**”), while others can only be accessed through a paid subscription (“**Unauthorized Subscription Services**”, also sometimes referred to colloquially as “IPTV services”).
33. Open Web Piracy Sites can be easily located using a search engine (e.g., searching for “free sports” on Google) and allow users to access a variety of pirated content by navigating the website.
34. For example, as it appears in the screen captures below, the Open Web Piracy Site “epllive.net” provides access to several sporting events and games, including, *inter alia*, football (National Football League and NCAA), baseball (MLB), basketball (NBA), hockey (NHL), soccer, cricket, Mixed Martial Arts (MMA), rugby, motorsports, and many others.



EPLLive.net Open Web Piracy Site – Home Page Excerpts

The image shows two overlapping browser window screenshots of the EPLLive.net website. The top screenshot displays a grid of six sports categories: NBA, NHL, Soccer, NCAAF, Cricket, and MMA. The bottom screenshot shows the 'Rugby' and 'Race' categories, followed by a section titled 'How to watch sports online?' and a list of sports to watch.

How to watch sports online?

RainoStreams offer the maximum possible number of sports stream events, for this we use various technologies, online in a browser or with the help of additional software, which makes it possible to watch the results in real time for a large number of users at the same time and absolutely free. Watch live sportstream for free and without registration on our website.

What sport to watch right now? Soccer, NBA, NFL, NHL, MLB and more.

RainoStreams provides access to free watching of sports streams, here is a huge list of leagues and competitions. Stream sports like Soccer, Football, Basketball, Hockey, Baseball, NBA, NFL, MLB, Tennis, Golf, Rugby, F1 and other sports & events. Live sports channels and recordings of popular broadcasts are now online. Excellent adaptive video and sound quality, up-to-date program guide.

On RainoStreams you can watch sports online, premium coverage of all worldwide professional leagues. Get high quality streams for all Football, Soccer and Basketball live sport events, including all televised events of major professional sports leagues from USA, Canada, Australia, South Africa, UK and Europe. Tune in for barrier-free streaming on a website that works perfectly on all platforms, on any device, from anywhere (no Geo-blocking).

EPLLive.net Open Web Piracy Site – Schedule of NHL Games

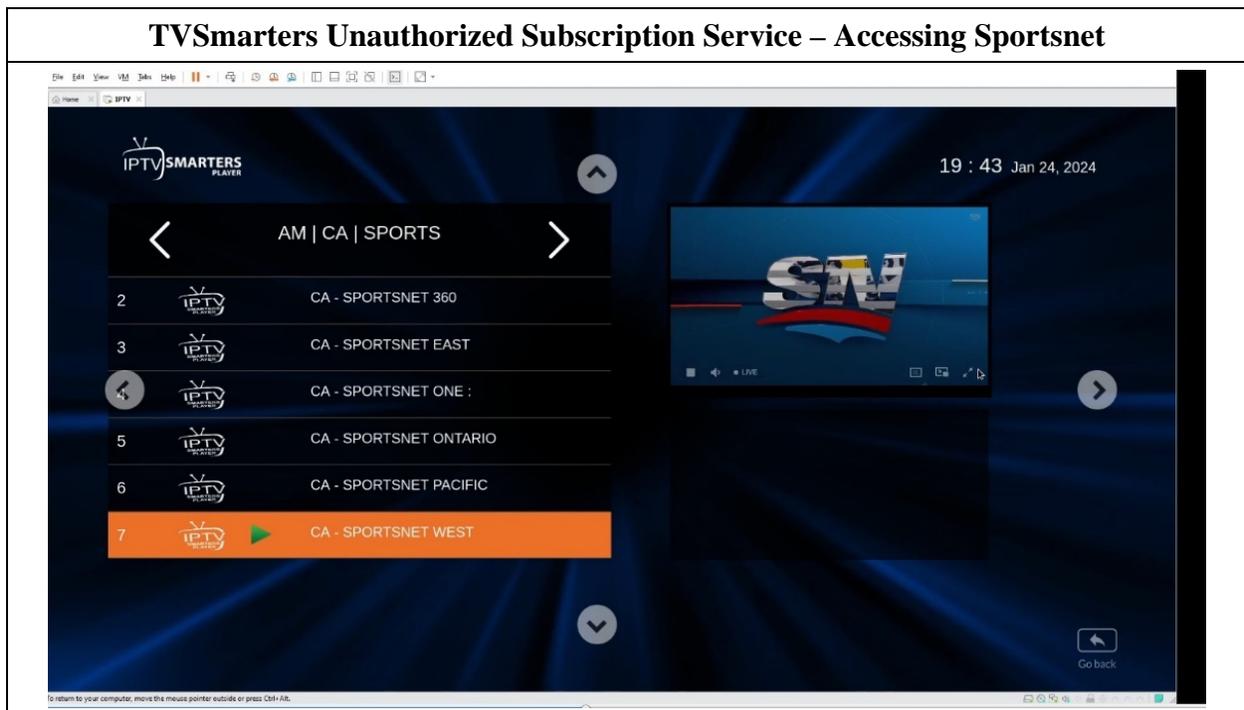
The screenshot shows a web browser window with the URL `epllive.net/nhl/?moment=16212412024`. The page title is "Watch NHL Live Stream". It features a list of seven NHL games scheduled for January 24, 2024, each with a "WATCH NOW" button. The games are:

- 24/01/2024, 19:00:00: Florida Panthers vs Arizona Coyotes
- 24/01/2024, 19:00:00: Toronto Maple Leafs vs Winnipeg Jets (highlighted)
- 24/01/2024, 19:30:00: Boston Bruins vs Carolina Hurricanes
- 24/01/2024, 21:30:00: Colorado Avalanche vs Washington Capitals
- 24/01/2024, 22:00:00: Seattle Kraken vs Chicago Blackhawks
- 24/01/2024, 22:00:00: Vancouver Canucks vs St. Louis Blues
- 24/01/2024, 22:30:00: Los Angeles Kings vs Buffalo Sabres

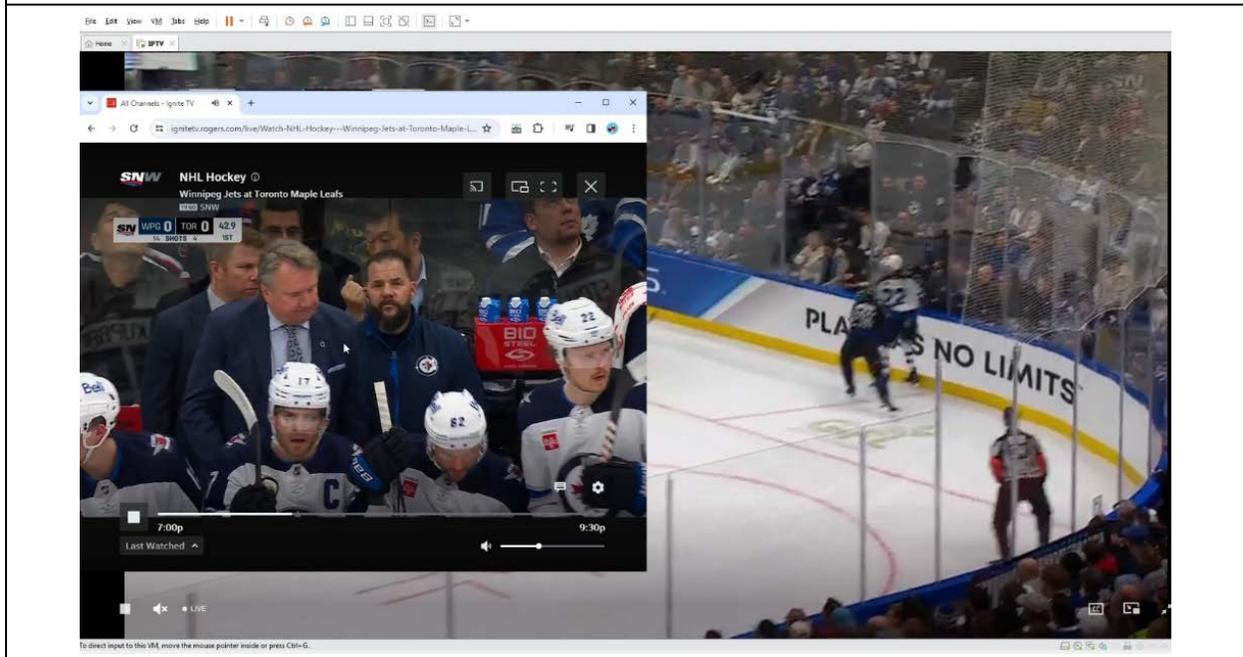
NHL Game on Sportsnet West (left) and on EPLLive.net (right)

This image compares two streams of an NHL game. The left window shows the official Sportsnet West (SNW) stream of the Winnipeg Jets at Toronto Maple Leafs. The right window shows the same game on EPLLive.net, but with a prominent yellow warning banner at the top that reads "Protect Your Privacy Online" and a blue banner below it that says "Get #1 VPN for Fast Stream". The game action is visible in both windows, showing players on the ice. A network packet capture window is open at the bottom of the EPLLive.net stream, showing details for a Transport Layer Security (TLS) packet.

35. The user experience for Unauthorized Subscription Services is more akin to that of a standard legitimate television subscription service. They provide a sophisticated electronic program guide with searchable menus for browsing channels, genres and programs. Unauthorized Subscription Services can only be accessed through a paid subscription, normally ranging from \$10 to \$20 per month, but generally offer a higher quality of service than Open Web Piracy Platforms.
36. For example, the Unauthorized Subscription Service “TVSmarters” provides access to, *inter alia*, the Applicants’ Stations Sportsnet (as it appears in the screen captures below), TSN, RDS, TVA Sports and Fubo Sports, on which they broadcast Protected Live Content, as well as many other popular sports stations such as ESPN, Fox Sports, and BT Sport Box Office.



NHL Game on Sportsnet (left) and on the TVSmarters service (right)



37. Depending on the Piracy Streaming Platform, content can be viewed through various means, including via an Internet browser, on end-user electronic devices such as TV set-top boxes, or through dedicated software applications that can be installed on a variety of electronic devices, including computers, smart phones, tablets, televisions, etc.
38. Unlike legitimate services, Piracy Streaming Platforms providing access to infringing live content do not have authorization from, or make payments to, rightsholders or exclusive licensees to retransmit live television content or to make live content available to users in Canada on the Internet.
39. The exact manner in which Piracy Streaming Platforms source their content can vary. Typically, they deal with unauthorized content providers who use hardware and software components to capture legitimate live television broadcasts and immediately make that content available on an Internet server (“**Unauthorized Streaming Server**”) for end users to stream live through various Piracy Streaming Platforms.
40. Unauthorized Streaming Servers therefore play a central role in the transmission of infringing content to Canadian consumers. Notably, a single Unauthorized Streaming Server can be the source of the infringing content for dozens if not hundreds of Piracy

Streaming Platforms simultaneously, which may collectively be accessed by thousands of users.

41. In order to assess the scope and combat the piracy of Protected Live Content, the Applicants mandated a third party vendor to conduct monitoring during part of the 2023-2024 NHL season, the 2022-2023 and 2023-2024 NBA seasons and the 2023-2024 Premier League season. This monitoring identified thousands of instances, and in some cases tens of thousands, where Unauthorized Streaming Servers provided unauthorized access to NHL and NBA Live Games and Premier League Live Matches accessible from Canada.
42. Although the Applicants are able to identify these instances of infringement and the associated Unauthorized Streaming Servers, it is exceedingly difficult to identify and pursue *operators* of Unauthorized Streaming Servers (and Piracy Streaming Platforms) as they are generally operated, maintained, and promoted by unidentified individuals located in different countries who go to great lengths to conceal their identity on the Internet.
43. Additionally, Unauthorized Streaming Servers can appear, disappear, and change IP address between and during live sports events in order to remain inconspicuous and evade enforcement efforts by rightsholders, further complicating these efforts.
44. In the context of the monitoring mentioned at paragraph 41 above, the Applicants' third party vendor sent hundreds of thousands of notices to hosting providers (including those hosting John Doe 1, John Doe 2, and John Doe 3's Unauthorized Streaming Servers) asking them to forward a notice of infringement to the operators of the Unauthorized Streaming Servers. The Applicants have received no response to these notices.
45. The Applicants actively pursue the operators of Unauthorized Streaming Servers they are able to identify and that are located in Canada. For instance, some of the Applicants (alone, in groups or with other rightsholders) have launched legal proceedings against the operators of the "IPTV Express", "Epic Stream", "Beast IPTV", "SmoothStreams", and "IP Guys" Unauthorized Subscription Services, all of which were operated from Canada.
46. Notwithstanding these efforts, Unauthorized Streaming Servers providing access to high quality streams of NHL and NBA Live Games, and Premier League Live Matches in

Canada are still widespread and can be accessed easily by consumers with a simple search on a search engine, and in many cases for free. Given the large number of operators of Unauthorized Streaming Servers in the present case and the fact that they are almost exclusively located outside of Canada, it is impossible for the Applicants to identify and prosecute them all.

47. Based on the above and the Applicants’ recent experience with other live sports events, including the Respondents’ refusal to cooperate with notices, the widespread piracy of their Protected Live Content will continue indefinitely despite the Applicants’ monitoring and enforcement efforts, unless restrained by this Court.

B. *The John Doe Respondents*

48. The John Doe Respondents are operators of Unauthorized Streaming Servers providing unauthorized access to live streams of Protected Live Content in Canada.

49. The Respondent John Doe 1 is an unidentified person, whose address is unknown to the Applicants, who operates, or has operated, a streaming infrastructure including at least the Unauthorized Streaming Server located at IP address 77.247.109.159, physically located in the Netherlands. As shown below, this Unauthorized Streaming Server notably provided access in Canada to a live stream of the NBA Live Game between the Philadelphia 76ers and the Toronto Raptors on October 28, 2023.



50. The unauthorized live stream of that NBA Live Game was accessible to the public through at least the Open Web Piracy Sites operating on the domain “rainostream.net”.

51. On January 24, 2024, the Applicants identified the same Unauthorized Streaming Server (IP address 77.247.109.159) as providing access to the NHL Live Game between the Winnipeg Jets and Toronto Maple Leafs on the Applicants' Station Sportsnet West accessible through the Open Web Piracy Site "epllive.net", as it appears in the screen captures below.

EPLLive.net Open Web Piracy Site – Determining IP Address of Stream Source

The screenshot displays a Wireshark capture of network traffic. The packet list pane shows a series of TCP and TLSv1.3 packets between source IP 77.247.109.159 and destination IP 192.168.0.126. The packet details pane for a selected TCP packet (Frame 5118) shows the following information:

- Protocol: TCP (6)
- Header Checksum: 0x14e0 [validation disabled]
- Header checksum status: Unverified
- Source Address: 77.247.109.159
- Destination Address: 192.168.0.126

The source address 77.247.109.159 is highlighted with a red box in the original image. The background browser window shows the epllive.net website with a live stream of an NHL game between the Winnipeg Jets and Toronto Maple Leafs.

52. The Respondent John Doe 2 is an unidentified person, whose address is unknown to the Applicants, who operates, or has operated, a streaming infrastructure including at least the Unauthorized Streaming Servers located at IP address 154.61.83.28, physically located in the United Kingdom. As shown below, this Unauthorized Streaming Server notably

provided access in Canada to a live stream of the NHL Live Game between the Calgary Flames and the Edmonton Oilers on October 29, 2023.



53. The unauthorized live stream of that NHL Live Game was accessible to the public in Canada through at least the Unauthorized Subscription Service “Cobra Servers”.

54. On January 24, 2024, the Applicants identified the same Unauthorized Streaming Server (IP address 154.61.83.28) as providing access to the NHL Live Game between the Winnipeg Jets and Toronto Maple Leafs on the Applicants’ Station Sportsnet East accessible through the Unauthorized Subscription Service “Cobra Servers”, as it appears in the screen captures below.

Cobra IPTV Unauthorized Subscription Service Determining IP Address of Stream Source

No.	Time	Source	Destination	Protocol	Length	Info
77317	179.345843683	154.61.83.28	192.168.0.126	TLSv1.3	2962	Application Data
77318	179.346387163	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [ACK] Seq=626
77319	179.346399806	192.168.0.126	154.61.83.28	TCP	66	43802 → 443 [ACK] Seq=166
77320	179.347885182	154.61.83.28	192.168.0.126	TCP	2962	443 → 43802 [PSH, ACK] Seq=626
77321	179.347221232	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [ACK] Seq=626
77322	179.347532749	154.61.83.28	192.168.0.126	TCP	2962	443 → 43802 [PSH, ACK] Seq=626
77323	179.348313351	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [ACK] Seq=626
77324	179.348589564	154.61.83.28	192.168.0.126	TCP	2962	443 → 43802 [PSH, ACK] Seq=626
77325	179.349679437	154.61.83.28	192.168.0.126	TLSv1.3	4410	Application Data
77326	179.350203433	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [ACK] Seq=626
77327	179.350587354	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [ACK] Seq=626
77328	179.350734423	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [PSH, ACK] Seq=626
77329	179.350905242	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [ACK] Seq=626
77330	179.351130836	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [ACK] Seq=626
77331	179.351582312	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [PSH, ACK] Seq=626
77332	179.351908892	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [ACK] Seq=626
77333	179.352132790	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [ACK] Seq=626
77334	179.352422512	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [PSH, ACK] Seq=626
77335	179.352918519	154.61.83.28	192.168.0.126	TCP	1514	443 → 43802 [ACK] Seq=626
77338	179.398419584	192.168.0.126	154.61.83.28	TCP	66	43802 → 443 [ACK] Seq=166

```

Frame 52901: 1402 bytes on wire (11216 bits), 1402
Ethernet II, Src: Tp-LinkT_0e:2b:e4 (b8:76:6e:2
Internet Protocol Version 4, Src: 154.61.83.28, D
... = Version: 4
... = Header Length: 20 bytes (5)
... Differentiated Services Field: 0x28 (DSCP: AF11
Total Length: 1398
Identification: 0x0cbb (48139)
... = Flags: 0x2, Don't Fragment
... = 0000 0000 0000 = Fragment Offset: 0
Protocol: TCP (6)
Header Checksum: 0xf718 [validation disabled]
[Header checksum status: Unverified]
Source Address: 154.61.83.28
Destination Address: 192.168.0.126
... = 14 Reassembled TCP Segments (5254 bytes): #5289(1
... Transport Layer Security
  
```

**Cobra IPTV Unauthorized Subscription Service
Determining IP Address of Stream Source**

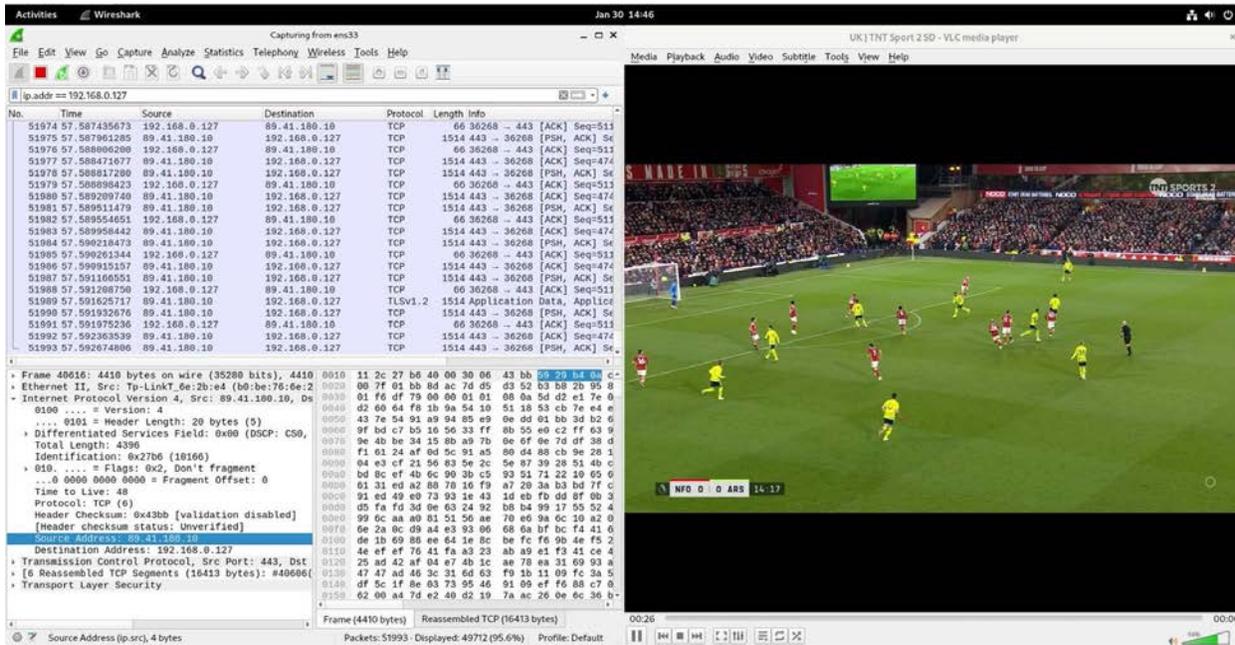
```
Protocol: TCP (6)
Header Checksum: 0xf718 [validation disabled]
[Header checksum status: Unverified]
Source Address: 154.61.83.28
```

55. The Respondent John Doe 3 is an unidentified person, whose address is unknown to the Applicants, who operates, or has operated, a streaming infrastructure including at least the Unauthorized Streaming Servers located at IP address 89.41.180.10, physically located in the United Kingdom. This Unauthorized Streaming Servers notably provided access in Canada to a live stream of the NBA Live Game between the Denver Nuggets and the Miami Heat on June 7, 2023.



56. The unauthorized live stream of that NBA Live Game was accessible to the public in Canada through the Unauthorized Subscription Service “Cobra Servers”.

57. On January 30, 2024, the Applicants identified the same Unauthorized Streaming Server (IP address 89.41.180.10) as providing access to the Premier League Live Match between the Nottingham Forest F.C. and Arsenal F.C. accessible through the Unauthorized Subscription Service “Cobra Servers”, as it appears in the screen captures below.



```

▶ Frame 40616: 4410 bytes on wire (35280 bits), 4410
▶ Ethernet II, Src: Tp-LinkT_6e:2b:e4 (b0:be:76:6e:2
▼ Internet Protocol Version 4, Src: 89.41.180.10, Ds
  0100 .... = Version: 4
  .... 0101 = Header Length: 20 bytes (5)
▶ Differentiated Services Field: 0x00 (DSCP: CS0,
  Total Length: 4396
  Identification: 0x27b6 (10166)
▶ 010. .... = Flags: 0x2, Don't fragment
  ...0 0000 0000 0000 = Fragment Offset: 0
  Time to Live: 48
  Protocol: TCP (6)
  Header Checksum: 0x43bb [validation disabled]
  [Header checksum status: Unverified]
  Source Address: 89.41.180.10
  Destination Address: 192.168.0.127
▶ Transmission Control Protocol, Src Port: 443, Dst
▶ [6 Reassembled TCP Segments (16413 bytes): #40606(
▶ Transport Layer Security
  
```

58. All the John Doe Respondents operate their Unauthorized Streaming Servers similarly to John Doe 1, John Doe 2, and John Doe 3 Respondents.

59. The John Doe Respondents operate Unauthorized Streaming Servers that can be accessed through a variety of other Open Web Piracy Sites such as “LiveTV” (accessible on the domains “livetv714.me”, “livetv753.me”, “livetv754.me”, and “livetv757.me) and Unauthorized Subscription Services, including “Best IPTV”, which all provide access to a virtually all live sporting events and leagues.

C. The John Does Respondents Infringe the Applicants’ Exclusive Rights in Protected Live Content and the Applicants are Entitled to an Injunction

60. As described above, the John Doe Respondents operate Unauthorized Streaming Servers that allow users to obtain immediate and unauthorized access to Protected Live Content in Canada.

61. The John Doe Respondents do not merely provide content-neutral means of telecommunication, but rather directly and actively engage in the above acts of infringement and in the selection of the live content that is distributed through their Unauthorized Streaming Servers.

62. The John Doe Respondents take steps to obtain unauthorized streams of the Applicants’ Stations and Online Services, or other stations and online services broadcast outside Canada, to make these streams available through their Unauthorized Streaming Servers, and to make these Unauthorized Streaming Servers available to end-users, including through Piracy Streaming Platforms available to Canadian users.

63. Due to the availability of these Unauthorized Streaming Servers, users have the ability to easily watch Protected Live Content on user-friendly platforms without compensating the Applicants or otherwise accessing that live content through authorized distribution channels.

64. The John Doe Respondents are not, and have never been, authorized by the Applicants, or any of their respective affiliates, to distribute the Applicants’ Stations and Online Services or the Protected Live Content to the Canadian public by any means whatsoever.

65. By engaging in these acts, the John Doe Respondents communicate Protected Live Content to the public by telecommunication in Canada without the Applicants’ authorization,

thereby infringing the Applicants' exclusive rights in Protected Live Content contrary to sections 3(1)(f), 27(1), and 27(2.3) of the *Copyright Act*.

66. The John Doe Respondents also induce and authorize operators of Piracy Streaming Platforms to infringe the Applicants' rights by making unauthorized communications of Protected Live Content to the public by telecommunication, contrary to sections 3(1)(f) and 27(1), and 27(2.3) of the *Copyright Act*.
67. As holders of a copyright interest in the above-mentioned Protected Live Content in Canada, the Applicants suffer significant losses and damages as a result of the John Doe Respondents' infringing activities.
68. These damages take the form of, *inter alia*, undermining the Applicants' rights to control the place and circumstances in which their licensed works are displayed, reproduced, and performed, and causing incalculable losses in distribution revenues related to Protected Live Content and other related content.
69. Unless restrained by this Honourable Court, the John Doe Respondents will continue their infringing activities and the Applicants will continue to suffer damages. The Applicants therefore submit they are entitled to a permanent injunction against the John Doe Respondents in the form of the draft Order attached hereto as **Schedule "A"**.
70. In the present application, the only remedy sought by the Applicants against the John Doe Respondents is a permanent injunction (and costs if they oppose the application). The Applicants reserve the right to seek additional remedies, including financial remedies, should they be in a position to identify and prosecute the John Doe Respondents in the future.

IV. The Need for a Dynamic Site Blocking Order Binding the Third Party Respondents

71. The Third Party Respondents, listed below, are Internet Service Providers ("ISPs") that provide their residential customers with access to the Internet by providing the necessary infrastructure to connect their customer's devices to the rest of the Internet (and thus

ultimately to the John Doe Respondents' Unauthorized Streaming Servers). They collectively represent over 98% of the market.

- a. Bell Canada, a corporation incorporated and subsisting under the laws of Canada, having a registered office address at 1 Carrefour Alexander Graham-Bell, A-7, Verdun, Quebec.
- b. Bragg Communications Incorporated, doing business as Eastlink, a corporation incorporated and subsisting under the laws of Nova Scotia, having a registered office at 4881 Main Street, Oxford, Nova Scotia.
- c. Cogeco Connexion Inc., a corporation incorporated and subsisting under the laws of Canada, having a registered office at 3301 1 Place Ville-Marie, Montreal, Quebec.
- d. Fido Solutions Inc., a corporation incorporated and subsisting under the law of British Columbia, having a registered office at 2900-5500 Burrard Street, Vancouver, British Columbia.
- e. Rogers Communications Canada Inc., a corporation incorporated and subsisting under the laws of Canada, having a registered office at 333 Bloor Street East, 10th Floor, Toronto, Ontario.
- f. Saskatchewan Telecommunications, a corporation incorporated and subsisting under the laws of Saskatchewan, having a registered office at 2121 Saskatchewan Drive, Regina, Saskatchewan.
- g. TekSavvy Solutions Inc., a corporation incorporated and subsisting under the laws of Ontario, having a registered office at 800 Richmond Street, Chatham, Ontario.
- h. Telus Communications Inc., a corporation incorporated and subsisting under the laws of British Columbia, having a registered office at 510 West Georgia Street, 7th floor, Vancouver, British Columbia.

- i. Videotron Ltd., a corporation incorporated and subsisting under the law of Quebec, having a registered office at 612 Saint-Jacques Street, 18th Floor South, Montreal, Quebec.
 - j. 2251723 Ontario Inc. dba VMedia, a corporation incorporated and subsisting under the laws of Ontario, having a registered office at 12-220 RD Viceroy, Vaughan, Ontario.
72. The most direct manner of ensuring that Piracy Streaming Platforms and/or Unauthorized Streaming Servers providing access to unauthorized content cease their infringing activities is to deactivate the node(s) on which they are hosted, i.e., by shutting down the Unauthorized Streaming Servers. However, in certain situations, including when the pirate cannot be identified and/or is located outside of the Court's jurisdiction, it may not be possible to shut down that node directly.
73. Given the Applicants' inability to identify and pursue the operators of Unauthorized Streaming Servers detailed at paragraphs 46 and 47 above, it is unlikely that the Applicants will be able to shut down the servers despite the issuance of the injunction directed at the John Doe Respondents set out in **Schedule "A"** hereto.
74. In such a situation where rightsholders and the Court in Canada cannot effectively stop a pirate from **distributing** infringing content, the alternative is to disable **access** to the node for users located in Canada (referred to as "site blocking"). This form of relief, which requires the assistance of ISPs, has the same practical effect: impeding access to these services so that Internet subscribers in Canada cannot receive or access the infringing content.
75. The Third Party Respondents are not wrongdoers. However, due to the nature of their operations as ISPs and the fact that they provide an essential link for the John Doe Respondents' acts of copyright infringement in Canada, they are in the best position to stop the Joe Doe Respondents' unauthorized communication to the public by telecommunication of Protected Content in Canada.

76. Site blocking can take different forms, which impact the duration and scope of the blocking as well as the level of intervention required from ISPs in their implementation.
77. Site blocking can be *site-specific* or *event-specific*, depending on the target of the site blocking. *Site-specific* blocking targets specific pre-determined website(s) or online service(s) providing access to illegal content, and is typically in place continuously. On the other hand, *event-specific* blocking generally targets specific live content independently of the illegal website from which it is distributed, and is only in place during such live event (e.g., live sports events).
78. In the present case, the Applicants are seeking event-specific site blocking given the significant number of John Doe Respondents and Unauthorized Streaming Servers that require blocking.
79. Site blocking can also have different temporal scopes. In particular, *live* blocking refers to blocking that is only in effect while the event is being broadcast in real time (i.e., for *event-specific* blocking). *Non-live* blocking is not limited to a particular time but is instead in force at all times for the duration of the order (i.e., for *site-specific* blocking).
80. The Applicants are thus seeking live site blocking because the sporting events in question are live events that have scheduled air dates, and whose value is directly tied to their live nature.
81. Site blocking can also be either *static* or *dynamic*. *Static* site blocking is where the list of addresses associated with a particular site to be blocked are explicitly listed in the order and do not change unless the order is varied or there is some other mechanism to manually update the list from time to time. On the other hand, a *dynamic* site blocking order approves a mechanism by which the list of addresses providing access to a specific unauthorized content (e.g., live sports event) are identified and blocked *in real time* on an ongoing basis.
82. The Applicants are therefore requesting dynamic site blocking because Unauthorized Streaming Servers constantly appear, disappear, and change IP address between and during live sports events, as mentioned at paragraph 43 above.

83. All Third Party Respondents are able to put in place event-specific, live and dynamic blocking, and already have the required infrastructure to do so, either manually or automatically.
84. Notably, the Third Party Respondents implemented similar site blocking orders in relation to live NHL and MLB games, and FIFA World Cup matches pursuant to this Court's Orders in:
- a. NHL 2021-2022 season (limited to the 2022 NHL Playoffs): *Rogers Media Inc. v. John Doe 1* (2022 FC 775)
 - b. NHL 2022-2023 season: The Order of Madam Associate Chief Justice Gagné, dated November 21, 2022 (T-955-21)
 - c. FIFA 2022 World Cup: *Bell Media Inc. v. John Doe 1* (2022 FC 1432)
 - d. MLB 2023 season: The Order of The Honourable Justice Lafrenière, dated July 18, 2023 (T-1253-23)
85. In light of the above, the Third Party Respondents are capable of implementing the Order sought by the Applicants, pursuant to which the Third Party Respondents would temporarily (i.e., for the duration of the broadcast of Protected Live Content) block or attempt to block access, by at least their residential wireline Internet service customers, to IP addresses providing unauthorized access to Protected Live Content, notified to them by the Applicants or their appointed agent.

D. The Federal Court Has Jurisdiction to Grant the Order Sought

86. The Applicants seek an injunction directed at the Third Party Respondents on the basis that they play a crucial role in the John Doe Respondents' acts of copyright infringement in Canada and that they are in the best and most efficient position to impede the effects of the John Doe Respondents' continuous infringement of the Applicants' rights.
87. It is well established that the Federal Court has jurisdiction to issue injunctions that bind third parties if their assistance is necessary to preserve, in this case, the Applicants' rights. The availability of site blocking orders (i.e., injunctions enjoining third party ISPs to block

their subscribers' access to certain websites or services) has been recognized in Canada by this Court and the Federal Court of Appeal in the *GoldTV* case (2019 FC 1432 and 2021 FCA 100) and by this Court in the actions listed at paragraph 84.

88. The site blocking Orders previously issued by this Court were all granted in the form of interlocutory injunctions in the context of an action. In the present case, the Applicants respectfully request an injunction to assist in the preservation of their rights in parallel with the issuance of a final judgment against the John Doe Respondents in the context of an application, such that the site blocking Order is not “interlocutory” in nature.
89. The Court has jurisdiction to issue such an injunction in the form of a final Order for a number of reasons:
 - a. Section 34(1) of the *Copyright Act* provides that where copyright has been infringed, the copyright owner may be entitled to an injunction, without limiting that right to injunctions against a defendant.
 - b. Section 44 of the *Federal Courts Act*, one of the basis for the Federal Court’s jurisdiction to grant site blocking injunction in general, provides that the Federal Court may issue injunctions “in all cases in which it appears to the court to be just or convenient to do so”, and is not limited to interlocutory injunctions.
 - c. The power of Courts to issue injunctions is, subject to statutory restrictions, unlimited. There are no statutory restrictions to issuing a site blocking injunction in parallel with a final judgment against a defendant (or respondent in the context of an application).
 - d. Part 12 of the *Federal Courts Rules* explicitly contemplates that ancillary Orders may be issued after a final judgment is rendered to assist in the enforcement of other Orders.

E. The Applicants Meet the Test for the Issuance of the Order

90. The Applicants have established that the John Doe Respondents engage in acts of direct infringement of the Applicants' rights in Protected Live Content in Canada.
91. The Order sought is the only effective remedy to curb piracy of Protected Live Content that is taking place on a massive scale in Canada and that causes ongoing irreparable harm to the Applicants.
92. The Order sought is proportional and reflects a careful weighing of the rights of those involved, including the Applicants, the John Doe Respondents, the Third Party Respondents, and members of the public.
93. The Order sought is limited in reach and will therefore not impact the rights of third parties to distribute legitimate content on the Internet, or of the public to access that content. The Order is only aimed at blocking access to infringing content for a limited period of time, i.e., two years, and strong safeguards are incorporated in the Order to avoid "over-blocking".
94. The Order sought will also not prejudice the Third Party Respondents, as its implementation leverages tools that are already at their disposal and the reasonable marginal cost of its implementation (if any) would be borne by the Applicants.

F. The Differences Between the Remedy Sought and Previous Dynamic Site Blocking Orders

95. As mentioned above, the remedy the Applicants seek is similar to other site blocking orders issued by this Court.
96. The main differences between the most recent dynamic blocking order issued by this Court - Order of The Honourable Justice Lafrenière, dated July 18, 2023 (T-1253-23) - and the proposed Order, are the following:
 - a. The procedural vehicle. The Applicants seek an Order in the context of an application, instead of an interlocutory injunction in the context of an action. The Applicants seek a permanent injunction in order to bring finality to the proceedings

and propose to proceed by way of application instead of by action, as it is a more streamlined process.

- b. The Order sought is for multiple leagues and sporting events. In addition, the Applicants are seeking a mechanism, based on clearly defined criteria, that would allow them to extend the scope of the injunction to cover additional content in the next two years, for example other content for which the Applicants own equivalent exclusive rights and that will take place in the coming two years, and additional content that will be acquired by the Applicants during that period. This mechanism is necessary as (i) the Applicants own and are in the process of acquiring rights in additional content as mentioned at paragraph 28 above, (ii) the John Doe Respondents provide access to virtually unlimited content, and (iii) the John Doe Respondents will therefore infringe this content as well when it will be broadcast and, when applicable, once the Applicants complete the acquisition of these new rights. This process is also more efficient for the parties and the Court than initiating separate proceedings for each professional sports league and every time new content is broadcast and/or when the Applicants secure new rights.
- c. The use of a common IP list for blocking during all Protected Live Content windows (i.e., during the games and/or sporting events). Given that the same IP addresses are associated with the infringement of multiple sporting leagues and events, the use of a common IP address list for blocking would be more efficient in implementing the Order sought.
- d. The manner in which certain safeguards can be updated. There is one particular confidential safeguard that involves adding or removing certain parameters of the proposed Order. In past cases, an amended Court order was required to modify these parameters. However, the delays associated with obtaining a Court order dramatically reduced the Order's efficiency. The Applicants are therefore proposing a more flexible way of modifying these parameters. Provided the Court is satisfied with the criteria for inclusion or exclusion of these parameters, which it

was in previous cases, what the Applicants propose provides the same level of judicial oversight but will increase the effectiveness of the Order.

V. Ancillary Relief

A. *Confidentiality*

97. The evidence that will be filed by the Applicants in support of this Application contains sensitive commercial data as well a confidential technical information regarding how the Order sought would be implemented.

98. Unless this evidence remains confidential, pirates will likely be able to rely on the detailed technical information discussed therein to elaborate techniques allowing them to circumvent any resulting blocking order and thereby continue offering infringing content. This would not only undermine the value and impact of any order to be issued by this Court, but also those previously issued in other jurisdictions that rely on similar technical approaches to blocking infringing content.

B. *Substituted Service of the Notice of Application Upon the Respondents*

99. As explained above, the Applicants have not been able to identify the Respondents, including John Doe 1, John Doe 2, and John Doe 3, because of their obvious efforts to remain anonymous.

100. The Applicants submit that the most efficient, if not the only way, to attempt to serve John Doe 1, John Doe 2, and John Doe 3 is through the hosting providers that rent them the servers they operate from. The Applicants will therefore attempt to serve the Respondents through that method.

101. For these reasons, the Applicants respectfully request that this Court issue an order validating service of this Notice of Application upon the John Doe 1, John Doe 2, and John Doe 3 Respondents.

C. *Memorandum of Fact and Law in Excess of Thirty Pages*

102. Due to the complex and highly technical nature of the issues addressed in this proceeding and the substantial evidentiary record, the Applicants respectfully request that this Court grant them leave to file a Memorandum of Fact and Law in excess of thirty (30) pages.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

1. The pleadings and proceedings herein;
2. The Affidavit of Greg Sansone, sworn on April 5, 2024;
3. The Affidavit of Shawn Redmond;
4. The Affidavit of Louis-Philippe Neveu;
5. The Affidavit of Ben Grad;
6. The Affidavit of Gareth Evans;
7. The Affidavit of Damian Poltz;
8. The Affidavit of Andre Leblanc;
9. The Affidavit of Juan Manuel Ramos Gurrion;
10. The Affidavit of George Demetriades, sworn on April 5, 2024;
11. The Affidavit of Jeff Vansteenkiste, sworn on April 5, 2024;
12. The Affidavit of Jason Vallée Buchanan; and
13. Such further and other documents as counsel may advise and as this Court may permit.

Montreal (Quebec), April 5, 2024

(S) SMART & BIGGAR LLP

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Mr. Nicholas Di Piano

Tel. 514-954-1500

Fax. 514-954-1396

(Reference: 88173-50)

Solicitors for the Applicants

SCHEDULE A

FEDERAL COURT

BETWEEN:

**ROGERS MEDIA INC.
ROGERS COMMUNICATIONS INC.
BCE INC.
BELL MEDIA INC.
CTV SPECIALTY TELEVISION ENTERPRISES INC.
THE SPORTS NETWORK INC.
LE RESEAU DES SPORTS (RDS) INC.
GROUPE TVA INC.
FUBOTV INC.**

Applicants

and

**JOHN DOE 1
JOHN DOE 2
JOHN DOE 3
OTHER UNIDENTIFIED PERSONS WHO OPERATE UNAUTHORIZED STREAMING
SERVERS THAT PROVIDE OR WILL PROVIDE ACCESS TO CONTENT OWNED
OR EXCLUSIVELY LICENSED BY THE APPLICANTS IN CANADA**

Respondents

and

**BELL CANADA
BRAGG COMMUNICATIONS INC. dba EASTLINK
COGECO CONNEXION INC.
FIDO SOLUTIONS INC.
ROGERS COMMUNICATIONS CANADA INC.
SASKATCHEWAN TELECOMMUNICATIONS
TEKSAVVY SOLUTIONS INC.
TELUS COMMUNICATIONS INC.
VIDEOTRON LTD.
2251723 ONTARIO INC. dba VMEDIA**

Third Party Respondents

ORDER

UPON application by the Applicants for an Order against the John Doe Respondents pursuant to Rule 300(b) of the *Federal Courts Rules*, SOR/98-106, Section 44 of the *Federal Courts Act*, RSC 1985, c F-7, and Sections 34(1) and 39.1 of the *Copyright Act*, RSC 1985, c. C-42;

UPON considering the Applicants' application record and oral submissions at the hearing of the application;

UPON considering sections and subsections 2.4(1.1), 3(1)(f), 27(1), 34(1) and 39.1 of the *Copyright Act*, RSC 1985, c C-42;

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

THIS COURT ORDERS that:

1. In this Order, "**Protected Live Content**" refers to the full live event footage and/or full live telecast of certain live events produced and/or broadcast by some or all of the Applicants in Canada, as the case may be, and for which that or these Applicants either own the copyright or benefit from an exclusive license, as listed in Schedule 1 hereto, and as may be amended from time to time pursuant to paragraph 18 of the Order of the Honourable Justice _____, dated _____, issued separately in this proceeding.
2. The John Doe Respondents, by themselves or by their employees, representatives and agents, or by any company, partnership, trust, entity or person under their authority or control, or with which they are associated or affiliated, to immediately cease providing unauthorized access to live streams of Protected Live Content owned or exclusively licensed by the Applicants in Canada, including by directly or indirectly operating, maintaining, and/or promoting unauthorized streaming servers that provide or facilitate access to live streams of Protected Live Content in Canada, and to restrain from otherwise, directly or indirectly:

- (a) communicating Protected Live Content to the public by telecommunication in Canada, including transmitting or otherwise making available Protected Live Content to the public by telecommunication in a way that allows members of the public to have access to it from a place individually chosen by them; or
 - (b) inducing and/or authorizing anyone to infringe the Applicants' right to communicate Protected Live Content to the public by telecommunication in Canada.
3. Validating service of the Notice of Application and of the Applicants' filing letter addressed to the Court dated April 5, 2024, upon the John Doe 1, John Doe 2, and John Doe 3 Respondents pursuant to Rule 147, by e-mail at the following e-mail addresses, effective as of April 5, 2024:
- (a) John Doe 1: info@serde.ch and abuse@serde.ch
 - (b) John Doe 2: abuse@cogentco.com, noc@cogentco.com and ipalloc@cogentco.com
 - (c) John Doe 3: contact@zetservers.com, noc@zet.net and abuse@zetservers.com
4. There shall be no costs on the application.

**SCHEDULE 1: PROTECTED LIVE CONTENT
AND PROTECTED LIVE CONTENT WINDOWS**

	Owner or Exclusive Licensee	Protected Live Content	Protected Live Content Window
1	Rogers Media Inc. Rogers Communications Inc. BCE Inc. Bell Media Inc. CTV Specialty Television Enterprises Inc. The Sports Network Inc. Le Réseau des Sports (RDS) Inc. Groupe TVA Inc.	National Hockey League (NHL)	All national and regional NHL games broadcast in Canada by any of the Applicants in the first column, via television broadcast and/or online streaming during the 2023-2024 NHL season, including the 2024 Stanley Cup playoffs and final series, as per the schedule found on the NHL website (www.nhl.com/schedule), subject to variations by the NHL, as may be notified to the Third Party Respondents by the Applicants and/or their Agent from time to time.
2	BCE Inc. Rogers Communications Inc.	National Basketball Association (NBA)	The following NBA games for the 2023-2024 to the 2025-2026 NBA seasons: a) All pre-season NBA games and all regular season NBA games played by the Toronto Raptors basketball club; b) All regular season NBA games involving one or more NBA teams (other than the Toronto Raptors basketball club) that are broadcast on the Sportsnet or TSN stations; and c) All playoff NBA games involving one or more NBA teams (including the Toronto Raptors basketball club).

	Owner or Exclusive Licensee	Protected Live Content	Protected Live Content Window
3	FuboTV Inc.	Premier League	All Premier League matches for the 2023-2024 and 2024-2025 seasons.

SCHEDULE B

FEDERAL COURT

BETWEEN:

**ROGERS MEDIA INC.
ROGERS COMMUNICATIONS INC.
BCE INC.
BELL MEDIA INC.
CTV SPECIALTY TELEVISION ENTERPRISES INC.
THE SPORTS NETWORK INC.
LE RESEAU DES SPORTS (RDS) INC.
GROUPE TVA INC.
FUBOTV INC.**

Applicants

and

**JOHN DOE 1
JOHN DOE 2
JOHN DOE 3
OTHER UNIDENTIFIED PERSONS WHO OPERATE UNAUTHORIZED STREAMING
SERVERS THAT PROVIDE OR WILL PROVIDE ACCESS TO CONTENT OWNED
OR EXCLUSIVELY LICENSED BY THE APPLICANTS IN CANADA**

Respondents

and

**BELL CANADA
BRAGG COMMUNICATIONS INC. dba EASTLINK
COGECO CONNEXION INC.
FIDO SOLUTIONS INC.
ROGERS COMMUNICATIONS CANADA INC.
SASKATCHEWAN TELECOMMUNICATIONS
TEKSAVVY SOLUTIONS INC.
TELUS COMMUNICATIONS INC.
VIDEOTRON LTD.
2251723 ONTARIO INC. dba VMEDIA**

Third Party Respondents

ORDER

UPON application by the Applicants for an Order against the Third Party Respondents pursuant to Section 44 of the *Federal Courts Act*, RSC 1985, c F-7, and Sections 34(1) and 39.1 of the *Copyright Act*, RSC 1985, c. C-42;

UPON considering the Applicants' application record and oral submissions at the hearing of the application;

UPON considering that this Court has previously found in *Bell Media Inc. v. GoldTV.Biz*, 2019 FC 1432 that it has the jurisdiction to issue site blocking orders (i.e., injunctions enjoining third party Internet service providers to block their subscribers' access to certain websites or services), that this order was upheld by the Federal Court of Appeal (*TekSavvy Solutions Inc v Bell Media Inc*, 2021 FCA 100), and that leave to appeal to the Supreme Court of Canada was denied on March 24, 2022 (SCC File No. 39876);

UPON considering that this Court has since found in *Rogers Media Inc. v. John Doe 1*, 2022 FC 775 that the Third Party Respondents each have the capability to engage in the type of live and dynamic IP address blocking sought by the Applicants in this application;

UPON considering the consent of the Third Party Respondents Bell Canada, Fido Solutions Inc., Rogers Communications Canada Inc., Vidéotron Ltd. and 2251723 Ontario inc. dba VMedia, for the issuance of this Order;

UPON considering that Third Party Respondents Bell Canada, Fido Solutions Inc., Rogers Communications Canada Inc., Videotron Ltd. and 2251723 Ontario inc. dba VMedia do not oppose or take no position on the issuance of this Order as it concerns them;

UPON considering sections and subsections 2.4(1.1), 3(1)(f), 27(1), 34(1) and 39.1 of the *Copyright Act*, RSC 1985, c C-42, section 36 of the *Telecommunications Act*, SC 1993, c 38, section 44 of the *Federal Courts Act*, and Rule 151 of the *Federal Courts Rules*;

AND without prejudice to the ability of any Third Party Respondent to subsequently seek to stay, vary, or set aside this Order or to oppose on any basis any other related or similar Order sought by the Applicants or any other party;

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

THIS COURT ORDERS that:

1. In this Order, “**Protected Live Content**” refers to the full live event footage and/or full live telecast of certain live events produced and/or broadcast by some or all of the Applicants in Canada, as the case may be, and for which that or these Applicants either own the copyright or benefit from an exclusive license, as listed in Schedule 1 hereto.
2. Subject to the terms of this Order, the Third Party Respondents shall, during each of the Protected Live Content Windows (as this term is defined in Confidential Schedule 2 of this Order) specified in Schedule 1 of this Order, subject to paragraph 3 of this Order, block or attempt to block access, by at least their residential wireline Internet service customers, to each of the IP addresses for the Target Servers (as this term is defined in Confidential Schedule 2 of this Order and as may be hereafter varied) which the Applicants or their appointed agent has notified to the Third Party Respondents in accordance with this Order.
3. Timing of implementation:
 - (a) The Third Party Respondents shall begin to block access to the IP addresses of the Target Servers notified pursuant to this Order immediately, if they are in a position to do so;
 - (b) Any Third Party that cannot immediately begin implementation of this Order shall take steps to comply without delay, and in any case shall begin to block access under this Order no later than seven (7) days after it is issued; and
 - (c) Any Third Party Respondent that is unable to fully comply with the terms of this Order within fifteen (15) days shall advise the Applicants, pursuant to the terms of paragraph 8 of this Order.

4. The Applicants shall collectively appoint a single agent to fulfill the duties outlined in this Order (the “Agent”).
5. The Agent may notify to the Third Party Respondents an IP address to be blocked as a Target Server pursuant to paragraph 2 of this Order if:
 - (a) The Agent has detected that the IP address is being used:
 - (i) during any Protected Live Content Window, to communicate Protected Live Content to the public by telecommunication without authorization; or
 - (ii) during any Pre-Monitoring Period (as defined in Confidential Schedule 2 of this Order) to communicate to the public by telecommunication without the Applicants’ authorization a station on which Protected Live Content is scheduled to be broadcast during a Protected Live Content Window corresponding to that Protected Live Content; or
 - (iii) in a manner that meets one or more of the detection conditions specified in paragraphs **Error! Reference source not found.** and **Error! Reference source not found.** of Confidential Schedule 2 of this Order; and
 - (b) the Agent has concluded that at the time of the detection the IP address satisfies the safeguard requirements of paragraph **Error! Reference source not found.** and **Error! Reference source not found.** of Confidential Schedule 2 of this Order.
6. When a Protected Live Content Window concludes and no other Protected Live Content Window is ongoing, the Agent shall give notice to the Third Party Respondents in accordance with this Order to unblock all Target Servers that have previously been notified for blocking. The Third Party Respondents shall use reasonable efforts to unblock as soon as reasonably practical after the end of the Protected Live Content Window.

7. The Third Party Respondents have no obligation to verify whether the IP addresses to be blocked as Target Servers notified by the Agent pursuant to this Order have been correctly identified, and are wholly reliant on the Applicants or the Agent accurately identifying and communicating to the Third Party Respondents such IP addresses in compliance with this Order.
8. A Third Party Respondent will be deemed to have complied with paragraph 2 of this Order if it uses either manual or automated IP address blocking, or an alternative or equivalent technical means (provided that the Third Party Respondent provides reasonable notice to the Applicants of said alternative or equivalent means). If a Third Party Respondent is unable to implement either manual or automated IP address blocking, or IP address rerouting, or alternative or equivalent technical means, that Third Party Respondent shall, within fifteen (15) business days of this Order, notify the Applicants of the step(s) it has taken and why it will be unable to comply with the Order.
9. When blocking access to an IP address pursuant to paragraph 2 of this Order, the Third Party Respondents shall use reasonable efforts, subject to the limits of their networks and resources, to disable access to the IP address as soon as practicable following the notification by the Applicants or their appointed Agent pursuant to this Order. For each Protected Live Content Window, a Third Party Respondent will be deemed to have complied with paragraph 2 of this Order if it uses the technical means set out in paragraph 8 of this Order within thirty (30) minutes of the start of the Protected Live Content for that Protected Live Content Window, and at least every thirty (30) minutes thereafter until the end of that Protected Live Content Window, or according to such other schedule as may be agreed between the relevant Third Party Respondent and the Applicants in writing. For greater certainty, the Third Party Respondents are not required to make capital investments to acquire additional software and/or hardware to implement the present Order.

10. A Third Party Respondent shall not be in breach of this Order if it temporarily suspends its compliance with paragraph 2, in whole or in part, when such suspension is reasonably necessary:

- (a) to correct or investigate potential over-blocking that is caused or suspected to be caused by the steps taken pursuant to paragraph 2;
- (b) to maintain the integrity or quality of its Internet services or the functioning of its network and/or system(s);
- (c) to upgrade, troubleshoot or maintain its Internet services or blocking system(s), including as a result of technical or capacity limitations of its blocking system(s);
or
- (d) to prevent or respond to an actual or potential security threat to its network or systems,

provided that:

- (e) the Third Party Respondent gives notice to the Applicants as soon as reasonably practical in advance of, during or following such suspension and provides the reason for such suspension and an estimate of its duration, or if the suspension does not last longer than forty-eight (48) hours, uses commercially reasonable efforts to maintain a record of the suspension and provides that record to the Applicants upon request; and
- (f) the suspension lasts no longer than is reasonably necessary.

For greater certainty, a Third Party Respondent shall not be in breach of this Order where it suspends in part compliance with paragraph 2 because the capacity of its blocking system is exceeded by the number of IP addresses for the Target Servers notified in accordance with this or another Order, provided it continues to block or attempt to block access to the number

of IP addresses that does not exceed the capacity of its blocking system. A Third Party Respondent may hold a reasonable portion of its capacity in reserve if it deems it necessary to do so in order to be able to respond to threats to its subscribers and to maintain the integrity of its network and services. Any such measure must be justified with reference to the network capacity used for similar purposes within the twelve (12) months preceding this Order.

The Applicants shall treat any information received pursuant to this paragraph confidentially and shall use it solely for the purposes of monitoring compliance with this Order.

Notifications of IP addresses of Target Servers to the Third Party Respondents

11. Any notifications given by the Agent under paragraph 5 of this Order must:
 - (a) be notified to the Third Party Respondents by means of publishing a consolidated list of all the IP addresses of the Target Servers to be blocked during each Protected Live Content Window on a secure electronic platform to which each of the Third Party Respondents has been given access by arrangement with the Agent, in the manner specified in paragraphs (b)-(d);
 - (b) be in a fully specified data format, that is provided to the Third Party Respondents in advance.
 - (c) be published to said platform on an ongoing basis during each Protected Live Content Window, and (save as set out in paragraph 12 below) not during other periods; and
 - (d) be published in such a manner that they are brought actively to the attention of all Third Party Respondents as contemporaneously as is reasonably practicable.

12. Any notifications given by the Agent under paragraph 6 of this Order must be notified to the Third Party Respondents by the same means as those specified in paragraph 11 of this Order and given within fifteen (15) minutes of the expiry of the relevant Protected Live

Content Window, and shall be effected by publishing a list containing a single previously-disclosed IP address controlled by the Agent.

13. The notifications of IP addresses of Target Servers to the Third Party Respondents pursuant to this Order will follow the technical requirements set out in Confidential Exhibit GD-14 to the Affidavit of George Demetriades sworn on April 5, 2024.

Notification to Target Servers

14. Where the Agent notifies an IP address for blocking in accordance with paragraph 5 of this Order, the Agent must within a reasonable period of the first occasion when that IP address is notified (being no later than the end of the day on the day of the Protected Live Content Window in question) send to the hosting provider associated with the IP address an electronic notice that contains at least the following information:
 - (a) that access to the IP address has been blocked in Canada by Court Order;
 - (b) the identity of the Applicants who obtained this Order and of the applicable Protected Live Content;
 - (c) a link to an internet location from which the public version of this Order may be accessed; and
 - (d) a statement that affected server operators have the right to apply to the Court to discharge or vary the Order pursuant to paragraph 22 below.

Notification to Third Party Respondents' Customers

15. The Applicants shall post this Order, as well as an explanation of the purpose of the Order, and contact information for any inquires or complaints, on their websites, in a prominent manner.

16. Where access to a Target Server is blocked by a Third Party Respondent pursuant to this Order, that Third Party Respondent shall make reasonable efforts to make the following information immediately available to its residential Internet service customers who attempt to access the Target Servers and whose access is blocked, to the extent it is technically possible and practical with that Third Party Respondent's current technology:
- (a) that access has been blocked by this Order;
 - (b) the identity of the Applicants and the Federal Court File for this matter and contact information of the Applicants, to be provided by the Applicants to the Third Party Respondents for use by such customers;
 - (c) a statement to the effect that the operators of the Target Servers (i.e., the Respondents), any third party who claim to be affected by this Order, and any Internet service customer affected by the Order, may apply to the Court to discharge or vary the Order pursuant to paragraph 22 below; and
 - (d) contact information that the Applicants' Agent shall provide to the Third Party Respondents, and may update from time to time on thirty (30) days' notice, that enables the affected customer to readily contact the Applicants or their Agent to direct any complaints, including false positives.
17. Any personal information collected to achieve the objectives of this Order, or collected through any Deep Packet Inspection (DPI) or other system adopted to achieve the objectives of this Order, will be used solely for the purposes of providing notice to customers, will not be disclosed, and will only be retained as long as is strictly necessary to ensure the integrity of the customer notification obligation.

Changes to Schedule 1

18. Schedule 1 to this Order and the list of “Protected Live Content” may be updated through the following mechanism:
- (a) Any Applicant may serve and file:
 - (i) An affidavit and/or any other admissible evidence demonstrating their ownership or exclusive license in content not already included in Schedule 1 to this Order, or attesting that Protected Live Content already included in Schedule 1 to this Order should not longer be included; and
 - (ii) An amended Schedule 1 providing an updated definition of “Protected Live Content”;
 - (b) Any Respondent or Third Party Respondent may bring a motion to object to the Applicant’s proposed amendment to Schedule 1 by serving and filing a motion record within ten (10) business days of service of the Applicant’s affidavit and proposed amended Schedule 1.
 - (i) If such a motion record is filed, Schedule 1 shall remain unamended until the motion is decided or the Court orders otherwise.
 - (ii) If no such motion record is filed within ten (10) business days, the Applicant’s proposed amended Schedule 1 shall replace Schedule 1 of the Order in force at that time.

Changes to Confidential Schedule 2

19. No changes to the contents of Confidential Schedule 2 paragraphs **Error! Reference source not found.** to **Error! Reference source not found.** and **Error! Reference source not found.** to **Error! Reference source not found.** may be made unless approved by Order of this Court.

20. The Applicants may make additions and deletions to Confidential Schedule 2 paragraph **Error! Reference source not found.** from time to time, including within seven (7) days of issuance of this Order, if the Applicants or the Agent become aware that the criteria for inclusion set out at paragraph 187 to the Affidavit of George Demetriades sworn on April 5, 2024, have been met or are no longer met, as the case may be. Additions and deletions shall be made by the Applicants giving confidential notice to the Third Party Respondents and filing a confidential letter with the Court, specifying the additions and/or deletions and confirming that the criteria for inclusion have been met or are no longer met, as the case may be. Deletions must be made without delay as soon as the Applicants or their Agent become aware that the criteria for inclusion are no longer met.

21. All parties have permission to apply by way of motion to vary the contents of Confidential Schedule 2, such motion to be supported by evidence and on notice to all the other parties.

Permission to apply

22. The operators of the Target Servers (i.e., the Defendants), any other third party who claims to be affected by this Order, and any Internet service customer of the Third Party Respondents affected by the Order, may bring a motion to seek a variation of this Order insofar as this Order affects their ability to access or distribute non-infringing content by serving and filing a motion record within thirty (30) days of the first occurrence of the event that allegedly affects them and that results from this Order.

23. This Order shall in no way limit the ability of a Third Party Respondent to seek to stay, vary, or set aside this Order or oppose on any basis any other related or similar Order sought by the Applicants or any other party. In particular and without limitation, this Order shall in no way limit the ability of a Third Party Respondent to raise issues in connection with the implementation of this Order on grounds relating to the technical implementation of this Order, impacts on a Third Party Respondent's services to its subscribers, or the effectiveness of the Order in preventing the unauthorized streaming during Protected Live Content Windows.

Sunset clause

24. Subject to any Order of this Court, this Order shall terminate two (2) years after its date of issuance.

Confidentiality

25. The Court is satisfied that the following documents filed in support of the Applicants' application for the issuance of the present Order shall remain confidential and be sealed in the Court record because it is necessary to prevent a serious risk to the efficacy of the present Order and similar orders rendered by this Court and by courts in other jurisdictions; and no reasonable alternative measures will prevent that risk; and the benefits of protecting this efficacy outweigh the negative effects of confidentiality:
- (a) The confidential version of the affidavit of Ben Grad;
 - (b) The confidential version of the affidavit of Damian Poltz;
 - (c) The confidential version of the affidavit of Andre LeBlanc;
 - (d) The confidential version of the affidavit of Juan Manuel Ramos Gurrion;

- (e) The confidential version of the affidavit of George Demetriades;
 - (f) The confidential version of the Applicants' Memorandum of Fact and Law (a public version having been provided);
 - (g) Schedule 2 to this Order, which pertains to the detection and notification criteria;
 - (h) Reports to be submitted to the Court pursuant to paragraph 32;
- and
- (i) Notifications submitted to the Court pursuant to paragraph 20.

(Collectively, "Confidential Information").

- 26. The Confidential Information shall be treated as confidential by the Registry of the Court and shall not be available to anyone other than the Applicants, the Third Party Respondents and appropriate Court personnel. Any Respondent or third party bringing a motion pursuant to paragraph 22 of this Order who wishes to have access to the Confidential Information for the purposes of these proceedings shall serve and file a motion record seeking leave from the Court to have access to the Confidential Information.
- 27. Any party who is authorized to have access to the Confidential Information pursuant to paragraph 26 of this Order may only make use of the Confidential Information for the purposes of these proceedings and shall not disclose the Confidential Information to anyone (except their legal counsel or experts who have been informed of the present Order), without leave from the Court.

Reporting to the Court

28. The Applicants shall retain the services of Mr. David Lipkus as an independent expert to review the application of the criteria by the Applicants' Agent for the identification of IP addresses for blocking, including the application of all of the criteria set out in Confidential Schedule 2 ("Expert"). If Mr. Lipkus is unavailable, unable or unwilling to act as independent expert, or if the Applicants seek to retain a different independent expert, the Applicants shall, with input from the Third Party Respondents, propose up to three potential experts by letter to the Court, and the Court will advise the Applicants which potential expert they must retain.
29. The Expert shall be provided the necessary access to facilities, processes or information that is needed to fulfil these responsibilities.
30. The Expert will be subject to an ongoing obligation of confidentiality, and shall not disclose any information obtained pursuant to this mandate, except as permitted by the terms of this Order.
31. The Expert will prepare:
 - (a) An Initial Confidential Report, which shall be prepared and provided to the parties and the Court, on a confidential basis, within thirty (30) days of the 1-year anniversary of the issuance of this Order;
 - (b) An Initial Public Report, which shall be prepared following consultations with all parties as to proposed redactions or alternate wording needed to protect confidential information in the Initial Confidential Report. If the parties cannot agree on proposed redactions, the Expert can seek the assistance of the Court to resolve the issue. This Initial Public Report shall be issued as soon as is feasible following the

completion of the Initial Confidential Report. This Initial Public Report shall be posted on each party's website within thirty (30) days of its completion, replacing any similar report posted on each party's website with regard to the implementation of other live and dynamic IP address blocking order issued by this Court;

(c) A Final Confidential Report, which shall be prepared and provided to the parties and the Court, on a confidential basis, within sixty (60) days of the termination of this Order pursuant to paragraph 24 above; and

(d) A Final Public Report, which shall be prepared following consultations with all parties as to proposed redactions or alternate wording needed to protect confidential information in the Final Confidential Report. If the parties cannot agree on proposed redactions, the Expert can seek the assistance of the Court to resolve the issue. This Final Public Report shall be issued as soon as is feasible following the completion of the Final Confidential Report. This Final Public Report shall be posted on each party's website within thirty (30) days of its completion, replacing the Initial Public Report, and be kept online for a period of no less than six (6) months.

32. Within thirty (30) days of the 1-year anniversary of the issuance of this Order, the Applicants shall file with the Court, and serve on all Third Party Respondents, one or more affidavit comprising (i) a confidential list of all IP addresses that were notified for blocking pursuant to this Order, with the dates and times on which they were required to be blocked, and the criteria which were applied that resulted in them being notified for blocking; (ii) the details of any complaint received from operators of Target Servers, their hosting provider or any other third party (including customers of the Third Party Respondents); (iii) any material technical issues encountered with the implementation of this Order, including any issues reported by the Third Party Respondents to the Applicants

33. Within sixty (60) days of the termination of this Order pursuant to paragraph 24 above, the Applicants shall file with the Court, and serve on all Third Party Respondents, one or more affidavits comprising the information of points (i) to (iii) listed at paragraph 32 above, and (iv) any relevant available data pertaining to the effectiveness of the Order.

Costs of Implementation

34. The Applicants shall indemnify and save harmless the Third Party Respondents for:
- (a) the reasonable marginal cost of implementing this Order, up to a maximum amount of \$50,000.00; and
 - (b) any reasonably incurred loss, liability, obligation, claim, damages, costs (including defence costs), or expenses resulting from a third party complaint, demand, action, claim, application or similar proceeding whether administrative, judicial, or quasi-judicial in nature, in respect of the Third Party Respondents as a result of their compliance with the Order.
35. With respect to the costs referenced in paragraph 34(a) above:
- (a) the Third Party Respondents shall provide the Applicants with an itemized invoice setting out the claimed costs elements and the total cost claimed, within sixty (60) days of the termination of this Order pursuant to paragraph 24 above; and
 - (b) the Applicants shall, within thirty (30) days of receipt of the invoice, either (i) pay the invoice; or (ii) serve and file a motion disputing the reasonableness of the costs claimed in the invoice, failing which the costs shall be deemed to be reasonable.

Costs

36. There shall be no costs on the motion.

**SCHEDULE 1: PROTECTED LIVE CONTENT
AND PROTECTED LIVE CONTENT WINDOWS**

	Owner or Exclusive Licensee	Protected Live Content	Protected Live Content Window
1	Rogers Media Inc. Rogers Communications Inc. BCE Inc. Bell Media Inc. CTV Specialty Television Enterprises Inc. The Sports Network Inc. Le Réseau des Sports (RDS) Inc. Groupe TVA Inc.	National Hockey League (NHL)	All national and regional NHL games broadcast in Canada by any of the Applicants in the first column, via television broadcast and/or online streaming during the 2023-2024 NHL season, including the 2024 Stanley Cup playoffs and final series, as per the schedule found on the NHL website (www.nhl.com/schedule), subject to variations by the NHL, as may be notified to the Third Party Respondents by the Applicants and/or their Agent from time to time.
2	BCE Inc. Rogers Communications Inc.	National Basketball Association (NBA)	The following NBA games for the 2023-2024 to the 2025-2026 NBA seasons: a) All pre-season NBA games and all regular season NBA games played by the Toronto Raptors basketball club; b) All regular season NBA games involving one or more NBA teams (other than the Toronto Raptors basketball club) that are broadcast on the Sportsnet or TSN stations; and c) All playoff NBA games involving one or more NBA teams (including the Toronto Raptors basketball club).

	Owner or Exclusive Licensee	Protected Live Content	Protected Live Content Window
3	FuboTV Inc.	Premier League	All Premier League matches for the 2023-2024 and 2024-2025 seasons.