

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-34/2023-DS-II

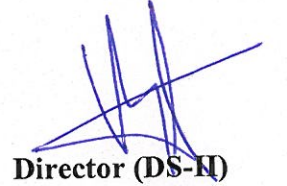
Dated: 25.08.2023

To,
All Internet Service Licensee's

Subject: CS (COMM) No. 470 of 2023 RADICO KHAITAN LTD & Anr. vs. ASHOK KUMAR & Ors Before Hon'ble Delhi High Court.

Kindly find the enclosed Hon'ble Delhi High Court order dated **18.07.2023** on the subject matter.

2. Please refer to the **para 14** of the said court order in respect of blocking of **one (01) website** 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 website, 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) Ayush Puri, (officeayushpuri@gmail.com) counsel for the plaintiff for kind information.
- (iii) IT wing of DoT for uploading on DoT websites please.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 470/2023 & I.A. 12644/2023, I.A. 12645/2023,
I.A. 12646/2023, I.A. 12647/2023, I.A. 12648/2023, I.A.
12649/2023

RADICO KHAITAN LTD Plaintiff
Through: Mr. Anirudh Bakhru, Mr.
Ayush Puri, Ms. Umang Tyagi, Ms. Vijay
Laxmi Rathi, Mr. Kanav Madani and Ms.
Pragya Choudhary, Advs.

versus

ASHOK KUMAR AND ORS Defendants
Through: Mr. Neel Mason, Mr. Vihan
Dang, Ms. Aditi Umapathy and Ms. Pragya
Jain, Advs. for D-8

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

% **ORDER**
18.07.2023

CS(COMM) 470/2023

1. The plaintiff, a company incorporated in UP, is engaged in manufacturing, marketing and selling of spiritous liquors under various trade marks. The following trademarks stand registered in the plaintiff's favour:

Sl. No.	Trade Mark	Date of application	Date of certificate
1.	"8 PM PREMIUM BLACK"	9 October 2017	3 April 2018
2.	 JAISALMER INDIAN CRAFT GIN <i>The Royal's Choice</i>	16 March 2018	6 December 2021

Signature Not Verified

Signed By: HARI SHANKAR
Signing Date: 19.07.2023
14:43:16

Page 1 of 11

3.		2 June 2021	10 November 2021
4.		2 March 2007	23 April 2012
5.	“RADICO”	3 November 1992	15 December 2000
6.		5 January 2016	9 January 2018
7.	“REGAL TALONS”	20 December 2013	17 July 2017
8.	“ROYAL RANTHAM BORE”	1 October 2019	7 June 2022
9.		16 May 2005	29 March 2008

2. All registrations are in Class 33, which deals with alcoholic beverages.

3. In order to vouchsafe its credibility and repute in the market, the plaintiff has provided the figures of its annual revenue from use of its various marks which includes the marks RADICO as well as JAISALMER which, during the year 2022-2023, is to the tune of ₹ 12.7 crores. The plaintiff has also placed on record the promotional expenses incurred by it for promoting its brands. In the year 2022-23, the plaintiff has incurred expenses of ₹ 1.2 cores in promoting its products.

4. The plaintiff is aggrieved by the fact that the defendants are displaying products using the trade marks “RADICO”, “MAGIC

PREMIUM BLACK”, “ROYAL RANTHAMBOR”, “REGAL TALONS”, “MORPHEUS” and “JAISALMER”.

5. The defendants’ identity is unknown to the plaintiff and the plaintiff has, therefore, impleaded the defendants as “Ashok Kumar” who is the Indian *avatar* of “John Doe”.

6. The plaintiff avers that, some time in the last week of June 2023, the plaintiff came to learn of the website <https://www.tsnbfdsavm00.com>, under which investments were being invited from the public to invest in the plaintiff. The plaintiff is stated to have come to learn of the aforesaid through a Twitter post of one Mr. Rajeev Chaurasia, a screenshot of which has been provided in the plaint. Over the aforesaid website <https://www.tsnbfdsavm00.com>, the plaintiff alleges that the defendant is seeking registrations and inciting the public to invest in the plaintiff, promising attractive returns on investments. In the process, the defendants are infringing the intellectual property of the plaintiff.

7. A search of the WHOIS records is said to have revealed that the domain name [tsnbfdsavm00.com](https://www.tsnbfdsavm00.com) was registered on 16 June 2023 and is stated to expire on 16 June 2024. The Domain Name Registrar (DNR) of the said domain name has been impleaded as Defendant 2. It is further averred, in the plaint, that the server hosting the impugned website <https://www.tsnbfdsavm00.com>, is Cloudflare.com, with the name [monika.ns.cloudflare.com](https://www.monika.ns.cloudflare.com). It is further alleged, in the plaint, that the impugned website also has a link titled “download” which, when clicked, re-directs to a file titled “app.apk” of 1.67 MB which indicates that Defendant 1 also has an application, operating on the android operating system.

8. The plaint also refers to a Twitter post, which can be accessed by clicking the “About us” link on the impugned website <https://www.tsnbfsavm00.com>, which refer to the product of the plaintiff, while inviting investments. One such screenshot may be reproduced as under:



9. The aforesaid facts, alleges the plaint, indicate that Defendant 1 is using the plaintiff's product to create business plans inciting and luring innocent persons into amounts, promising lucrative returns thereon.

Signature Not Verified

Signed By: HARSHOM CS(COMM) 470/2023
Signing Date: 19.07.2023
14:43:16

10. It is further alleged that enquiries also reveal that there is a Chat group titled “RADICO” run by Defendant 1 on the Telegram platform, operated by Defendant 6, over which Defendant 1 seeks payment in the name of the plaintiff.

11. Predicated on, *inter alia*, the aforesaid details, the suit alleges that the aforementioned unknown defendants are, by these devious methods, not only infringing the plaintiff’s registered mark but are also inciting gullible members of the public into investing huge amounts, expecting attractive returns thereon. The plaint, therefore, seeks a decree of permanent injunction, restraining Defendants 1 and 7, as well as all others acting on their behalf from using the impugned marks, *inter alia*, "RADICO", "MAGIC MOMENTS", "RAMPUR", "8 PM PREMIUM BLACK", "ROYAL RANTHAMBORE", "REGAL TALONS", "MORPHEUS" and "JAISALMER" "MAGIC MOMENTS DAZZLE" or any other mark, device, logo, domain name, mobile application or trade name, which are deceptively or confusingly similar to the Plaintiffs' well-known, registered and prior marks of the Plaintiff, namely, "RADICO", "MAGIC MOMENTS", "RAMPUR", "8 PM PREMIUM BLACK", "ROYAL RANTHAMBORE", "REGAL TALONS", "MORPHEUS" "MAGIC MOMENTS DAZZLE" and "JAISALMER" in respect of any services.

12. Additionally, the plaint seeks a direction to Defendants 1 and 7 to voluntarily cancel or surrender the website <https://www.tsnbfsavm00.com> or any other domain name which incorporates the plaintiff’s registered trade marks and also to remove

and de-list, from the said website, all reference to the impugned marks or any other deceptively or confusingly similar marks.

13. The plaint also seeks directions to Defendant 2 to provide complete disclosure of the domain name/account information of the person in whose favour the domain name <https://www.tsnbfsavm00.com> is registered, as well a direction to Defendants 5, 6, 8, 9 and 10 to provide complete disclosure of information including e-mail ID,UPI ID, bank details, pertaining to Defendant 1.

14. Directions to Defendant 3 and 4 to block the domain name as well as the website <https://www.tsnbfsavm00.com> have also been sought. Additionally, the plaint seeks a direction to MeITY to issue a notification to the internet and telecom service providers to block access to the website <https://www.tsnbfsavm00.com>.

15. A *prima facie* case of infringement of the plaintiff's registered trade mark and of certain unknown defendants holding themselves out to be associated with the plaintiff and, on that basis, luring investors to invest monies into the plaintiff's enterprise, is made out.

16. As such, let the plaint be registered as a suit.

17. Issue summons.

18. Summons are accepted, on behalf of Defendant 8 by Mr. Neel Mason.

19. Let summons issue to the remaining defendants by all modes.

20. Written statement, accompanied by affidavit of admission/denial of the documents filed by the plaintiff be filed within 30 days with advance copy to learned Counsel for the plaintiff who may file replication thereto, accompanied by affidavit of admission/denial of the documents filed by the defendant within 30 days thereof.

21. List before the learned Joint Registrar (Judicial) for completion of pleadings, admission and denial of the documents and marking of exhibits on 19 September 2023.

22. Interlocutory directions have also been sought, directing some of the defendants to disclose particulars of Defendants 1 and 7.

23. Directions in that regard are presently being issued. Consequent to disclosure of the said particulars, the plaintiff would be at liberty to file a fresh amended memo of parties, incorporating the actual persons indulging in the aforesaid infringing activities.

24. If any such amended memo of parties is filed, fresh summons would issue to such identified persons, with the timelines for filing written statement and replication as aforementioned.

I.A. 12644/2023 (under Order XXXIX Rules 1 and 2 of the CPC)

25. This is an application by the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC) seeking interlocutory injunctive reliefs.

26. Issue notice, returnable on 5 October 2023.
27. Notice is accepted, on behalf of Defendant 8 by Mr. Neel Mason.
28. Let notice issue to the remaining defendants by all modes.
29. Reply, if any, be filed within four weeks with advance copy to learned Counsel for the plaintiff who may file rejoinder thereto within four weeks thereof.
30. The prayer clause in this application reads thus:

“It is therefore most respectfully prayed that during the pendency of the Plaintiffs Suit, this Hon'ble Court may be pleased to grant an order:

a) Restraining the Defendant Nos. 1 and/or 7, their partners, principals, employees, agents, distributors, franchisees, representatives, assigns and all those connected with them in their business from using the impugned marks, *inter alia*, "RADICO", "MAGIC MOMENTS", "RAMPUR", "8 PM PREMIUM BLACK", "MAGIC MOMENTS DAZZLE" "ROYAL RANTHAMBORE", "REGAL TALONS", "MORPHEUS" and "JAISALMER" or any other mark, device, logo, domain name or trade name in respect of any goods/ services whatsoever, *inter alia*, financial, employment and related services which are deceptively or confusingly similar to the Plaintiff's well-known, registered and prior Marks [including the trademarks] in any manner whatsoever without the permission, consent, license of the Plaintiff thereby infringing the rights of the Plaintiff in its registered trademarks amounting to an infringement thereof;

b) Restraining the Defendant Nos. 1 and/or 7, their partners, principals, employees, agents, distributors, franchisees, representatives, assigns and all those connected with them in their business from using the impugned marks, *inter alia*, "RADICO", "MAGIC MOMENTS", "MAGIC MOMENTS DAZZLE" "RAMPUR", "8 PM PREMIUM BLACK", "ROYAL RANTHAMBORE", "REGAL TALONS", "MORPHEUS" and "JAISALMER" or any other

mark, device, logo, domain name or trade name in respect of any goods/ services whatsoever, *inter alia*, financial, employment and related services which are deceptively or confusingly similar to the Plaintiff's well-known and world renowned Marks amounting to passing off their services and businesses as and for the services and business of the Plaintiff, or in any manner whatsoever, using or incorporating the Plaintiff's Marks or any other mark/ device/ logo, which is deceptively or confusingly similar to the Plaintiff's Marks and from taking benefit of the reputation and goodwill of the Plaintiff in any manner whatsoever and/ or restraining them from doing any other act or omission as is likely to cause confusion or deception leading to dilution or tarnishment as those of the Plaintiff's Marks;

(c) Restraining the Defendant Nos. 1 and/or 7 from disposing of or dealing with its assets and their stocks-in-trade or any other assets as may be brought to the notice of the Hon'ble Court during the course of the proceedings and/or the Defendants' disclosure thereof and which the Defendants are called upon to disclose and/or on their ascertainment by the Plaintiff as the Plaintiff is not aware of the same, as provided under Section 135(2)(c) of the Trade Marks Act, 1999 as it could adversely affect the Plaintiff's ability to recover the costs and pecuniary reliefs thereon;

d) Directing the Defendant Nos. 1 and/ or 7 to voluntarily suspend the domain names www.tsnbfdsavm00.com or any other domain name incorporating the Plaintiffs trademarks in any manner;

e) Directing the Defendant No. 3 and 4 to disclose details of domain name/ account information (including identification, name, email, address, etc.) of person/ entity which has registered the Impugned Domain Names-www.tsnbfdsavm00.com and not create any third party rights therein;

f) Directing the Defendant No. 2,5,6,8,9 and 10 to provide complete disclosure of information (including identification, name, email, address, UPI ID etc.) pertaining to the Defendant Nos. 1 and 7;

g) Directing the Defendant Nos. 3 and 4 to suspend the domain names, as also the websites www.tsnbfdsavm00.com;

h) Directing the Defendant Nos. 3 and 4 to issue a

notification calling upon the various internet and telecom service providers registered under it to suspend access to the website www.tsnbfdsavm00.com;

i) Ex-parte and/ or ad-interim reliefs in terms of prayer clause (a), (b), (c), (d), (e), (f), (g), (h) and (i); and

j) Such other/further order which the Hon'ble Court deems fit and proper in the facts and circumstances of the case in favour of the Plaintiff and against the Defendants.”

31. For the reasons stated hereinabove and in view of the fact that a *prima facie* case has been established by the plaintiff, till the next date of hearing, there shall be directions in terms of prayers (a),(c),(d),(e),(f),(g) and (h) of the stay application.

32. Needless to say, to the extent information has been directed to be provided by the defendants, the defendants shall provide all such information as is available with them.

I.A. 12645/2023 (under Order XI Rule 1(4) of the CPC)

33. This application seeks permission to file additional documents.

34. The petitioner is permitted to place additional documents on record in accordance with Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (CPC) as amended by the Commercial Courts Act within 30 days from today.

35. The application stands disposed of accordingly.

I.A. 12646/2023 (under Order XI Rule 1(4) of the CPC)

36. Subject to the plaintiff filing/producing original of the documents at the stage of admission/denial of documents, exemption

is granted for the present.

37. The application stands disposed of accordingly.

I.A. 12647/2023 (under Section 151 of the CPC)

38. Given the nature of urgency involved in the present case, the plaintiff is exempted from serving an advance notice on the defendant.

39. The application stands disposed of accordingly.

I.A. 12648/2023 (under Section 151 of the CPC)

40. Extension of two weeks is granted to the plaintiff to file court fees.

41. The application stands disposed of accordingly.

I.A. 12649/2023 (under Section 151 of the CPC)

42. In view of the fact that the relief sought in the plaint are of urgent nature, the plaintiff is exempted from the requirement of serving a notice under Section 80(2) of the CPC on the defendants.

43. The application stands disposed of accordingly.

C. HARI SHANKAR, J.

JULY 18, 2023

dsn

BEFORE THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

(Original Commercial Jurisdiction)

CS(COMM) NO. _____ OF 2023

IN THE MATTER OF:

RADICO KHAITAN LTD.

...PLAINTIFF

VERSUS

ASHOK KUMAR & ORS.

...DEFENDANTS

MEMO OF PARTIES

RADICO KHAITAN LTD.

PLOT NO. J-I, BLOCK B-I,

MOHAN COOPERATIVE INDUSTRIAL AREA,

MATHURA ROAD,

NEW DELHI - 110044

...PLAINTIFF

VERSUS

1. ASHOK KUMAR

[HIDDEN/ UNKNOWN OWNER OF

IMPUGNED WEBSITES,

AND MOBILE APPLICATION]

...DEFENDANT NO. 1

2. ENOM, LLC

8825 N. 23RD AVE SUITE 100

PHOENIX, ARIZONA 85021, USA

...DEFENDANT NO. 2

3. DEPARTMENT OF TELECOMMUNICATION

THROUGH SECRETARY

MINISTRY OF COMMUNICATIONS AND IT,

20, SANCHAR BHAWAN, ASHOKA ROAD,

NEW DELHI- 110001

Email IDs: secy-dot@nic.in; dirids2-dot@nic.in ...DEFENDANT NO. 3

4. MINISTRY OF ELECTRONICS AND INFORMATION

TECHNOLOGY THROUGH THE DIRECTOR
GENERAL (DIT) CYBER LAWS & E-SECURITY,
ELECTRONICS NIKETAN, 6, CGO COMPLEX,
LODHI ROAD, NEW DELHI- 110003

Email IDs: cyberlaw@meity.gov.in,
gccyberlaws@meity.gov.in, pkumar@meity.gov.in,
sathya.s@meity.gov.in,
webmaster@meity.gov.in

...DEFENDANT NO. 4

5. TWITTER INDIA (X CORP.)

RMZ INFINITY, B, OLD MADRAS RD,
SADANANDANAGAR, BENNIGANA HALLI,
BENGALURU, KARNATAKA 560016

Email: support@twitter.com; partner@twitter.com;
lawenforcement@twitter.com

...DEFENDANT NO. 5

6. TELEGRAM FZ-LLC

BUSINESS CENTRAL TOWERS, TOWER A,
OFFICE 2301-2303
DUBAI, UNITED ARAB EMIRATES

E-mail ID: dmca@telegram.org, abuse@telegram.org,
dmca@telegram.org

...DEFENDANT NO. 6

7. MOHAMED ALI KANEMAR

PH: 9861124359
9556133519

[ADDRESS UNKNOWN]

...DEFENDANT NO. 7

8. GOOGLE INDIA DIGITAL SERVICES PRIVATE LIMITED

5TH FLOOR, DLF CENTRE, BLOCK 124,
NARINDRA PLACE, SANSAD MARG,
NEW DELHI – 110001

nodal-gpay@google.com;

support-in@google.com

...DEFENDANT NO. 8

9. AIRTEL INDIA;

BHARTI CRESCENT,
1, NELSON MANDELA ROAD,
NEW DELHI, INDIA;
TEL. NO. : +91-11-4666 6100

CEO.INDIA@AIRTEL.COM

...DEFENDANT NO. 9

10. RELIANCE JIO INFOCOMM LIMITED

OFFICE -101, SAFFRON NR. CENTRE POINT,
PANCHWATI 5 RASTA,
AMBAWADI

AHMEDABAD, GUJARAT- 380006

...DEFENDANT NO. 10

For RADICO PHARMACEUTICALS LIMITED
PLAINTIFF

THROUGH

Authorised Signatory

Ayush Puri

[AYUSH PURI]
A-16, FIRST FLOOR,
NIZAMUDDIN EAST,
DELHI-110013

ENROL. NO. D/4010/2017
+91 9811439334

officeayushpuri@gmail.com

PLACE: NEW DELHI

DATE: 11.07.2023

NOTE: IT IS UNDERTAKEN THAT DEFENDANTS NO. 1 AND 7 ARE THE
MAIN CONTESTING DEFENDANTS.