

THE INDIAN



MUSIC INDUSTRY
Formerly IPI Estd. 1936

THE INDIAN MUSIC INDUSTRY

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2nd February, 2018

To
Rajiv Aggarwal
Joint Secretary
Department of Industrial Policy & Promotion (DIPP)
Cell for IPR Promotion and Management (CIPAM)
Udyog Bhawan, Rafi Ahmed Kidwai Marg, Central Secretariat
New Delhi, India - 110011

Sub: Request for Blocking Access and Prevention of re-occurrence of the websites, www.songs.pk and websites with domain names using the words "Song" and "PK" as suffix or prefix, in various permutations and combinations.

Ref: Section 69A of the Information Technology Act, 2000 ("Act") and Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 ("Rules") and the meeting with CIPAM and music labels on December 7th, 2017

Dear Sir,

We, the Indian Music Industry (IMI) are a Trust, registered under the Indian Trusts Act, 1882, we represent and assist, recording companies i.e. music labels to address, issues of protection of copyright of music as well as supporting the growth of the music entertainment industry¹ in order to curb piracy and protect our national security.

We appreciate the DIPP's initiative in engaging with IMI, Internet Service Providers (ISPs) and search engines² to restrict access to the website, www.songs.pk ("PK Website") and other such infringing websites, using the permutation and combination of the words 'songs' and 'pk' in their domain names as a

¹ https://en.wikipedia.org/wiki/Indian_Music_Industry

² <https://economictimes.indiatimes.com/industry/media/entertainment/songs-pk-returns-music-industry-expresses-concern/articleshow/62110890.cms>

AFFILIATED TO



representing the
recording industry
worldwide

Regd. Office : BF-170, Sector-1, Salt Lake City, Kolkata - 700 064.

prefix or suffix, as an attempt to direct traffic to the same ("Infringing Websites"). A list of a few of such infringing websites is listed in Annexure A. The PK Website and the Infringing Websites shall be hereinafter collectively referred to as "PK Websites".

It is our humble submission, that intellectual property crime (piracy)³ is not treated as a high priority crime⁴, especially in developing countries such as ours, where investigations when initiated for piracy tend to be seizure based and do not extend to following the money trail from the proceeds of the crime i.e. the sale of the song/sound recording or cinematograph film (music video) without a license from the owners of the same. According to recent reports, websites hosting pirated content is costing copyright Indian owners, a loss of approximately INR 35 billion per year⁵. This amount of revenue loss is troubling not only from the point of view of industrial loss but more importantly from our national security point of view. Investigations and reports from the Interpol⁶, Computer Hacking/Intellectual Property (CHIP), unit of US Department of Justice (DOJ)⁷ and the European Commission⁸, confirm that global criminal networks, are increasingly funding their illicit activities through intellectual property crimes⁹ which includes pirating music, movies, games, software, and other copyrighted works¹⁰.

There is a clear and blatant link between piracy and financing of organised crimes including but not limited to terrorist activities¹¹, we urge the Government to look into the same and take necessary and swift action to circumvent any risk to the security of the people this country. IMI has attempted to shut down the PK Website, in the past and has even received an affirmative court order from the Calcutta High Court in 2012¹², **CS 23 of 2012**, blocking the same. However, while the PK Website was blocked in India, a massive number PK Websites plagued the internet that either redirected users to the PK Website (which effectively bypassed the said court order and made the said site available in India) or the said domain names used the words "songs", "PK" or "[dot]pk" as a suffix or prefix, which did not resolve the issue at hand. It is pertinent to note that, the internet is currently plagued with PK Websites and as recently reported¹³ the PK Website,

³ *The Interpol – Speech – The Links Between Intellectual Property Crime and Financing dated July 16th, 2003, Introduction - Intellectual Property Crime (IPC) is the counterfeiting or pirating of goods for sale where the consent of the rights holder has not been obtained. Terrorist financing is the generation of funds via licit or illicit means that are then remitted to a terrorist organization or its front organization via formal or informal financial channels. These funds may be used for either the running costs of the organization or to carry out attacks.*

⁴ *id*

⁵ *Deloitte: Bollywood The Indian Film Industry, 2016; p.19*

⁶ *id*

⁷ *United States Department of Justice PRO IP Act First Annual Report 2008-2009*

⁸ https://ec.europa.eu/commission/commissioners/2014-2019/ansip/blog/fighting-piracy-internet-following-money_en

⁹ <https://www.justice.gov/opa/speech/attorney-general-eric-holder-speaks-international-intellectual-property-summit>

¹⁰ <https://www.justice.gov/opa/speech/attorney-general-eric-holder-speaks-international-intellectual-property-summit>

¹¹ *The Interpol – Speech – The Links Between Intellectual Property Crime and Financing dated July 16th, 2003, Introduction - Intellectual Property Crime (IPC)*

¹² *Sagarika Music Pvt. Ltd. & Ors. Versus Dishnet Wireless Ltd. & Ors., CS No. 23 of 2012 IN THE HIGH COURT AT CALCUTTA, 24th January 2012*

¹³ <https://economictimes.indiatimes.com/industry/media/entertainment/songs-pk-returns-music-industry-expresses-concern/articleshow/62110890.cms>

** January 2018, At the Meeting between the Digital Crime Unit and IMI held in Mumbai wherein it was discussed that, law enforcement community believes, that certain rogue websites are using malware scripts to spy and extract personal information of the users from their computers. This information may contain login passwords, Credit card details or personal info such as Aadhar details, which may be misused for purposes which may include, funding terrorist organizations or identity theft.*

in its original domain has resurfaced and therein lies our concern. Based on IMI's interactions with cyber-crime units*, it is possible that these apps and sites store cookies that could potentially track personal information of users. Piracy, today is no longer a dilemma for copyright owners, but also invades personal privacy & is a national security risk, if left unchecked.

It has been reported that in February 2000, the Interpol had seized an individual selling pirated music CDs to fund a Hizbullah related organization, amongst the discs recovered, were images and short films of terrorist attacks and interviews with suicide bombers. The discs were used as propaganda to generate funds for the Hizbullah¹⁴. In today's digital age, our risks have doubled as there is no physical trail to cease goods or monies earned. These Infringing Websites invariably operate on a peer to peer sharing modus operandi, which has been linked to organised criminal activities¹⁵. Surveillance of these files shared on the internet or links made available for downloading or streaming, to find such propaganda videos, is not feasible, and we therefore urge the government to mitigate the risks, the PK Websites pose to our national security.

It is pertinent to note that these PK Websites, do not take licenses from copyright owners (music labels), furthermore, it is even unknown if they are registered legal entities. In fact invariably when one tries to find the domain registration details of the same, the same is blocked for viewing. A recent instance of the same is noted below, as communicated directly by the IFPI, the last known details of the person hosting the PKWebsite's domain name was noted to be:

Name: NAVEED YOUSAF
Address: 43 HOLDSWORTH SQUARE
City: BRADFORD
State / Province: WY
Postal Code: 99999
Country: GB
Phone: +44.4412747315185
Email : bollygup@gmail.com

However on recently re-checking¹⁶, the same was undisclosed. This lack of transparency makes it even tougher to track the money trail of the revenue earnings of the PKWebsites, from advertising or other sources, leaving several unanswered questions on where such money is finally being funnelled from and to and for what purposes.

We agree, that our legislation has taken note of this issue. The amendment Prevention of Money Laundering Act, 2002 to include copyright infringement as a scheduled offence and Mr. Rajnath Singh's recent address at 'National Workshop on Enforcement of Intellectual Property Rights (IPRs)¹⁷ which touched upon the

¹⁴ *The Interpol – Speech – The Links Between Intellectual Property Crime and Financing dated July 16th, 2003, Introduction - Intellectual Property Crime (IPC)*

¹⁵ *Peer to Peer and the Music Industry: The Criminalization of Sharing By Matthew David*

¹⁶ <http://www.pakwhois.com/php/viewWhois.php?Name=songs&Domain=.pk>

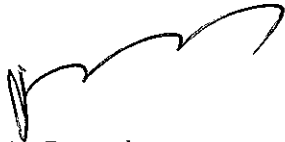
¹⁷ <http://www.livemint.com/Politics/OXVUwsGWgXSvgIOa1VGcBM/Piracy-copyright-violation-sources-of-terror-funding-Rajna.html>

same, has helped shed some light on this subject, however these measures are inadequate to say the least, in addressing the magnitude of this problem which is our national security. Unlike Europe and the USA, in India there is dearth of studies, research and most importantly public awareness, who continue to view piracy is a minor crime in hierarchy of criminal activities. There is an urgency for this view to change, India's inaction towards providing intellectual property protection has cost India a spot in the Watch List 2017 Special 301 Report¹⁸. Clearly, Piracy apart from affecting Indian music labels is also affecting India's business propositions globally as well.

The European Commission has taken on the "follow the money"¹⁹ approach, to address the issue of digital piracy and is currently engaging with the music industry, internet platforms, advertising companies, and payment service providers²⁰ to address this issue. We urge the government once again, to take pre-emptive measures and block the PKWebsites, to set a strong precedent and to raise public awareness. The risk PKWebsites pose to our national security is no longer far-fetched threat, it is today a reality and there is a need of the hour for the Government to shatter this illusion²¹.

We adhere to the Hon'ble Ministry's good governance, and request that immediate measures be taken to block the Infringing Websites by the powers assigned to them under Section 69 A of the Act and We thank you for your support and are hopeful that necessary action be taken at the earliest. Please let us know if any supporting documentation or clarification is required in this regard and we, will provide the same at the earliest.

Thanking You,



Blaise Fernandes
President and CEO,
The Indian Music Industry

CC:

Shri Sushil Satpute
Director, DIPP
New Delhi

¹⁸ Office of the United States Trade Representative 2017 Special 301 Report

¹⁹ https://ec.europa.eu/commission/commissioners/2014-2019/ansip/blog/fighting-piracy-internet-following-money_en

²⁰ http://europa.eu/rapid/press-release_MEMO-17-4943_en.htm

²¹ <https://www.theguardian.com/uk/2004/jul/13/ukcrime.film>

Annexure - A

Infringing Websites, include but shall not be limited to as mentioned below.

Date	Domain Name	Date	Domain Name
Jan-12	jhankar.pk	Apr-14	songs.pk.name
Jan-12	playlist.pk	Apr-14	songs-songs.pk.com
Jan-12	songbox.pk	Jun-14	msongs.pk.com
Jan-12	lovesongs.pk.com	Jul-14	songs.pkshare.com
Jan-12	songs.pk.eu	Sep-14	mp3music.pk
Mar-12	songs.pk.pk	Dec-14	topsongs.pk.com
May-12	mu6ic.pk	Dec-14	songs.pk3g.com
Jun-12	songs.pk.info	Dec-14	songs.pka.in
Aug-12	audio.pk	Jan-15	songs.pka.alldownload.com
Sep-12	songs.pk3.in	Apr-15	songs.pk44.in
Mar-13	songs.pk.cc	Sep-15	songs.pk.cab
Mar-13	songs--pk.info	Jan-16	songs.pkonline.in
Mar-13	papa.pk	Jan-16	kzsongs.pk.in
May-13	songs.pkdj.info	Jan-16	pkmusiqdownload.com
Jul-13	songs-pk.org	Mar-16	songs.pk7.com
Nov-13	link.songs.pk	Apr-16	songs.pk.site
Nov-13	songs.pkm3download.in	Apr-16	PKMusiq.com
Nov-13	songs.pk.at	Apr-17	songs.pk.pub
Nov-13	songs.pk.net.in	Aug-17	song.pk.io
Nov-13	songs.pk.co	Dec-17	songs.pk3.club
Nov-13	songs.pksong.com	Dec-17	songs.pksongs.pk.com
Dec-13	song.pk.mobi	Dec-17	http://www.songs.pk.kim
Nov-13	esongs.pk.in	Dec-17	http://www.downloadmp3song.info/songs-pk
Nov-13	dsongs.pk.in	Dec-17	http://songs.pkhq.com
Nov-13	4songs.pk	Dec-17	http://songs.pkbrand.com
Nov-13	songs.pk.so	Dec-17	http://songs.pksongs.pk.com/
Nov-13	songs.pkv.com	Dec-17	http://www.songs.pk.guru/
Apr-14	123song.pk.blogspot.in	Dec-17	http://songs.pk3.co/
Apr-14	pksong.pk.in	Dec-17	http://www.songs.pzk.in/
Apr-14	songs.pk.asia	Dec-17	http://songs.pkvideos.in/