

**IMMEDIATE
COURT ORDER
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-08/2023-DS-II

Dated:02.03.2023

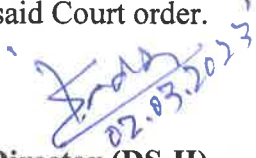
**To,
All Internet Service Licensees'**

**Subject: CS (Comm) No. 90 of 2023; New Balance Athletics Inc. v. Ashok Kumar & Ors.
Before Hon'ble Delhi High Court**

Kindly find the enclosed Hon'ble Delhi High Court order dated 17.02.23 on the subject matter.

2. Please refer to **para 16(viii)** of the said court order in respect of blocking **two (02) websites** enumerated in the said para.

3. Accordingly, in view of the above, all the Internet Service licensees are hereby instructed to take immediate necessary action for blocking, 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) Sh. 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) Sujata Chaudhri IP Attorneys, Counsel for the plaintiff (janaki@sc-ip.in,) for kind information along with technical limitation in blocking at ISPs.
- (iii) IT wing of DoT for uploading on DoT website.

\$~21(Original)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 90/2023 & I.A. 3175/2023, I.A. 3176/2023, I.A. 3177/2023, I.A. 3178/2023

NEW BALANCE ATHLETICS INC. Plaintiff
Through: Mr. Urfee Roomi, Ms. Janaki Arun Ali and Mr. Ayush Dixit, Advs.

versus




ASHOK KUMAR & ORS. Defendants
Through: Mr. Tushar Singh, Adv. for D-1
Mr. Debarshi Dutta, Mr. Mrinal Ojha, Mr. Aayush Kevlani and Ms. Shubhalaxmi Sen, Advs. for D-2

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

% **ORDER**
17.02.2023

CS(COMM) 90/2023

1. The plaintiff is the proprietor of the following registrations.





S. No.	Mark	Reg. No.	Class	Registration Date	Renewed Until
1.		472335	25	May 18, 1987	May 18, 2028
2.		768874	25	September 10, 1997	September 10, 2027
3.		1537347	25	March 6, 2007	March 6, 2027

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Signing Date: 20.02.2023
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4.		472334	25	May 18, 1987	May 18, 2027
5.		525286	18	February 27, 1990	February 27, 2024
6.		706035	18	May 20, 1996	May 20, 2026
7.		1637760	25	January 3, 2008	January 3, 2028
8.	NEW BALANCE	472336	25	May 18, 1987	May 18, 2028
9.	NEW BALANCE	525511	18	March 2, 1990	March 2, 2024

2. The plaintiff manufactures and sells footwear under these marks. The plaintiff asserts that use of the “NEW BALANCE” and “N” marks in India with respect to footwear commenced in 1986 and that the “NB” device marks were first used in respect of footwear by the plaintiff in 1987.

3. The plaintiff is aggrieved by the marketing and sale of counterfeit products bearing marks identical to the aforesaid registered marks of the plaintiff on the websites www.luxuryjunctionlj.com and www.luxuryjunction.in as well as the “Luxury Junction” mobile application. As the owner of the aforesaid website and the person who is making the mobile app available is unknown, the plaintiff has impleaded her/him as “Ashok Kumar” (Defendant 1).

4. The plaintiff has annexed the aforesaid webpages which reflect that products purportedly to be of the plaintiff are being offered for sale

thereon.

5. *Prima facie*, therefore, a case of marketing of counterfeiting goods, using marks which infringe the plaintiff's registered trademarks, is made out.
6. In view thereof, let the plaint be registered as a suit.
7. Issue summons to the defendants.
8. Written statement, accompanied by affidavit of admission and 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 and denial of the documents filed by the defendant within 30 days thereof.
9. List before the Joint Registrar (Judicial) for completion of pleadings, admission/denial of the documents and marking of exhibits on 21st March 2023, whereafter the matter would be placed before the Court for case management hearing and further proceedings.

I.A. 3175/2023 (under Order XXXIX Rules 1 and 2)

10. This application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC) seeks *ad interim* injunctive reliefs.
11. The plaintiff has already made out a *prima facie* case. The case being one of counterfeiting, the Court has necessarily to take a strict view

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in the matter.

CS(COMM) 90/2023

12. Accordingly, issue notice on the application, returnable before the Court on 18th April 2023.

13. Ms. Shubhalaxmi Sen accepts notice on behalf of Defendant 2.

14. Mr. Tushar Singh accepts notice on behalf of Defendant 1. He undertakes to provide the identity of his clients and also submits, on instructions, his client would take down all the offending websites and details so that this matter could be brought to an end. He is directed to place an affidavit on record to the said effect.

15. Reply, if any, be filed within four weeks with advance copy to learned Counsel for the plaintiff who may file rejoinder thereto, if any, within four weeks thereof.

16. Accordingly, till the next date of hearing, the following directions are issued:

(i) There shall be an injunction on sale, offering for sale, displaying, advertising, marketing, whether directly or indirectly, online or offline, footwear or any other similar/related/alike/cognate goods bearing the afore-extracted registered marks of the plaintiff or any marks which incorporate the said marks by any person whatsoever (as the identity of Defendant 1 is as yet unknown).

(ii) Defendant 2 is directed to provide complete details of the

registrants of the domain name www.luxuryjunctionlj.com and www.luxuryjunction.in. Defendant 2 is also directed to ensure that, till the next date of hearing, access to the aforesaid domain names is blocked and to ensure that the *status quo* regarding the domain names is maintained till the next date of hearing.

(iii) Defendant 3 is directed to provide details of the mobile No. (+91) 7284872520, which is stated to be used for operating the aforesaid domain names.

(iv) Defendant 4 is directed to block access to the mobile application Luxury Junction, listed on Google Play Store and to provide complete details of the person who owns and operates the said app.

(v) Defendant 5 is directed to furnish complete details of the owners and operators of the Instagram pages @luxury_junctionlj and @men_wordable and to block access to the said pages.

(vi) Defendant 6 is directed to provide details of the owners/operators of the website luxuryjunction.in.

(vii) Defendant 7 is directed to furnish complete details of owners/operators of the domain names www.luxuryjunctionlj.com and www.luxuryjunction.in.

(viii) Defendants 9 and 10 are directed to issue a notification calling on internet service provider and mobile network operators

registered under it to block access to the websites www.luxuryjunctionlj.com and www.luxuryjunction.in.

I.A. 3176/2023 (under Order XI Rule 1(4) of the CPC)

17. This application seeks permission to file additional documents.
18. 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.
19. The application stands disposed of accordingly.

I.A. 3177/2023 (Exemption)

20. Exemption allowed, subject to all just exceptions.
21. The application stands disposed of.

I.A. 3178/2023 (under Section 12A of the Commercial Courts Act, 2015)

22. In view of the judgment of the Division Bench of this Court in *Chandra Kishore Chaurasia v. R.A. Perfumery Works Pvt Ltd¹*, exemption is granted from the requirement of pre-institution mediation under Section 12A of the Commercial Courts Act, 2015.

23. The application stands allowed accordingly.

C.HARI SHANKAR, J

FEBRUARY 17, 2023

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IN THE HIGH COURT OF DELHI AT NEW DELHI
(ORDINARY ORIGINAL CIVIL JURISDICTION)
CS(COMM) No. of 2023

IN THE MATTER OF:

New Balance Athletics Inc. ...Plaintiff

-- VERSUS --

Ashok Kumar & Ors. ... Defendants

MEMO OF PARTIES

New Balance Athletics Inc.

100 Guest Street

Boston, Massachusetts, 02135-2088

United States of America

E-mail: trademarks@sc-ip.in ...Plaintiff

-- VERSUS --

Ashok Kumar

Trading as:

www.luxuryjunctionlj.com and www.luxuryjunction.in

Phone: +91-7284872520

Email: sales.luxuryjunction@gmail.com ... Defendant No. 1

GoDaddy.com, LLC

Karen Gaydos, Grievance Officer

2155 E GoDaddy Way

Tempe, Arizona 85284

United States of America

Email: abuse@godaddy.com and

grievanceofficer@godaddy.com.

... Defendant No. 2

Reliance Jio Infocomm Limited

Office -101, Saffron Near. Centre Point

Panchwati 5 Rasta, Ambawadi

Ahmedabad, Gujarat – 380006

Email: care@jio.com and

jyoti.jain@ril.com

... Defendant No. 3

Google LLC

Jennifer Thomason

1600 Amphitheatre Parkway

Mountain View, CA 94043

USA

Phone - (650) 253-0000

Email - press@google.com and

support-in@google.com

...Defendant No. 4

Meta Platforms Inc.

One Hacker Way

Menlo Park, California 94025

United States of America

Phone: (650) 543-4800

Email: press@fb.com

... Defendant No. 5

Selloship Services LLP

Shop – 901, Royal Trade Center

Surat, Gujarat – 395009

Phone: +91-9105910591

Email – admin@selloship.com

.... Defendant No. 6

HDFC Bank Limited

HDFC Bank House

Senapati Bapat Marg, Lower Parel W

Mumbai - 400013

Email: support@hdfcbank.com

... Defendant No. 7

PAYU Payments Private Limited

801, 8th Floor, Empressa Building

2nd Floor, Khar West

Mumbai – 400052

Email: carehead@payu.in and

nodalofficer@payu.in

... Defendant No. 8

Department of Telecommunications

Through Secretary

Ministry of Communications and IT

20, Sanchar Bhawan, Ashoka Road

New Delhi – 110001

Email: secy-dot@nic.in; dirds2-dot@nic.in

... Defendant No. 9

Ministry of Electronics and Information Technology

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

Electronics Niketan, 6, CGO Complex

Lodi Road, New Delhi – 110003

Email: cyberlaw@meity.gov.in; gccyberlaws@meity.gov.in;

pkumar@meity.gov.in; sathya.s@meity.gov.in

...Defendant No. 10

National Internet Exchange of India

6C,6D,6E

Hansalaya Building 15

Barakhamba Road

New Delhi – 110001

Email: info@nixi.in

... Defendant No. 11



URFEE ROOMI
Advocate [D/817/2017]
of SUJATA CHAUDHRI IP ATTORNEYS
Advocates for Plaintiff
2106 Express Trade Towers 2, First Floor
B-36, Sector 132 Expressway
Noida – 201301 (UP)
Mob. +919818098835
Mob. +919811600017
Email – trademarks@sc-ip.in

PLACE: New Delhi
DATE: February 15, 2023

The defendant No. 1 is main contesting defendant

