

**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-21/2022-DS-II**

**Dated: 26-07-2022**

**To,**

All Internet Service Licensee's

**Subject: CS (COMM) No. 339 of 2022; New Balance Athletics Inc. v/s Ashok Kumar Trading as www.sastajoota.com & Ors., before Hon'ble Delhi High Court.**

Kindly find the enclosed Hon'ble Delhi High Court order dated 19<sup>th</sup> July, 2022 in the subject matter court case C.S.(Comm) No. 339 of 2022 along with copy of petition for compliance with respect to websites **CODSHOPS.IN** and **NEWSHOES.ONLINE**. Wherein DoT is defendant No. 9 in the case.

2. Hon'ble Court in order dated 19<sup>th</sup> July, 2022 has, inter alia, directed that:

*9. Accordingly, an ad interim injunction in terms of prayer 'b' to 'e' of the application is granted in favour of the plaintiff. M/s PayKun Payment Solutions Private Limited is also directed to disclose the details of the account holders of the above-mentioned two websites, <https://codshops.in/> and <https://newshoes.online/>. The said details be disclosed within a week of the receipt of the copy of this order.*

3. Further, prayer d) of the application IA No. 11001/2022 state that:

*d.) An order directing Defendant No. 9 and 10 to issue a notification calling upon various Internet Service Providers registered under it to block access to websites of **CODSHOPS.IN** and **NEWSHOES.ONLINE**;*

4. 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 19<sup>th</sup> July, 2022 read with prayer d) of the plaintiff application with respect to websites **CODSHOPS.IN** and **NEWSHOES.ONLINE**.

Encl: A/A

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

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

+ CS(COMM) 339/2022

NEW BALANCE ATHLETICS INC., ..... Plaintiff

Through: Mr.Dushyant K. Mahant, Mr.Urfee  
Roomi and Mr.Alvin Antony, Advs.

versus

ASHOK KUMAR TRADING AS WWW.SASTAJOOTA.COM  
& ORS. .... Defendants

Through: Mr.Arn timer Kumar, CGSC with  
Mr.Gurudas Khurana, Advs. for D-9.  
Ms.Akshita Jain, Adv. for D-11  
(Mob. No.9990526912)

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**ORDER**

**19.07.2022**

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**I.A.11000/2022**

1. This application has been filed by the plaintiff to bring on record the substitution of its constituted attorney.
2. The application is wrongly filed as one under Order XXII Rule 10 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC').
3. Be that as it may, there can be no objection to the prayer made. The same is allowed.

**I.A.11001/2022**

4. Issue notice. Notice is accepted by Mr.Arn timer Kumar, CGSC for defendant no.9 and Ms.Akshita Jain, Advocate on behalf of the defendant no.11.

5. It is the case of the plaintiff that this Court by its *ad interim* order dated 20.05.2022 had granted an *ad interim* injunction against the defendant nos.1 and 2 in terms of the prayer 'a' made in I.A. 8007/2022. This Court had further observed and directed as under:

*"26. Having perused the contents of the website, prima facie it is clear that the Defendant nos. 1 and 2 are not only violating the trademark rights of the Plaintiff, but other well-known brands as well. Accordingly, the Defendant nos. 3 to 5 are directed to provide contact details/addresses of the proprietor/registrants of the websites www.sastajoota.com and www.sastajoota.co.in. They are further directed to deactivate/block the said website till further orders. The Defendant nos. 9 and 10 are also directed to issue necessary directions for blocking of the said websites forthwith.*

*27. The Plaintiff further submits that the Defendant nos. 1 and 2 are offering the goods in question only through the website and through their WhatsApp number, which is advertised on the website, which are (+91) 83299 28641 and (+91) 93540 53352. The Defendant no. 8 is directed to provide details of the subscribers of these telephone numbers alongwith KYC documents."*

6. The defendant nos.1 and 2, instead of complying with the above order in its true letter and spirit, launched another website named "https://codshops.in/" which is hyperlinked to another website "https://newshoes.online/", wherein the counterfeit products of the plaintiff are still being offered for sale by the defendant nos. 1 and 2 using the brand name and marks of the plaintiff.

7. The learned counsel for the plaintiff further submits that on service of the advance copy of the application, the defendant nos.1 and 2 have discontinued the above websites. He further submits that the websites of the

defendant nos.1 and 2 proclaimed that they are using the payment gateway admin@paykun.com.

8. Having considered the submissions made by the learned counsel for the plaintiff and having perused the contents of the application and the documents annexed therewith, I am of the opinion that the plaintiff has been able to make out a good *prima facie* case in its favour and against the defendant nos.1 and 2. The balance of convenience is also in favour of the plaintiff and against the defendant nos.1 and 2.

9. Accordingly, an *ad interim* injunction in terms of prayer 'b' to 'e' of the application is granted in favour of the plaintiff. M/s PayKun Payment Solutions Private Limited is also directed to disclose the details of the account holders of the above-mentioned two websites, <https://codshops.in/> and <https://newshoes.online/>. The said details be disclosed within a week of the receipt of the copy of this order.

10. List on 29<sup>th</sup> August, 2022, the date already fixed.

11. The plaintiff shall comply with the provision of Order XXXIX Rule 3 of the CPC within two days.

12. *Dasti.*

**NAVIN CHAWLA, J**

**JULY 19, 2022/Arya/Ais**

IN THE HIGH COURT OF DELHI AT NEW DELHI  
(ORDINARY ORIGINAL CIVIL JURISDICTION)

I.A. No. \_\_\_\_\_ of 2022

In

CS(COMM) No. 339 of 2022

IN THE MATTER OF

New Balance Athletics Inc. ...Plaintiff/ Applicant


VERSUS

Ashok Kumar & Ors. ...Defendants/ Non Applicants

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**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](mailto:trademarks@sc-ip.in)

Place: New Delhi  
 Dated: July 14, 2022

Application served on all the Defendants through email. kindly list as it is.

IN THE HIGH COURT OF DELHI AT NEW DELHI  
(ORDINARY ORIGINAL CIVIL JURISDICTION)

I.A. No. \_\_\_\_\_ of 2022

In

CS(Comm) No. 339 of 2022

IN THE MATTER OF

New Balance Athletics Inc.

...Plaintiff/ Applicant

–VERSUS–

Ashok Kumar & Ors.

...Defendants/ Non-Applicants

URGENT APPLICATION

Kindly treat the accompanying application as an urgent one as per the High Court Rules. The grounds of urgency are as stated in the accompanying Plaint, and the Plaintiff is seeking urgent orders as prayed for therein.

The Plaintiff prays that the matter may be listed before the Hon'ble Court on July 18, 2022 or as per the convenience of the Hon'ble Court.

It is prayed accordingly.

  
Urfee Roomi

Advocate [D/817/2017]

of SUJATA CHAUDHRI IP ATTORNEYS

Advocates for Plaintiff

2106 Express Trade Towers 2, First Floor

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Email – trademarks@sc-ip.in

PLACE: New Delhi

DATE: July 14, 2022

IN THE HIGH COURT OF DELHI AT NEW DELHI  
(ORDINARY ORIGINAL CIVIL JURISDICTION)

I. A. No. \_\_\_\_\_ of 2022

IN

CS(COMM) No. 339 of 2022

IN THE MATTER OF:

New Balance Athletics Inc. ... Plaintiff

-- VERSUS --

Ashok Kumar

Trading as www.sastajoota.com

Sastajoota, Pimple Saudagar

Pune - 411027

Phone: 8329928611

Email: [support@sastajoota.com](mailto:support@sastajoota.com); [support@codshops.in](mailto:support@codshops.in) and  
[support@newshoes.online](mailto:support@newshoes.online) ... Contemnor

APPLICATION UNDER ORDER 39 RULE 2A OF THE CODE  
OF CIVIL PROCEDURE, 1908, READ WITH SECTIONS 2(B),  
11 AND 12 OF THE CONTEMPT OF COURTS ACT, 1971 READ  
WITH SECTION 151 OF THE CODE OF CIVIL PROCEDURE,  
1908 FOR VIOLATION OF ORDER DATED 20 MAY, 2022 OF  
THIS HON'BLE COURT

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Most respectfully showeth:

1. That the Plaintiff had filed the present suit for permanent injunction restraining infringement of its trademark NEW BALANCE, the NB Device mark (shown below), the N Device mark (also shown below) and variations of the NB Device and



the N Device marks (collectively referred to as the “Plaintiff’s Marks”), passing off, unfair competition and damages/rendition of accounts, freezing of accounts etc. against the Defendants.



2. This Hon’ble Court, *vide* order dated May 20, 2022, allowed the Plaintiff’s application under Order 39 Rule 1 & 2 of the Code of Civil Procedure, 1908 and granted an *ex-parte* ad interim injunction against the Defendant from offering for sale, selling, displaying, advertising, marketing, whether directly or indirectly, and whether on the Internet or otherwise, footwear and any other similar/ related/ allied/ cognate goods bearing the Plaintiff’s Marks and marks that incorporate the Plaintiff’s Mark, or any other mark that is identical/deceptively similar to the Plaintiff’s NEW BALANCE, N Device and NB Device marks. The order of this Hon’ble Court is annexed herewith

and marked as Document-1. The operative part of the Order is extracted here under for ease of convenience:

*24. Having considered the averments made in the plaint, perused the documents filed alongwith the plaint, and also the submissions made by the learned counsel for the Plaintiff, I am of the view that the Plaintiff has made out a prima facie case for grant of an injunction. The balance of convenience also lies in the favour of the Plaintiff and against the Defendant Nos. 1 and 2. An irreparable loss would be caused to the Plaintiff and also to the consumers in case the Defendant nos. 1 and 2 are not restrained by an ad-interim order from continuing with their web portal.*

*25. Accordingly, there shall be an ad-interim order of injunction against the Defendant nos. 1 and 2 in terms of prayer (a) of the application.*

3. That the Plaintiff, pursuant to the order and directions of this Hon'ble Court, served a copy of the said order on the

Defendants *via* email and WhatsApp on May 20, 2022, which were successfully delivered. A copy of the email, the delivery reports and the compliance affidavit filed on May 31, 2022, attesting to the above statement are annexed herewith and marked as Document -2.

4. That on June 23, 2022, Plaintiff's counsel received a WhatsApp message on the mobile number used to analyze the contents of the Defendant No. 1 and 2's website, stating that the Defendant No. 1 and 2 have now introduced new website, <https://codshops.in/>, for sale of footwear with an option of Cash on Delivery all over India. A printout of the screenshot of the WhatsApp message received by the Plaintiff's counsel is annexed herewith and marked as Document-3.
5. That from a recent review of the website, located at <https://codshops.in/>, which was hyperlinked in the WhatsApp message received by the Plaintiff's counsel revealed that the Defendant No. 1 and 2, despite this Hon'ble Court's order, deliberately and in willful default, have created a new website through which they continue to display, advertise, market and

sell counterfeit footwear bearing the Plaintiff's Marks as well as footwear bearing marks of other popular brands, including PUMA, ADIDAS and NIKE. It is pertinent to note that the address and contact number mentioned on the website located at <https://codshops.in/> is identical to that of the Defendant No. 1 and 2. Further it is clearly mentioned on the above website that the website is operated "*by the owners of Satajoota on Public demand*".

6. In the zeal to promote piracy and counterfeiting to astonishing levels, the Defendant No. 1 and 2 are *advising* potential customers specifically the following, "COD SHOPS IS A TRUSTED SITE TO SHOP TO PROTECT YOUR IDENTITY. YOU ARE PROTECTED BY MCAFEE SHOPPER IDENTITY PROTECTION." Meaning thereby, the Defendant No. 1 and 2 are enabling its consumers, which could also include potential sellers selling to consumers offline, to indulge in counterfeiting in large scale, while hiding their identity to escape tracking by the Plaintiff and law enforcement. Printouts from the above website attesting to the

above statements are annexed herewith and marked as Document 4.

7. A further review of the website located at <https://codshoes.in/>, revealed that it is hyperlinked to another website located at <https://newshoes.online/>, through which the Defendant Nos. 1 and 2 also sell counterfeit footwear of various popular brands. It is pertinent to note that the address and phone number mentioned in this website is also identical to that of the Defendant No. 1. Further, it is also pertinent to note that the website located at <https://newshoes.online/>, has a look and feel, identical to that of erstwhile website of the Defendant No. 1 located at SASTAJOOTA.COM. Furthermore, the website located at <https://newshoes.online/>, clearly states that it is from 'Sastajoota'. Additionally, the said website is another instance of the brazen activities of the Defendant No. 1. A specimen section of the said site is reproduced. Printouts attesting to the above statements are annexed herewith and marked as Document -5.

**High-Quality First Copy Shoes @NewShoes in India**

<https://www.instagram.com/newshoesindia/>

<https://www.instagram.com/newshoesindia/> **High Quality First Copy Shoes @NewShoes in India**

8. Further, a review of the Instagram page with the ID, **SASTAJOOTA\_VICKY**, located at [https://www.instagram.com/sastajoota\\_vicky/](https://www.instagram.com/sastajoota_vicky/) that is hyperlinked on the website located at <https://newshoes.onfing/>, reveals that the Defendant Nos. 1 and 2 continue to offer for sale footwear bearing the Plaintiff's Marks **NEW BALANCE** and **NB**. Printouts attesting to the above statements are annexed herewith and marked as Document -6.
  
9. It is pertinent to note on its own site, on the link **SASTAJOOTA SUCCESS STORIES**, the Defendant Nos. 1 and 2 are claiming to enjoy revenues of around INR Eight Lakhs (INR 8,00,000) per month by virtue of sale of counterfeit footwear bearing the marks of various famous brands, including footwear bearing the Plaintiff's Marks. The Defendant Nos. 1 and 2 can achieve this immense revenue growth solely because M/s PayKun Payment Solutions Private

Limited is enabling the payment mechanism for the Defendant Nos. 1 and 2. It is Plaintiff's belief that the said entity may not be knowing about the criminality of the activities of the Defendant Nos. 1 and 2 and Plaintiff may be granted liberty to formally inform the said entity about the scope and ambit of order dated 20.05,2022 of this Hon'ble Court. Printouts attesting to the above statements are annexed herewith and marked as Document -7.

10. It is clear that the Defendant Nos. 1 and 2 have willfully and brazenly chosen to ignore the order of this Hon'ble Court and are continuing to treat the said order with contempt, disregard, and disrespect, by creating new websites and adopting new platforms to continue sale of counterfeit footwear bearing the Plaintiff's Marks. It is submitted that the Defendant Nos. 1 and 2 above stated activities clearly establish that Defendant Nos. 1 and 2 have no respect or regard for the order passed by Court and have willfully, for their own financial gains, violated, disobeyed, and disregarded the order. The Defendant Nos. 1 and 2 / Contemnors are guilty of contempt and have made

clear their disinterest in abiding with the Hon'ble Court's order. Such acts of the Defendant Nos. 1 and 2 are required to be appropriately dealt with by this Hon'ble Court. It is further submitted that the Defendant Nos. 1 and 2 have rendered themselves liable to harsh punishment for violating the order of this Hon'ble Court.

11. The Defendant Nos. 1 and 2 are liable to be prosecuted strictly and awarded deterrent punishment. It is humbly submitted that rigid action ought to be taken against the Defendant Nos. 1 and 2. By the continued unlawful trade activities, the Defendant Nos. 1 and 2 have reduced these suit proceedings to nullity and superfluity.
12. It is, therefore, respectfully prayed that this Hon'ble Court may be pleased to initiate contempt proceedings against the Defendant Nos. 1 and 2 and order their prosecution in the manner of civil imprisonment and attachment of properties to secure ends of justice and ensure compliance of the orders by this Hon'ble Court and to serve as a deterrent for them as there



is no regard, as of this moment, in the eyes of the Defendant Nos. 1 and 2 towards this Hon'ble Court. Additionally, on behalf of the Defendant Nos. 1 and 2, the person(s) in-charge and responsible for the conduct of business and day to day affairs of the Defendant Nos. 1 and 2 are also liable to be proceeded against.

13. What is most disturbing in this entire scheme of things is that the Defendant Nos. 1 and 2 are openly dealing in shoes of every major brand including and especially brands like **NEW BALANCE**, which this Hon'ble Court restrained and also **PUMA** which was restrained by the Hon'ble Coordinate Bench. To escape being identified easily online, the Defendant Nos. 1 and 2 are clandestinely using names like AD for ADIDAS, FLA for FILA, NK for NIKE, RBK for REEBOK and so forth.

#### **PRAYER**

It is, therefore, most humbly, prayed that this Hon'ble Court may be pleased to:

(a) Attach the properties of the Defendants and of such other officers of the Defendants as are found guilty of disobedience of the order dated 20.05.2022 of this Hon'ble Court:

(b) Allow the Plaintiff the liberty to communicate the order dated 20.05.2022 to M/s PayKun Payment Solutions Private Limited, First Floor, "A" Tower, Leela Shanti Iscon Megacity, Bhavnagar, Gujarat [admin@paykun.com](mailto:admin@paykun.com), to suspend the payment gateway of the Defendants so that the future counterfeiting can be restrained immediately.

(c) An order directing the Defendant Nos. 4 and 5 to provide contact details/addresses of the Defendant Nos. 1 and 2 and deactivate/cancel/block/disable/suspend access to the domain names CODSHOPS.IN and NEWSHOES.ONLINE and any other domain names found during the proceedings to have been engaging in or

carrying out fraudulent activities by infringement of the Plaintiff's Marks NEW BALANCE and NB;

(d) An order directing the Defendant Nos. 9 and 10 to issue a notification calling upon the various Internet Service Providers registered under it to block access to websites of CODSHOPS.IN and NEWSHOES.ONLINE;

(e) An order directing the Defendant No. 11 to cancel the domain registrations of the websites CODSHOPS.IN and NEWSHOES.ONLINE;

(f) Impose exemplary cost upon the Defendant Nos. 1 and 2 for their willful violation and award the Plaintiff the costs incurred in bringing the present application, as well as damages; and;

(g) award suitable compensation; and

(h) Pass such other or further order(s) in favour of the Plaintiff and against the Contemnors as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

Plaintiff  
Through Constituted Attorney



Maj. Gen. Sanjeev Chowdhry (Retd.)  
Through



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](mailto:trademarks@sc-ip.in)

Place: New Delhi  
Dated: July 14, 2022

#### VERIFICATION

I, Maj. Gen. Sanjeev Chowdhary (Retd.), do hereby verify that the contents of paragraphs 1 to 3 and the prayer clause of the application are true and correct to the best of my knowledge, based on legal advice and from information derived from the records of the Plaintiff maintained in the ordinary course of business, and is believed to be true.

Verified at New Delhi on this 14<sup>th</sup> day of July, 2022



DEPONENT

IN THE HIGH COURT OF DELHI AT NEW DELHI  
(ORDINARY ORIGINAL CIVIL JURISDICTION)

17

I. A. No. \_\_\_\_\_ of 2022

IN

CS(COMM) No. 339 of 2022

IN THE MATTER OF:

New Balance Athletics Inc. ... Plaintiff/ Applicant

-- VERSUS --

Ashok Kumar and Ors. ... Defendant/ Non Applicant

AFFIDAVIT OF MAJOR GENERAL SANJEEV CHOWDHRY  
(Retd), S/O MAJOR S.K. CHOWDHRY, AGED ABOUT 58  
YEARS, R/O HOUSE NO. 11, BRAHMAPUTRA  
APARTMENTS, ARUN VIHAR, SECTOR-29, NOIDA, UTTAR  
PRADESH-201303 PRESENT AT NEW DELHI

I, the above-named deponent, do hereby solemnly affirm and  
declare as under:

1. I am the constituted and lawful attorney of the Plaintiff and am fully authorized and competent to sign and depose this affidavit on behalf of the Plaintiff. A copy of the Power of Attorney executed by the Plaintiff in my favour has already been filed in the present matter.

2. That I have read the contents of the accompanying Application under Order 39 Rule 2A of the Code of Civil Procedure, 1908, read with Sections 2(B), 11 and 12 Of the Contempt of Courts Act 1971 read with Section 151 of the Code of Civil Procedure, 1908. The said Application has been drafted under my



instructions and the same are true to the best of my knowledge and information received. I say that nothing material/relevant has been concealed therefrom.

- 3. That I crave leave of this Hon'ble Court to refer and rely upon the contents of accompanying Application as part and parcel of this affidavit, as if the same are specifically incorporated and sworn herein by me.

*[Signature]*  
 DEPONENT

VERIFICATION

14 JUL 2022

Verified at New Delhi on this 14<sup>th</sup> day of July 2022 that the contents of the paragraphs 1 to 3 of my above affidavit are true and correct to my knowledge and nothing material has been concealed there from.

*[Signature]*  
 DEPONENT

*[Signature]*  
 I witnessed the deponent who has signed it in my presence.

14 JUL 2022



*[Signature]*  
 I have read the contents of the deponent's affidavit and find it true and correct to the best of my knowledge and belief.  
*[Signature]*  
 Notary Public

**DOCUMENT - 1**

§-8

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 339/2022**

**NEW BALANCE ATHLETICS INC.,** ..... Plaintiff

Through: **Mr.Dushyant K. Mahant, Mr.Vishesh  
Kumar & Ms.Rishikaa, Advs.**

versus

**ASHOK KUMAR TRADING AS WWW.SASTAJOOTA.COM &  
ORS.** ..... Defendants

Through: **Nemo.**

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**ORDER**

**% 20.05.2022**

**L.A. 8009/2022 (Exemption)**

1. Allowed, subject to all just exceptions.

**L.A. 8010/2022**

2. This is an application seeking exemption from initiating pre-institution mediation under Section 12A of the Commercial Courts Act, 2015.

3. Having perused the contents of the application, the exemption prayed for is granted.

4. Accordingly, the application stands disposed of.

**L.A. 8008/2022**

5. This is an application filed on behalf of the Plaintiff seeking leave to file additional documents.

6. The Plaintiff may file the additional documents strictly in accordance with the law.

Signature valid

Digitally Signed by: SHALDO  
BATRA  
Signing Date: 20.05.2022  
19:07:01

TRUE COPY

7. The application stands disposed of.

**L.A. 8011/2022**

8. This is an application seeking exemption from making advance service of the suit to the Defendants. It is alleged that the said service has not been made as it is apprehended that the Defendants may, on service of the notice, try to change their domain name, dispose of, or sell the goods being manufactured under the Impugned Trademark.

9. Having considered the contents of the application, the same is allowed. The Plaintiff is exempted from making an advance service of the suit on the Defendants.

**CS(COMM) 339/2022**

10. Let the plaint be registered as a suit.

11. Issue summons to the Defendants to be served through all permitted modes upon the filing of the requisite Process Fee. The Plaintiff is also permitted to serve the Defendants through the telephone numbers, details whereof have been given in the plaint, by way of WhatsApp.

12. The summons to the Defendants shall indicate that the written statement to the plaint shall be positively filed within a period of thirty days from the date of receipt of summons. Along with the written statement, the Defendants shall also file the affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

13. Liberty is given to the Plaintiff to file a replication within a period of fifteen days of the receipt of the written statement. Along with the replication, if any, filed by the Plaintiff, the affidavit of admission/denial of documents of the Defendants be filed by the Plaintiff, without which the

Signature valid

Digitally Signed by: SEALDO  
BATRA  
Signing Date: 05.05.2022  
19:07:01

TRUE COPY



replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

14. List before the Court on 29<sup>th</sup> August, 2022.

**L.A. 8007/2022**

15. Issue notice to the Defendants to be served through all modes, returnable on 29<sup>th</sup> August, 2022. The Plaintiff is also permitted to serve the Defendants through the telephone numbers, details whereof have been given in the plaint, by way of WhatsApp.

16. The Defendants may file their response to the application within a period of four weeks. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

17. It is the case of the Plaintiff that it is a company incorporated under the laws of the State of Massachusetts, United States of America and is engaged in the design, manufacture, marketing, and sale of footwear since the year 1906 in the USA, including the mark "NEW BALANCE", "NB Device Mark" and the "N Device Mark", which are shown below:



18. The Plaintiff further asserts that they first used the letter "N" on the footwear in the year 1970 and a combination "NB" as a trademark on footwear also began in the 1970s. The Plaintiff's products are sold in more

Signature valid

Digitally Signed by: SEALDO  
BATRA  
Signing Date: 05.05.2022  
19:07:01

TRUE COPY

than 120 countries, including in India, through retail stores owned and/or operated by the plaintiff, through franchisees, department stores, and e-commerce sites. With respect to India, it used the "New Balance" mark and the "N Device" mark on the footwear first in the year 1986, while the "NB Device" mark was first used on the footwear in the year 1987. The Plaintiff has also given the net revenue figure for the period of 2013 to 2020 as also the advertising expenditure for the same period. It has also given details of the social media accounts that it operates.

19. The Plaintiff asserts that it has incorporated subsidiary companies in India as New Balance IT Services India Private Limited (incorporated in the year 2007) and New Balance India Private Limited (incorporated on January 17, 2022). It has also entered into a franchisee agreement with a leading Indian party and its stores are operating in various places in India. It has also given details of previous litigations where its marks have been protected.

20. The Plaintiff further asserts that it has obtained registration for various marks in India, details whereof have been given in paragraph 37 of the plaint.

21. The Plaintiff further asserts that the Defendants are operating through domain names, that are, [www.sastajoota.com](http://www.sastajoota.com) and [www.sastajoota.co.in](http://www.sastajoota.co.in), wherein they are offering footwear bearing the trademark of the Plaintiff, without any authorization from the Plaintiff. The Plaintiffs apprehend that these are counterfeit/fake products.

22. The Plaintiff further asserts that the Defendant nos. 1 and 2 have earlier also indulged in similar activities and have been enjoined by this Court. In this regard, the learned counsel for the plaintiff has drawn the attention of this court to the order dated 20.01.2022 passed by a Coordinate

Signature valid

Digitally Signed by: SEALDO  
BATRA  
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Bench of this Court in CS (COMM) 48/2022 titled ***PUMA SE v. Ashok Kumar Trading as SastaJoota & Ors.***

23. The learned counsel for the Plaintiff submits that the *mala fide* of the Defendant nos. 1 and 2 is apparent from the fact that on having been enjoined from using the URL [www.sastajoota.com](http://www.sastajoota.com), the Defendants have started using the domain name [www.sastajoota.co.in](http://www.sastajoota.co.in) and the loggers to the earlier website are being redirected to the new one. He has also handed over a printout from the website used by the Defendant nos. 1 and 2, which proclaims that the goods offered on the website, "*are not the original ones but an exact replica of an existing design of the luxury brand*". It further proclaims that the goods "*look similar to the product but don't have similar quality and processing, they are cheap than the original one*". The website also openly displays the footwear bearing the mark of the Plaintiff, among the others. The plaintiff shall file a copy of the printout from the website before the court within one week from today.

24. Having considered the averments made in the plaint, perused the documents filed alongwith the plaint, and also the submissions made by the learned counsel for the Plaintiff, I am of the view that the Plaintiff has made out a *prima facie* case for grant of an injunction. The balance of convenience also lies in the favour of the Plaintiff and against the Defendant nos. 1 and 2. An irreparable loss would be caused to the Plaintiff and also to the consumers in case the Defendant nos. 1 and 2 are not restrained by an ad-interim order from continuing with their web portal.

25. Accordingly, there shall be an ad-interim order of injunction against the Defendant nos. 1 and 2 in terms of prayer (a) of the application.

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26. Having perused the contents of the website, *prima facie* it is clear that the Defendant nos. 1 and 2 are not only violating the trademark rights of the Plaintiff, but other well-known brands as well. Accordingly, the Defendant nos. 3 to 5 are directed to provide contact details/addresses of the proprietor/registrants of the websites [www.sastajoota.com](http://www.sastajoota.com) and [www.sastajoota.co.in](http://www.sastajoota.co.in). They are further directed to deactivate/block the said website till further orders. The Defendant nos. 9 and 10 are also directed to issue necessary directions for blocking of the said websites forthwith.

27. The Plaintiff further submits that the Defendant nos. 1 and 2 are offering the goods in question only through the website and through their WhatsApp number, which is advertised on the website, which are (+91) 83299 28641 and (+91) 93540 53352. The Defendant no. 8 is directed to provide details of the subscribers of these telephone numbers alongwith KYC documents.

28. Compliance of Order XXXIX Rule 3 CPC be made within a period of two days from today.

29. List on 29<sup>th</sup> August, 2022.

**NAVIN CHAWLA, J**

**MAY 20, 2022/rv/Ai**

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