I/3061145/2022

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-41/2022-DS-II **Dated: 21-09-2022**

To,

All Internet Service Licensee's

Subject: CS (Comm.) No. 902 of 2022 titled as CROCS INC Vs. Ashok Kumar Before DJ (Comm. Court)-02, South East District, Saket Court Complex, New Delhi

Kindly find the enclosed District Judge (Comm. Court)-02, South East District, Saket Court Complex, New Delhi order dated 13th September, 2022 in the subject matter court case **CS (Comm.) No. 902 of 2022** for compliance of the court order. DoT is defendant No. 2 in this case.

2. Hon'ble District Judge (Comm. Court)-02, South East District, Saket Court Complex, New Delhi, vide order dated 13th September, 2022 has, inter alia, directed that:

> ……. *It is further submitted that Department of Telecommunication(DOT) has been arrayed as defendant no.2 and Ministry of Electronics and Information Technology(MEITY) is impleaded as defendant no.3, who has power to block the website by directing all internet service provider operating in India……*
>
> …….
>
> *Consequently, defendant nos. 4&5 Registrar of Domain Name and Web Hosting Service Provider shall disclose the identity, particulars or any other relevant information of the website www.weftkart.in of defendant no. 1****. Defendant nos. 2 & 3 shall take necessary steps to ensure blocking of website www.weftkart.in*** *and defendant nos. 4 & 5 are also directed to withdraw any support and block/restrain the above mentioned website of defendant no. 1 which was used by defendant no. 1 to conduct any trademark infringement and/or counterfeiting activities under the plaintiff's aforementioned trademark till further order.*

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 13.09.2022 with respect to website of defendant no. 1 mentioned in the court order.

Signed by Harendra
Date: 22-09-2022 16:08:30
Reason: Approved

ADET (DS-II)
Tel: 011-2303 6760
Email: adetds2-dot@nic.in

Encl: A/A

Copy to: V.Chinnasamy, Scientist E (chinnasamy.v@meity.gov.in), Electronics Niketan, Ministry of Electronics and Information Technology (MeitY) New Delhi (Respondent no. 3) for kind information and necessary action.

43 CS (COMM) 902/22
CROCS INC Vs. ASHOK KUMAR

13.09.2022

Present : Sh. S. K. Bansal and Sh. Shivang Bansal, Ld. Counsel for the plaintiff.

Heard.

This application under Order XXXIX Rule 1 & 2 CPC has been filed by the plaintiff seeking reliefs as follows:

a) To grant an interim injunction restraining the Defendant No. 1 by itself as also through its individual proprietors/partners, agents, representatives, distributors, assignors, heirs, successors, stockists and all others acting for and on its behalf from soliciting, manufacturing, marketing, importing, exporting, displaying, selling or advertising, whether on the internet or through physical/offline markets, or in any other manner dealing in goods which are related to clothing/footwear or allied and cognate thereto bearing the trademarks 'Crocs', 'Literide' or shape trademark of the Plaintiff, or any other deceptively similar trademark thereto, which has the effect of:

i. Infringing the Plaintiff's registered trademarks 'Crocs' (word mark), CROCS and  under application numbers 1401263, 1459970 and 1401264.

ii. Passing-off its goods and/or services under the

trademarks 'Literide', 'Crocs' (word mark), CROCS,

 and its shape trademark.

b) Grant an injunction restraining the Defendant No. 1 from disposing-off or dealing with such of his assets as may later be found and notified by the Plaintiff or which the Defendant should disclose that may adversely affect the Plaintiff's ability to recover costs, damages or other pecuniary remedies which may finally be awarded to the it.

c) Issue directions to the internet service providers (ISP) to block the domain name www.weftkart.in and/or the URL's where the Defendant's products under the trademarks 'Crocs', 'Literide' or its shape trademark are being advertised and sold.

d) Issue directions to the Defendant No. 2 (DOT) and Defendant No. 3 (MEITY) to ensure that the internet service providers block the domain name www.weftkart.in and/or the URL's where the Defendant No. 1's products under the trademarks 'Crocs', 'Literide' or its shape trademark are being advertised and sold.

e) Issue directions Defendant No. 4 (GoDaddy.com LLC) to withdraw any support rendered for the operation of the domain name www.weftkart.in, or any of the URL's under

this domain name where the Defendant's impugned products under the trademarks 'Crocs', 'Literide' or the said shape trademark are being advertised or sold, and to block this domain name and/or the necessary URL's.

f) Issue directions to the registrar of domain name Defendant No. 4 "GoDady.com LLC" to disclose the identity, particulars or any other relevant information that be of assistance to identify the registrant of the domain www.weftkart.in

g) Issue directions to the web-hosting service provider-Defendant No. 5 (Cloudflare, LLC) to withdraw any support rendered for the operation of the website on the domain name www.weftkart.in, or any of the URL's under this domain name where the Defendant No. 1's impugned products under the trademarks 'Crocs', 'Literide' or the said shape trademark are being advertised and sold, and to block this domain name and/or the necessary URL's.

h) Issue directions to the web-hosting service provider-Defendant No. 5 (Cloudflare, LLC) to disclose the identity, particulars or any other relevant information that be of assistance to identify the registrant of the domain www.weftkart.in

i) Issue directions to Defendant No. 6 (Google LLC) and its affiliates to take down the specific pages of the mobile application titled 'Weftkart – Online Shopping App', available on the 'Android play store', where the Defendant's impugned products under the trademarks

'Crocs', 'Literide' or the said shape trademark are being advertised and sold. In the event that a specific takedown of mobile application pages is not technologically possible, to block this application and to remove it from the 'Android Play Store'.

j) Issue directions to Defendant No. 7 (IndusInd Bank Limited) to block/suspend/freeze Defendant No.1's bank account connected to the Unified Digital Interface (UPI) payment ID cf.weftkart@indus and provide/disclose all the transaction/payment details including KYC details of Defendant No. 1.

k) Issue directions to Defendant No. 8 (Bharti Airtel Limited) to block/suspend/freeze Defendant No.1's mobile number +91-9558704337and provide/disclose all the details including KYC details associated with the said number

l) To grant liberty to the Plaintiff to dynamically protect its rights by directly approaching the concerned intermediaries, namely, Defendant Nos. 2, 3, 4, 5 and 6 without a specific court order to that effect, to block/takedown and withdraw-support for any other URL's/websites/domain names that may subsequently be created by the Defendant where the Plaintiff's registered trademarks CROCS,  and Crocs' (word mark) are infringed through use of any identical/deceptively similar trademark for same or allied

goods as covered by the Plaintiff's registrations, or where the Defendant passing-off its own goods under the aforesaid 'Crocs', 'Literide' or shape trademarks of the Plaintiff.

It is the case of the plaintiff that the plaintiff has adopted the trademark 'CROCS' alongwith logo in the year 2007. The plaintiff has applied for registration of the said trademark and its logo in the year 2005 and officially launched its footwear under the said trademark and logo in the year 2007. Further in the year 2017, the plaintiff adopted the trademark 'Literide' in relation to goods in class 25, such as footwear and allied/cognate goods and services in class 35 in connection thereof. It is further case of the plaintiff that the plaintiff has devised several unique shapes and features in relation to its goods and business. The overall shape, style, composition, etc. of the Plaintiff's said footwear gives a unique and fanciful demeanor and appearance to its goods and due to this, tremendous goodwill and reputation has accrued to the Plaintiff. The artworks in the plaintiff's trademark is an original artistic work under the Copyright Act, 1957 and the plaintiff's hold the copyright therein. The plaintiff has also exclusive domain name for assess of the Indian Customer viz www.shopcrocsin. The plaintiff is also carrying on and promoting its goods and business under the said trademark through major e-commerce websites such as www.ajio.com, www.tatacliq.com, www.myntra.com and www.amazon.in etc.

It is further submitted that defendant no. 1 is selling footwear on its website under the registered trademark of plaintiff's CROCS (word mark) and Crocs (device mark). The defendant no. 1 is also selling counterfeit goods through its website www.weftkart.in and also conducting on its mobile application Weftkart – Online Shopping

Application available on Android play store. It is stated that particulars of defendant no. 1 is unknown and has been addressed as 'Ashok Kumar' and he is advertising and selling goods under description 'high quality', 'replica 7@ quality and Crocs Literides for 1st copy shoes of plaintiff's good. It is further submitted that defendant's act constitute infringement of plaintiff's said trademark, passing off unfair competition and counterfeiting. Attention of Court is drawn to representation of defendant no. 1's impugned/counterfeit products under the impugned marks Crocs and Leterides tags/logos/labels, screens shot of defendant no. 1 website mobile application, UPI payment made to defendant no. 1 for test purchase of impugned counterfeit goods, comparison of plaintiff's good viz a viz defendant's good showing the similarity of products and defendant no. 1's reply dated 15.07.2022 alongwith subsequent mails exchanged between plaintiff and defendant no. 1 stating about deletion of Crocs. It is stated that the name of defendant no. 1 will be substituted after necessary disclosure made by relevant intermediary i.e. defendant no. 4 (domain name registrar) and defendant no. 5 (web hosting provider). It is further submitted that Department of Telecommunication (DOT) has been arrayed as defendant no. 2 and Ministry of Electronics and Information Technology (MEITY) is impleaded as defendant no. 3, who has power to block the website by directing all internet service provider operating in India. The defendant no. 6 Google LLC is a mobile application store wherein various applications are available for downloading on mobile including the impugned mobile application of defendant no. 1 and defendant no. 7 is Indus Bank that operates the Bank Account and payment made to the defendant no. 1 for sale related to impugned goods on UPI payment ID cf.weftkart@indus. Defendant no. 8 is telecom company with whom

the mobile number as displayed on defendant no. 1's impugned website is displayed.

The Ld. Counsel for plaintiff prays for ex parte injunction in its favour against defendants as mentioned in preceding paragraph.

Upon the facts and circumstances, a prima facie case has been made out in favour of the plaintiff and balance of convenience also lies in his favour and in the event, if defendant no. 1 will not be restrained, it may cause injury to the business and goodwill of plaintiff, hence, the defendant no. 1 by itself and also through their partners/proprietors, agents, directors, representatives, assignees, stockiest, dealers, retailers etc. and/or all other persons acting on their behalf, are restrained till further orders from manufacturing, importing and for selling footwear or alied and cognate thereto bearing the trademark Crocs, Literide or shape trademark of plaintiff or any other deceptively similar trademark thereto.

Consequently, defendant nos. 4 & 5 Registrar of Domain Name and Web Hosting Service Provider shall disclose the identity, particulars or any other relevant information of the website www.weftkart.in of defendant no. 1. Defendant nos. 2 & 3 shall take necessary steps to ensure blocking of website www.weffkart.in and defendant nos. 4 & 5 are also directed to withdraw any support and block/restrain the above mentioned website of defendant no. 1 which was used by defendant no. 1 to conduct any trademark infringement and/or counterfeiting activities under the plaintiff's aforementioned trademark till further order. Defendant no. 6 is also directed to block mobile application Weftkart – Online Shopping App', available on the 'Android play store' till further order. Defendant no. 7 & 8 are also directed to provide KYC details of the account holder of the account mentioned in prayer para (j) and (k) respectively of the application.

Plaintiff shall comply with the provisions of order XXXIX Rule 3 CPC within ten days from today.

Summons of the suit and notice of application under Order XXXIX Rule 1& 2 CPC be issued to the defendant through all modes, on filing of PF/RC/speed post/approved courier/email of the defendants returnable on 11.10.2022.

Copy order be given 'dasti' to the Counsel for the plaintiff.

S-d -

(Vineeta Goyal)
District Judge (Commercial)-02
South-East, Saket Courts, ND
13.09.2022

(13)

IN THE COURT OF DISTRICT JUDGE-(COMMERCIAL)
SOUTH EAST DISTRICT, SAKET COURTS, NEW DELHI
CS (COMM) No. of 2022

IN THE MATTER OF:

CROCS INC. **...PLAINTIFF**

Versus

ASHOK KUMAR AND ORS. **...DEFENDANTS**

MEMO OF PARTIES

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Email: Compliance.officer@bharti.in .....Defendant No. 8

Place: New Delhi
Date: 31.8.22

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