I/3062078/2022

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-42/2022-DS-II **Dated: 27-09-2022**

To,

All Internet Service Licensee's

Subject: CS (Comm.) No. 619 of 2022 titled as Infiniti Retail Limited Vs. M/s Croma Mart & Ors. Before District Judge (Comm. Court-01), South East District, Saket Court Complex, New Delhi

Kindly find the enclosed District Judge (Comm. Court)-01, South East District, Saket Court Complex, New Delhi order dated 12th September, 2022 in the subject matter court case **CS (Comm.) No. 619 of 2022** for compliance with respect to website of defendant no. 1, as mentioned in the court order. DoT is respondent No. 3 in this case.

2. Hon'ble District Judge (Comm. Court)-01, South East District, Saket Court Complex, New Delhi, vide order dated 12th September, 2022 has, inter alia, directed that:

> ***4. (III) Defendant no. 3 and 4 are directed to block the access to the website www.cromamart.com.***

3. Accordingly, in view of the above, all the Internet Service licensees are hereby instructed to take immediate necessary blocking action for compliance of the court order dated 12.09.2022 with respect to website of defendant no. 1, as mentioned in the court order.

Signed by Subodh Saxena
Date: 27-09-2022 18:04:25
Reason: Approved

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

Encl: A/A

Copy to: 1. V.Chinnasamy, Scientist E (chinnasamy.v@meity.gov.in), Electronics Niketan, Ministry of Electronics and Information Technology (MeitY) New Delhi (Respondent no. 4) for kind information and necessary action.

2. DOT Website

THE COURT OF DISTRICT JUDGE
(COMMERCIAL COURT-01),
SOUTH-EAST, SAKET COURTS, NEW DELHI

Presiding Officer: Sh. UMED SINGH GREWAL

CS (Comm) No 619/22

Infiniti Retail Limited **.....Plaintiff**

Vs.

M/s Croma Mart & Ors. **.....Defendant**

ORDER

1. This order shall decide an application of the plaintiff u/o XXXIX Rules 1 and 2 for exparte relief.

2. The plaintiff is a part of TATA Group and manages a nation wide retail chain through physical stores and website www.croma.com on which a vide range of electronics, consumer and household goods and appliances are sold under the trade name "Croma" and a series of formative marks. The website www.croma.com was registered long ago and first croma store was launched in 2006. Now, there are 250 stores all over the country. Also, its products and services under the mark "Croma", are distributed

through a huge network of distributors. It spent about Rs. 35,00,000/- in first conceptualizing the mark "Croma" in 2006. It spent about Rs. 60,00,000/- in designing and adopting CROMA sub brands also spent Rs. 20,00,000/- on designing and conceiving new logos for the brand. Also, it is promoting and advertising its goods and services under that trade name on several social media networks like Facebook, Twitter handle, You Tube channels and Instagram handles. The traffic on its website in 2013 was 12420747 and it has now increased six and half times to 96382224 in 2021. It is the registered proprietor of the trade mark "Croma" and its formative marks in classes 9, 11 and 35 and it has been declared as well known trade mark by the concerned registry.

The defendant no. 1 is believed to be the owner of infringing website www.cromamart.com on which it displays, sells and offers for sale the counterfeit consumer and electronic items under the trade name "croma". Defendant no. 2 is registrar and provider of domain name www.cromamart.com . Defendant nos 3 and 4 have been impleaded to execute the directions to be passed by this court. Defendant no. 5 is the telecom service provider of mobile phone no. +918527384997 as mentioned on the impugned website.

3. Learned counsel for applicant argued that her client had received a complaint from a customer in September, 2020 regarding purchase of counterfeit robotic vacuum cleaner through e-commerce website www.cromamart.com which the customer mistakenly believed to be the website of the plaintiff. Upon investigation, the

plaintiff came to know that not only the website was operational, the defendant no. 1 was actively offering for sale consumer electronic goods with the trade mark croma and hence, a cease and desist notice was sent to defendant no. 1 on 12.09.2020 and defendant no. 2 was also informed about the infringing activities. After some days of sending the notice, the defendant no.1 put down the contents of the impugned website and the same was shown to be "under maintenance" . She further argued that her client received another complaint from a customer in January, 2021 regarding infringing activities of defendant no.1. On investigation, its officers were shocked to know that impugned website was accessible again and was displaying and offering for sale the counterfeit products by using the trade mark "croma". Yet, another notice dated 13.01.2021 was sent to defendant no.1. In response, the impugned website was again taken down. She further argued that in May, 2022, the plaintiff again came to know that the impugned website was again operational and was again actively offering for sale vide variety of goods under the trade name "croma".

4. As per annexed documents, the plaintiff is registered proprietor of the trade mark "croma". As per the certificate issued by trade mark registry, the said mark has been kept in list of well known trademarks. The domain name used by defendant not. 1 is deceptively similar to the website of the plaintiff. The said domain name is capable of confusing unwary and literate as well as illiterate customers to believe that the goods offered for sale on the impugned

website, were the goods of the plaintiff because on impugned domain name, the goods are offered for sale by the trade name "croma". The defendant no. 1 is trying to ride upon the popularity and reputation of the plaintiff's trademark. It took down the contents on the impugned website after receipt of ceased and desist notice. But after some days, it again started engaging in infringing activities. So, the application is allowed and following directions are passed:

(I). The defendant no. 1 and its agent are restrained from using the plaintiff's trade mark "croma" or its logos or any other mark deceptively similar to that mark on any domain name including the impugned website www.cromamart.com.

(II). Defendant no. 2 is directed to disclose the identity of defendant no. 1, besides the IP addresses and other details available with it. It is further directed to suspend the domain name www.cromamart.com.

(III).Defendant no. 3 and 4 are directed to block the access to the website www.cromamart.com.

(IV). Defendant no. 5 is directed to disclose the detail of registered owner of mobile phone no. +918527384997 (as mentioned on the impugned website) within one week.

The above order shall remain in force till the next date.

5. In view of above observation, the application is disposed of.

Announced in Open Court
on 12.09 .2022

(UMED SINGH GREWAL)
District Judge (Commercial Court)
South East/Saket Courts, New Delhi

IN THE COURT OF THE LD. DISTRICT JUDGE (COMMERCIAL), SOUTH EAST DISTRICT, SAKET COURTS COMPLEX, DELHI

CS (Comm) No. of 2022

Infiniti Retail Limited **...Plaintiff**

Versus

M/s Croma Mart & Ors. **...Defendants**

MEMO OF PARTIES

1.	**Infiniti Retail Limited** Unit No. 701 and 702, Wing A, 7th Floor, Kaledonia, Sahar Road, Andheri East, Mumbai – 400069, Maharashtra, India. **Email**: c/o office@ira.law	**...Plaintiff**
	Versus	
1.	**M/s Croma Mart** *Through its proprietor* A-08, Huda Market, Sector 32, Gurugram – 122022, Haryana, India. **Email**: support@cromamart.com; admin@cromamart.com **Mobile**: +91 85273 84997 **Website**: www.cromamart.com	**... Defendant No. 1**
2.	**GoDaddy.com, LLC** 14455 North Hayden Road, Suite 219 Scottsdale, Arizona 85260, USA. Email: HQ@godaddy.com abuse@godaddy.com	**... Defendant No. 2**
3.	**Union of India**	

	Through **Department of Telecommunications, Ministry of Communications** Sanchar Bhawan, 20 Ashoka Road, New Delhi- 110001 **Email**: Dysecyvig.hq-dot@nic.in	**... Defendant No. 3**
4.	**Union of India** *Through* **Ministry of Electronics and Information Technology** Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi – 110003 **Email**: s.chaudhary@gov.in; ajaik@meity.gov.in	**... Defendant No.4**
5.	**Bharti Airtel Limited** Airtel Centre, Plot No. 16, Udyog Vihar, Phase – IV, Gurgaon – 122001, Haryana. **Email**: compliance.officer@bharti.in	**...Defendant No. 5**

(SAUHARD ALUNG)
on behalf of

Place: New Delhi
Date: June 8, 2022

Lakshmi Kruttika Vijay and Raunaq Kamath
D/1095/2009 | (D/3424/2010)
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