

John Doe Order: Prevent Digital Marauder



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Introduction:

Imagine this: you have just made a short film and shared it on your YouTube channel. Within days, you find it uploaded on several unknown websites, getting thousands of views without your permission. You don't know who did it, where they're based, or how to stop them. This is a reality for many creators today, from filmmakers and musicians to designers and writers whose work is stolen, re-uploaded and even monetized by unknown and unidentified people. This is called digital infringement.

In our daily digital lives, we stream movies, share memes, download apps, and post content on social media. But behind the ease lies a serious issue that is digital infringement. It is a case when someone uses or shares content that doesn't belong to them and getting revenue, without permission. It is like someone is photocopying your work, writing their name on it, and handing it in as if it is created by him. It erodes the value of creative work and threatens the rights of individuals in every industry.

The problem gets worse when the person stealing or sharing your work hides behind fake names or anonymous accounts. Without a clear identity, holding digital infringer becomes a difficult task. So, how can someone protect their work when they don't even know who the digital infringer is? The traditional legal framework is insufficient to address digital infringement. Creators need a legal remedy that works despite anonymity. That is where the John Doe order comes in.

[1]The article reflects the general work of the authors and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice.

What is a John Doe order?

The term “John Doe” is used as a placeholder for the unknown parties in infringement cases in legal proceeding[2]. A John Doe order is a type of ex-parte injunction order issued by the Court against unknown, unidentified parties who are infringing upon the rights of a content owner without consent. This legal remedy allows the rightful owner to seek legal protection even when the identity of the infringer is not known. Even if the person behind the illegal act is unknown, the law enables the Courts to take measures like blocking websites or removing pirated content from the internet or in cases of trademark infringement, appointing commissioners to seize counterfeit goods. This term allows legal proceeding to commence when while investigation is carried out to determine the real identity.

The John Doe order has its origin in United Kingdom. In India, it is recognized in the landmark case Taj Television vs. Rajan Mandal[3]. In this case, the Court recognized power of the Indian Courts to pass orders against unknown defendants in exercise of its inherent jurisdiction under section 151 and Order 39 of Code of Civil Procedure and issued injunction orders with necessary directives against cable operators. John Doe orders thus serve as an important tool for rights holders to secure their legal interests promptly, while investigations continue to identify the actual wrongdoers.

[2] In India, similar term, Ashok Kumar, is sometimes used

[3] [2003] F.S.R. 22

Procedure:

An owner of intellectual property or creative work whose rights in relation to his works are infringed by unidentified parties may approach the competent court for a John Doe order by filing an application under Order XXXIX Rule 1 & 2 read with Section 151 of Code of Civil Procedure, 1908.

Essential Elements:

1. Prima facie case- The plaintiff should demonstrate prima facie case that his rights are being or likely to be infringed.
2. Unidentifiable defendants- The infringing parties must be unknown or unidentified at the time of filing the suit.
3. Irreparable harm and injury of his reputation- The plaintiff has to show that if this injunction is not granted it will cause irreparable harm or injury to plaintiff's interest.
4. Balance of convenience- Balance of convenience should be in favour of the plaintiff.

When can you seek a John Doe Order?

The John Doe order is a special legal remedy to target the unidentified infringers. It aims to provide legal protection and relief to a creator's rights against unknown or unidentified infringers violating their intellectual property right. An aggrieved party can seek these orders in following cases-

1. Copyright Infringement and Piracy:

Digital infringement of copyright means unauthorized use, distribution, reproduction or display of copyrighted material. It includes music, films, e books, images, videos, etc. without the owner's consent. This order is a legal tool used by copyright owner to stop unknown defendants to commit digital copyright infringement. This is most frequently applied in cases of piracy and unauthorized distribution of copyrighted content. This is used to prevent unauthorized telecast, streaming, downloading or sale of their content by unauthorized and unknown websites. In *Taj Television vs. Rajan Mandal*[4], many cable operators unauthorizedly transmitted FIFA World cup Football matches. These unauthorized transmissions were unidentified and traditional enforcement were ineffective to stop them. The Court restrained the transmission of World cup football matches by unlicensed cable operators.

2. Trademark Infringement:

Digital infringement of trademark refers to the unauthorized use of a trademark in the digital space, causing consumer confusion and harming brand reputation. Trademark owner faces challenges to find perpetrators manufacturing, distributing fake products. In such cases, Courts may issue orders for seize of counterfeit goods, blocking impugned websites to stop trademark infringement.

[4] I.A. 422/2024

In *Sporta Technologies Private Limited vs. John Doe*[5], the Delhi High Court addressed the unauthorized use of online fantasy sports league, Dream11's trademark by unknown websites. The defendants had unlawfully published Dream11's domain, content on unknown websites. Recognizing the prima facie case of the plaintiff, the Court granted ad interim injunction ordering locking and suspending impugned domains through ISPs restraining further infringing activities.

3. Breach of Confidential Information:

In certain situations, if confidential business information is being leaked by an unknown source, a John Doe order can be sought. In *Niva Bupa Health Insurance Company vs. Telegram FZ LLC and Others*[6], the defendant obtained unauthorized access to plaintiff's sensitive customer data and threatened to leak the data. The Court restrained the unknown defendant from copying, publishing, disclosing Niva Bupa's confidential information. The Court directed to remove, block, delete content to prevent leak of sensitive information.

4. Personality Rights:

There are cases where John Doe order has been granted to protect personality rights. In *Amitabh Bachchan Vs Rajat Negi & Ors*[7], the Delhi High Court passed an ad interim ex-parte order for protecting the personality rights of the actor. The Court restrained the defendants from unauthorized use of actor's name, image, and voice thereby safeguarding his identity from commercial misuse.

[5] I.A. 422/2024

[6] I.A. 47425/2024

[7]CS(COMM) 819/2022

How does that work?

John Doe order, once granted, empowers the plaintiff to take specific legal actions to prevent or stop infringement by unidentified individuals. The key steps typically include:

- **Identify Infringers:** The order may permit the plaintiff to trace and identify individuals or entities engaged in infringing activities, for instance, by tracing IP addresses or identifying illegal streaming sources.
- **Serve the Order:** The order can be served on anyone found to be engaged in the prohibited activity. This includes Internet Service Providers (ISPs), cable operators, website hosts, and even individual street vendors.
- **Demand Takedown/Blocking:** Courts direct ISPs, hosting platforms and other online intermediaries to block access to specific websites or URLs that are hosting or facilitating the infringing content.

Challenges and Criticisms:

Despite their effectiveness in protecting intellectual property rights, John Doe generally faces enforcement difficulties enforcing these orders, particularly against individuals or entities operating from outside the court's jurisdiction or those using advanced anonymity tools, can be challenging.

Conclusion:

In a world where content can go viral in seconds, the John Doe Order is a powerful way to protect creativity, effort, and ownership in everyday digital life. These orders are only passed in specific instances, where the Court deems it necessary that it is the only effective measure for a rights owner to enforce their rights against unknown parties. With the growth and ease with which content can be copied, distributed and monetized without authorization made it important for these orders to be in place.

For any feedback or response on this article, the authors can be reached on radnyee.joshi@ynzgroup.co.in and charusheela.vispute@ynzgroup.co.in



Author: Radnyee Joshi

Radnyee is a Law Trainee at YNZ Legal. She has completed LLB from D.Y. Patil College of Law. She has done her Bachelor of Arts from Mumbai University.

Co-author: Charusheela Vispute

Charusheela is heading Estate planning and trademark, having specialisation in property and testamentary matters. By qualification she is Bachelor of Arts and Bachelor of Law from Mumbai University.

