

BY EMAIL & DoT website

Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi - 110 001
(Data Services Cell)

No. 813-07/LM-26/2023-DS-II

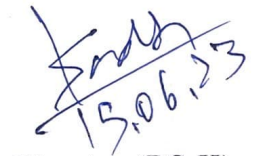
Dated: 15.06.2023

To,
All Internet Service Licensee's

Subject: CS(COMM) 347 of 2023 AarogyaAI Innovations Private Limited Versus Ashok Kumar & Ors. pending before the Hon'ble Court of Sh. Anil Kumar Sisodia, District Judge (Commercial-02), South District, Saket Courts, New Delhi

Kindly find the enclosed Hon'ble South District, Saket Courts order dated **08.06.2023** on the subject matter.

2. Please refer to the **para 14** of the said court order in respect of blocking of **two (02) websites** enumerated in the aforesaid para.
3. Accordingly, in view of the above, all the Internet Service licensees are hereby instructed to take immediate necessary action for blocking of the said websites, as above, for compliance of the said court order.



Director (DS-II)
Tel: 011-2303 6860
Email: dirds2-dot@nic.in

Encl:A/A

Copy to:

- (i) V.Chinnasamy, Scientist E (chinnasamy.v@meity.gov.in), Electronics Niketan, Ministry of Electronics and Information Technology (MeitY) New Delhi for kind information and necessary action.
- (ii) Nageshwar Kumar (info@deyandkumhar.com) counsel for the plaintiff for kind information.
- (iii) IT wing of DoT for uploading on DoT websites please.

**IN THE COURT OF DISTRICT JUDGE
(COMMERCIAL COURT-02)
SOUTH DISTRICT, SAKET COURT, NEW DELHI**

CS (COMM) No. 347 of 2023

AarogyaAI Innovations Private Limited **....Plaintiff**

Versus

ASHOK KUMAR & Ors. **....Defendants**


08.06.2023

O R D E R


Present : Sh. Siddharth Yadav with Sh. Nageshwar Kumhar
counsels for plaintiff.

1. Arguments heard on the application U/o XXXIX Rule 1 & 2 CPC filed by the plaintiff in a suit for permanent injunction to restrain passing off, infringement, rendition of accounts, delivery up etc.

2. Case of the plaintiff is that the Plaintiff owns rights in

the Trade Marks “**AarogyaAI**” and  the Plaintiff’s company is incorporated on 31st May, 2019 under the Companies Act, 2013. It is stated that AarogyaAI is a software powered by Artificial Intelligence analyse genomic data to recommend appropriate drugs for infectious diseases, especially, in respect to Tuberculosis. AarogyaAI aims to diagnose drug-resistant tuberculosis(DR-TB) using Artificial Intelligence in a few hours and it enables quick and accurate diagnosis

of DR-TB, It is stated that the Plaintiff purchased the domain name <https://aarogya.ai/> on 22nd May 2019 and the same is in use and the Plaintiff is the registered proprietor of the Trade Marks AAROGYAAI (Logo) under the Trade Marks Act, 1999. The details of the trademarks are given below:

Sl. NO.	App. No.	Class	Trade Marks	Status
1.	4335076	9		Registered & Valid Upto 01/11/2029
2.	4335077	42		Registered & Valid Upto 01/11/2029

Plaintiff Domain Name	Defendant No. 1 and 2 Domain Names
aarogya.ai	aarogyai.com (Defendant No. 1) aarogyai.in (Defendant No. 2)

3. It is stated that the said trade mark AAROGYAAI is inherently distinctive being unique and arbitrary and has become distinctive indicium of the Plaintiff and the Plaintiff's goods and services and the public at large associate, identify and distinguish the said trade mark with the Plaintiff and the Plaintiff's said services alone and the said trade mark is synonymous with the business of the Plaintiff.

4. It is pleaded that in the 2nd week of April 2023, the AR of Plaintiff was searching for the domain names of its registered

trademark AAROGYAAI on Internet Domain Registrars and surprisingly, AR of Plaintiff found that two similar domain names aarogyai.com and aarogyai.in are registered and valid upto 03.06.2023 and the domain name aarogyai.com is now renewed upto 03.06.2024. It is stated that both domain names are completely similar/ identical to the Plaintiff's prior adopted and registered trademark AAROGYAAI and domain name of the Plaintiff, <https://aarogya.ai/>. It is further stated that the Plaintiff checked the websites of GoDaddy WHOis Domains and discovered that the details of the Registrants are redacted/ masked and thus, the Plaintiff was unable to track the person(s) who purchased the above-mentioned domain names. It is stated that for ease of understanding, the Plaintiff designated the domain names, aarogyai.com as the Defendant No. 1 and aarogyai.in as the Defendant No. 2 respectively.

5. It is pleaded that as per the information available on the WHOis websites, the Defendant No. 3, Hostinger, UAB is the Internet Domain Registrar for the Defendant No. 1's domain, aarogyai.com and Defendant No. 4, Hosting Concepts B.V. d/b/a OpenProvider is the Internet Domain Registrar for the Defendant No. 2's domain, aarogyai.in.

6. It is stated that the Plaintiff's counsel wrote an email with subject "Complaint Report - Similar Domain Registrations of aarogyai.in and aarogyai.com" to Defendant No. 3 and 4 on 11th May, 2023 to block the infringing domain names and the Defendant No. 3 and 4 responded on the same day to fill a form. It is stated that upon filling the form, the Defendant No. 3 and 4 responded that "We have informed the reseller about your complaint and he will investigate this issue. If we do not receive any update from them, we will suspend the domain after 2023-05-16 04:58:48 CEST and it will stop working.", However, no confirmation has been received of the

suspension of infringing domain names from the Defendant No. 3 and 4 and even, the Defendant No. 1's domain name aarogyai.com is renewed and is now valid upto 3rd June 2024.

7. It is stated that the details of the Defendant No. 1 and 2 are not provided and since the infringing domain names are valid and active, the Defendant No. 1 and 2 may use and/or might have used the infringing domain names for any registration, login-in on any website, e-mail purpose, create accounts etc. and the Plaintiff demands the complete disclosure of the use of the infringing domain names since their creation/ purchase by the Defendant No. 1 and 2.

8. It is stated that the unauthorized and unconsented purchase by the Defendant No. 1 and 2 of the similar/ identical domain names might cause misrepresentation amongst the public and might be misused by the Defendant No. 1 and 2 for illegal activities under the name of Plaintiff's registered trademark AAROGYAAI and it has caused grave concern to the Plaintiff, not merely with the view to secure and enforce its own trademark rights but to protect the interests of consumers/ innocent public who have believed and/ or are going to believe that the infringing domain names are purchased by the Plaintiff which is not the case.


9. It is averred that the Plaintiff has impleaded the Department of Telecommunications [DoT] as Defendant No. 5 and Ministry of Electronics and Information Technology [MeitY] as Defendant No. 6 respectively, as they are the authorities/ departments in the matter(s) of Information Technology and to assist this Court and this Court may be inclined to grant in favour of the Plaintiff to protect its exclusive rights from being infringed by the Defendant No. 1 and 2 within the Territory of India.

10. It is stated that the limited relief being claimed against the Defendant No. 5, [DoT] and the Defendant No. 6, [MeitY] is the issuance of a notification to the internet and telecom service providers registered with it to disable access in India to Defendant No. 1 and 2 purchased domains, aarogyaaai.com and aarogyaaai.in and future domains.

11. It is further stated that Defendant No. 1 and 2 have purchased the infringing domain names, aarogyaaai.com and aarogyaaai.in fraudulently and with sinister motive and out of positive greed with a view to take advantage and to trade upon the reputation and goodwill of the Plaintiff in the said trademark AAROGYAAI and further with a view to calculate deception, mislead and confusion amongst the public. It is pleaded that any person not knowing clearly the relationship between the parties to this action is bound to be confused by the Defendant No. 1 and 2 and might do business with the Defendant No. 1 and 2 thinking that they are dealing with the Plaintiff or that some strong vital and subtle links exists between Plaintiff and the Defendant No. 1 and 2.

12. It is pleaded that due to unauthorized & unconsented purchase by Defendant No. 1 and 2 of the similar/ identical domain names, the anonymity of the registrants, the unstructured nature of the internet and the ease with which detection can be avoided on the internet, the Plaintiff is compelled to initiate the present suit proceedings without adequate information as to the people responsible for registering these domain names. It is stated that the Plaintiff has referred/ named Defendant No. 1 and 2 as "ASHOK KUMAR" in the Memo of Parties and the Plaintiff apprehends that in light of the exponential growth of its trademarks AAROGYAAI including its sub brands, websites/ domain names using the registered trademark AAROGYAAI of the Plaintiff are likely to proliferate over the coming

months. It is stated that the Plaintiff is likely to suffer incalculable losses, both tangible and intangible to its goodwill and reputation on account of the acts of trademark infringement, passing off and fraudulent activities of the Defendant No. 1 and 2 including but not limited to loss of reputation and goodwill in the Plaintiff's registered trademark AAROGYAAI, as also exemplary damages due to the blatant disregard for the Plaintiff's common law rights and statutory rights.

13. Ld . Counsel for plaintiff has submitted that plaintiff is the registered owner of trademark “**AarogyaAI**” and  since May 2019, whereas defendant no. 1 and 2 have purchased the domain names aarogyaii.com and aarogyaii.in in the year 2023 with the malafide intention and they have no right to use the infringing domain names without the prior permission and consent of the plaintiff. It has also been argued that trademark of the plaintiff is well known and plaintiff has filed alongwith plaint, certificate issued by the Registrar of the Trademark in support of its averments. He also submitted that besides two registered trademarks, the plaintiff is also in the process for the registration of Aarogyaii in different classes as mentioned in para 6 of the plaint. Counsel for plaintiff further submitted that the plaintiff runs official page of aarogyaii on Twitter and LinkedIn and has 3.1K followers in LinkedIn and 162 followers on Twitter. It is submitted that start up of the plaintiff has raised \$700K as part of its seed funding and the said information has been gathered by digital platform YourStory on 07.01.2022. It has further been submitted that use of infringing domain names i.e. aarogyaii.com and aarogyaii.in of defendant no. 1 and 2 infringes the trademark rights of the plaintiff and they should be restrained from using the identical and deceptively

similar domain names as that of plaintiff as the same are likely to deceive/confuse the general public at large.

14. After hearing Ld. Counsel for the plaintiff at length, I am of the considered opinion that the plaintiff has been able to make out a strong prima facie case to grant ad-interim injunction, the balance of convenience also lies in his favour, it shall also suffer irreparable loss and injury, if the injunction is refused, as a consequence, Defendant Nos. 1 and 2, their owners, proprietors, employees, partners, representatives and/or other acting for and on their behalf are hereby restrained till next date of hearing, from using the trademark AAROGYAAI or any deceptively similar variant thereof, or in any manner amounting to infringement; passing off their services as those of plaintiff

Further, defendant no. 3, its directors, partners, proprietor, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for an, on their behalf, or any claiming through, by or under it are directed to block the domain name i.e. **aarogyaaai.com** registered by defendant no. 1 till next date of hearing and defendant no.3 is further directed to disclose the contact particulars of the registrants.

Further defendant no. 4, its directors, partners, proprietor, officers, affiliates, servants, employees and all others in capacity of principal or agent acting for and, on their behalf or any one claiming through, by or under it are directed to block the domain name i.e. **aarogyaaai.in** registered by defendant no. 2 till next date of hearing and defendant no.4 is further directed to disclose lose the contact particulars of the registrants.

Further defendant no. 5 and 6 are directed to issue a notification calling upon Internet Service Providers to block access to

the infringing domain names, aarogyaaai.com and aarogyaaai.in of the defendant no. 1 & 2 till next date of hearing.

15. The Plaintiff is also granted liberty to file an application under Order 1 Rule 10 of the CPC to array other rogue websites if, the same are selling the goods or offering services under the Plaintiff's trademark "aarogyaaai" and its variant or any other word/mark/Trademark/Label which may be identical with and/or deceptively similar to the Plaintiff's Trademark/Label, and are discovered after the issuance of the instant interim order. The purpose being that the Court, in these cases, needs to dynamically monitor such egregious illegality and, if necessary, pass interim orders to restrain similar rogue websites.

16. Summons be sent to all the defendants through all modes on filing of PF / RC / speed post / approved courier for the next date of hearing. Plaintiff shall comply with the provisions of Order XXXIX Rule 3 CPC within three working days.

Put up for further proceedings on 27.07.2023.

*(Dictated and announced on
08th June 2023)*

(ANIL KUMAR SISODIA)
District Judge
(Commercial Court-02)
South Distt., Saket, New Delhi

IN THE COURT OF DISTRICT JUDGE, SOUTH, SAKET COURTS,
NEW DELHI

CS (COMM) No. of 2023

IN THE MATTER OF:

AarogyaAI Innovations Private Limited ...Plaintiff

Versus

ASHOK KUMAR & Ors. ...Defendants

MEMO OF PARTIES

AarogyaAI Innovations Private Limited
F-4, First Floor, Geetanjali Enclave,
New Delhi – 110017 (INDIA) ...Plaintiff

Versus

1. Ashok Kumar
Address: Hidden/ Unknown
Email id: Hidden/ Unknown
Website: www.aarogyaaai.com ...Defendant No. 1
2. Ashok Kumar
Address: Hidden/ Unknown
Email id: Hidden/ Unknown
Website: www.aarogyaaai.in ...Defendant No. 2
3. Hostinger, UAB
Through its Authorized Representative
Jonavos g. 60C, 44192
Kaunas, Lithuania
Email: abuse@hostinger.com ...Defendant No. 3
4. Hosting Concepts B.V. d/b/a OpenProvider
Through its Authorized Representative
Kipstraat 3c, 5C,

Email: sales@openprovider.nl ...Defendant No. 4

5. The Department of Telecommunications [DoT]

Through Secretary

Ministry of Communications and IT,

Government of India, Sanchar Bhawan

20, Ashoka Road, New Delhi – 110001

Email: secy-dot@nic.in, dirds3-dot@nic.in,

adetds3.hq-dot@gov.in, members-dot@nic.in

...Defendant No. 5

6. Ministry of Electronics and Information Technology (MeitY)

Through the Director General (DIT) Cyber Laws & E-Security

(Government of India)

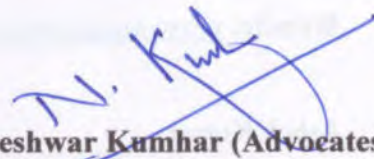
Electronics Niketan, 6, CGO Complex,

Lodhi Road, New Delhi – 110003

Email: cyberlaw-legal@meity.gov.in, gccyberlaw@meity.gov.in,

webmaster@meity.gov.in, tulikapandey@gov.in

...Defendant No. 6

Siddharth Yadav & Nageshwar Kumhar (Advocates)
Advocates for the Plaintiff

For DEY & KUMHAR CO. (Advocates)

T-62, LGF, Bhogal Road, Bhogal Jangpura, New Delhi-110014

Phone +91 11 43586329, 43587161, +91 9818823289

E-mail: info@deyandkumhar.com

Place: New Delhi

Dated: 26th May, 2023

Note: Defendant Nos. 1 to 2 are main contesting parties and their information are not available.