

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-32/2022-DS-II

Dated:20-01-2023

To,

All Internet Service Licensees'

Subject: CS (Comm) No. 303 of 2022; Burger King Corporation & Swapnil Patil & Ors. Before Hon'ble Delhi High Court

Kindly find the enclosed Hon'ble Delhi High Court order dated 2nd December, 2022 in the subject matter court case C.S. (Comm) No. 303 of 2022 for compliance in respect of blocking of **two websites** mentioned in **para 19(d)** of the court order. DoT is respondent No. 7 in the case.

2. Hon'ble Court in order dated 2nd December, 2022 has, inter alia, directed that:

19. Consequently, till the next date of hearing, an ad interim injunction order is passed in the following terms:

*d) The defendants no.7 and 8 are directed to issue directions to all ISPs to block the websites **www.burgerkingfranchise.in** and **www.burgerkingfranchise.com** so that the same is not accessible through VPN or any other platforms and file an affidavit of compliance thereby confirming issuance of the said directions.*

3. Accordingly, in view of the above, all the Internet Service licensees are hereby notified to take immediate necessary blocking action for compliance of the court order dated 21st December, 2022 with respect to **two websites** mentioned in **para 19(d)** of the 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. Mr. Harish Vaidyanathan Shankar, Central Government Standing Counsel for kind information along with technical limitation in blocking at ISPs.

I/3080913/2023

- iii. Sh. Mukul Kochhar, Attorney, Ira Law counsel for the plaintiff (mukul@ira.law) for kind information along with technical limitation in blocking at ISPs.
- iv. IT wing of DoT for uploading on DoT website.

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 303/2022**

BURGER KING CORPORATION

..... Plaintiff

Through: Mr. Raunaq Kamath and Mr. Mukul
Kochhar, Advocates.

versus

SWAPNIL PATIL & ORS.

..... Defendants

Through: Ms. Akshita Jain, Advocate for D-6.
Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar Mishra,
Mr. Sagar Mehlawat and
Mr. Alexander Mathai Paikaday,
Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

21.12.2022

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I.A. 21770/2022 (O-I R-10 of CPC)

1. The present application has been filed under provisions of Order I Rule 10 of the Code of Civil Procedure, 1908 (CPC) seeking to implead Canara Bank Ltd. and GoDaddy.com LLC as the defendants no.17 and 18 respectively.

2. It has come to the knowledge of the plaintiff that the defendants no.1 to 3 and defendant no.14 have opened two new bank accounts with Canara Bank and have also obtained two new domain names through the Domain Name Registrar, GoDaddy.com. Hence, the plaintiff seeks to implead the aforesaid parties as the defendants in the present suit.

3. None appears on behalf of the defendants no. 17 and 18 despite advance service.

4. The application is allowed and Canara Bank Ltd. and GoDaddy.com LLP are impleaded as the defendants no.17 and 18 respectively.

5. Amended memo of parties filed along with the application is taken on record.

6. The application stands disposed of.

I.A. 21001/2022 (O-VI R-17 of CPC)

7. The present application has been filed under provisions of Order VI Rule 17 of the Code of Civil Procedure, 1908 (CPC) seeking to amend the plaint in light of new facts that have come to the knowledge of the plaintiff in respect of new bank accounts as well as the registration of new domain names.

8. Since none appears on behalf of the defendants no.1 to 3 and 14 despite service, the need is not felt to issue notice to the defendants no.1 to 3 and 14.

9. The suit is at an early stage and no prejudice would be caused if the amendment is allowed. Hence, the amendment is allowed and the amended plaint is taken on record.

10. The application is disposed of.

I.A. 21036/2022 (O-XXXIX R-1 & 2 of CPC)

11. The present application has been filed seeking interim relief in respect of the new bank accounts of the defendants no.1 to 3 and the defendant no.14 that has recently come to the knowledge of the plaintiff.

12. Vide order dated 28th July, 2022, the earlier bank accounts of the defendants no.1 to 3 and the defendant no.14 had been directed to be frozen

by this Court.

13. Further, it has also come to the knowledge of the plaintiff that the defendants no. 1 to 3 and defendant no.14 have obtained registration of two new domain names, namely, www.burgerkingfranchise.co.in and www.burgerkingfranchises.co.in through defendant no.18, GoDaddy.com.

14. Issue Notice.

15. Notice be issued to the defendants through all modes.

16. Reply(ies) be filed within four weeks.

17. Rejoinder(s) thereto, if any, be filed before the next date of hearing.

18. A *prima facie* case is made out on behalf of the plaintiff. Balance of convenience is in favour of the plaintiff. Irreparable harm would be caused not only to the plaintiff but also to the public if an ad interim injunction as prayed is not granted in favour of the plaintiff.

19. Consequently, till the next date of hearing, an ad interim injunction order is passed in the following terms:

- a) The defendants no.1 to 3 and 14 are directed to takedown/delete the infringing listings available at the URLs <https://www.justdial.com/JdSocial/post/1520051288866554> and <https://www.google.com/maps/place/Burger+King/@19.1045489,72.8807212,15z/data=!4m5!3m4!1s0x0:0x60ff5f1cb510d6ea!8m2!3d19.1045489!4d72.8807212> and/or any other third party listing using the

Plaintiff's registered trademarks BURGER KING, BK,



and/ or any other mark deceptively similar thereto.

- b) The defendant no.17 is directed to immediately freeze the bank accounts bearing numbers 110054628296 and 110078859893 as specified in paragraph 8 of the present application and file an affidavit of compliance thereby confirming that it has frozen the said bank account.
 - c) The defendant no.17 is directed to disclose on affidavit the identity of the account holder of bank account numbers 110054628296 and 110078859893, KYC documents, identity related documents and bank statements from the date of opening of the accounts till date.
 - d) The defendants no.7 and 8 are directed to issue directions to all ISPs to block the websites www.burgerkingfranchise.in and www.burgerkingfranchise.com so that the same is not accessible through VPN or any other platforms and file an affidavit of compliance thereby confirming issuance of the said directions.
 - e) The defendant no.18 is directed to suspend the domain names www.burgerkingfranchise.in and www.burgerkingfranchise.com and file an affidavit of compliance thereby confirming that they have suspended the said domain names.
20. Compliance under Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 (CPC) be done within five days.
21. List before the Joint Registrar on 27th January, 2023 for completion of pleadings.
22. List before the Court on 13th February, 2023, the date already fixed.

AMIT BANSAL, J.

DECEMBER 21, 2022/at