I/3043682/2022

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-22/2022-DS-II **Dated:27-05-2022**

To,

All Internet Service Licensees'

Subject: CS (Comm) No. 352 of 2022; HT Media Ltd & Anr. V/s www.hindustantimes.tech & Ors Before Hon'ble Delhi High Court.

Kindly find the enclosed Hon'ble Delhi High Court order dated 24th May, 2022 in the subject matter court case C.S. (Comm) No. 352 of 2022 with respect to blocking of Defendant No.1's website **www.hindustantimes.tech**. DoT is defendant No. 12 in the case.

2. Hon'ble Court vide order dated 24th May, 2022 has, inter alia, directed that:

> *28. Defendant No.2 is further directed to immediately block the said domain name as also block access to the impugned website 'www.hindustantimes.tech'.* ***Defendant Nos.3 to 11 shall also block access to the said website in India. Defendant Nos.12 & 13 shall issue directions to all the ISPs to block the impugned website www.hindustantimes.tech****. Further, if Defendant No.1 or Defendant No.2 come up with any other website or domain name, which is deceptively similar to or consists of Plaintiffs' mark 'Hindustan Times' or 'HT Media', the Plaintiffs are permitted to approach Defendant Nos.12 & 13 for seeking directions for blocking the said website or domain name.*

3. Accordingly, in view of the above, all the Internet Service licensees are hereby notified to take immediate necessary action for compliance of the court order dated 24th May, 2022 with respect to Defendant No.1's website ***www.hindustantimes.tech*** immediately.

Signed by Tejpal Singh
Date: 27-05-2022 17:09:32

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) 352/2022 & I.As. 8211-15/2022**

HT MEDIA LIMITED & ANR. ..... Plaintiffs

Through: Mr. Saikrishna Rajgopal, Mr. Sidharth Chopra, Ms. Sneha Jain, Mr. Vivek Ayyagari and Ms. Ramya Aggarwal, Advs. (M:9560744337)

versus

WWW.HINDUSTANTIMES.TECH & ANR. ..... Defendants

Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

O R D E R

% 24.05.2022

1. This hearing has been done through hybrid mode.

I.A.8215/2022 (for exemption)

2. This is an application filed on behalf of the Plaintiffs for exemption from filing certified/clearer/proper/translated copies of documents. The exemption is allowed, subject to all just exceptions.

3. ***I.A.8215/2022*** is disposed of.

I.A.8214/2022 (for exemption for court fee)

4. This is an application seeking exemption from filing the Court Fees at this stage. Exemption is allowed. Let the Court Fees be filed within one week.

5. ***I.A.8214/2022*** is disposed of.

I.A.8213/2022 (for additional documents)

6. This is an application seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate

Division of High Courts Act, 2015 (hereinafter, 'Commercial Courts Act'). The Plaintiffs, if they wish to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act.

7. ***I.A.8213/2022*** is disposed of.

I.A.8212/2022 (u/S 80 CPC)

8. In view of the fact that the Plaintiffs have sought an *ex parte ad-interim* injunction as also considering the nature of the dispute, the Plaintiffs are exempted from issuing notice to the Defendant Nos.12 & 13 under section 80 CPC.

9. ***I.A.8212/2022*** is disposed of.

CS (COMM) 352/2022

10. Let the plaint be registered as a suit.

11. Issue summons to the Defendants through all modes upon filing of Process Fee.

12. The summons to the Defendants shall indicate that a written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiffs, without which the written statement shall not be taken on record.

13. Liberty is given to the Plaintiffs to file a replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiffs, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiffs, without which the 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 Joint Registrar for marking of exhibits on 4th August,

2022. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

15. List before Court on 22nd September, 2022.

I.A.8211/2022 (u/O XXXIX Rules 1 & 2 CPC)

16. The Plaintiffs have filed the present suit for permanent injunction restraining infringement of copyright, trademark, passing off and other reliefs. The Plaintiff No.1- HT Media Limited and Plaintiff No.2 - HT Digital Streams Ltd. seek protection of the mark '*Hindustan Times*' as also various articles, logos, devices etc. which belong to the Plaintiffs. The newspaper *'Hindustan Times'* is one of India's oldest newspapers, which started publication in 1924 and is stated to have around 8 million readers. Since the advent of online publication, the Plaintiffs also use various domain names to publish their newspapers in digital form. The flagship website of the Plaintiffs is www.hindustantimes.com which is stated to have been growing by more than 40 million unique users in the past three years. The said website had over 145 million monthly page views and 25 million monthly unique visitors. The said website has consistently been ranked amongst top 10 news websites in the world by Forbes. The plaint gives the details of the manner in which the said website has become extremely popular in accessing news online.

17. The name *'Hindustan Times'* was also the corporate name/ trading style of Plaintiff No.1's predecessor 'The Hindustan Times Limited' which was incorporated in the year 1924. The Plaintiffs also own trademark registrations for the mark '*Hindustan Times*' in various forms, variants, derivatives including Hindustan Times, Hindustan Times.com, Hindustan Times Comics, Hindustan Times Leadership Summit, etc. There are several

other applications filed by the Plaintiffs which are stated to be pending for registrations. The Plaintiffs also have continuously published content in the form of articles, stories, news, columns and other copyrighted works, which are published on its website in which the Plaintiffs own copyright.

18. The reputation and goodwill of the Plaintiffs has also been elaborated in the plaint. The annual revenue figures have been set out in paragraph 29 of the plaint as per which the turnover of *'Hindustan Times'* print version was to the tune of Rs.122,551 lacs in 2019-2020 and the turnover from the online version of *'Hindustan Times'* for the same period was to the tune of Rs.24,350 lacs.

19. The Plaintiffs in the present case are aggrieved by Defendant No.1's registration of the impugned domain name www.hindustantimes.tech. It is the case of the Plaintiffs that the impugned website offers services which are identical to those offered by the Plaintiffs, i.e., online journalism and news publishing services. The said website also appears to be engaged in reproducing, publishing, and making available news, articles, stories and columns created and published by the Plaintiffs on their website 'www.hindustantimes.com'.

20. According to the Plaintiffs, the name or the contact details of the actual owners of the impugned domain name is not visible on the 'WHOIS' database. Defendant No.1 is, therefore, arrayed as the website alone. Defendant No.2 is the Registrar/host of the impugned website. Defendant Nos. 3-11 are various ISPs in India. Defendant Nos.12 and 13 are Department of Telecommunications (*DoT*) and Ministry of Electronics and Information Technology (*MeitY*).

21. In view of the fact that 'WHOIS' database did not give any details of

the registrant, the Plaintiffs wrote an email dated 18th February, 2022 to Defendant No.2 seeking disclosure of the identity and details of the registrant of domain name and suspension of the domain name www.hindustantimes.tech. However, no reply is stated to have been received from Defendant No.2.

22. The submission of Mr. Saikrishna Rajagopal, ld. Counsel, appearing for the Plaintiffs is that Defendant No.1 has virtually imitated every possible IP belonging to the Plaintiffs. Print out of the website clearly shows that the name *'Hindustan Times'* is used on the impugned website. Various articles emanating from India are being copied verbatim and published on it. An illustrative example of such content has been put in the form of a comparison-table in the documents filed along with the plaint. He further submits that the entire website targets Indian viewers and users, including from Delhi. Hence, the Court in Delhi has territorial jurisdiction to entertain the present suit.

23. Heard the ld. Counsel for the Plaintiffs. The Court has perused the printouts of the website www.hindustantimes.tech. A perusal of the same shows that various news items on the impugned website are targeted towards Indian internet users and even Delhi based internet users. There is no doubt in the mind of the Court that Defendant No.1 intends to encash the goodwill of the Plaintiffs in the mark/name *'Hindustan Times'* and also promote its website to the Indian audience.

24. The manner in which 'WHOIS' details of the registrant of the website 'www.hindustantimes.tech' are completely masked shows that Defendant No.1 has taken enormous pain to not reveal its identity as to who is controlling the said domain name. The privacy protect feature which has

been permitted by Defendant No.2 has been taken to its extreme in the present case, inasmuch as not a single contact detail is available of the registrant of Defendant No.1 website. The reliefs, therefore, which are sought by the Plaintiffs are for blocking the impugned website through the ISPs and for directions to be issued to the Government for blocking the said website.

25. The mark *'Hindustan Times'* is the registered trademark of the Plaintiffs. The Plaintiffs commands a global viewership and the reputation of one of India's oldest newspapers. The manner in which the mark/name *'Hindustan Times'* has been completely misappropriated leaves no manner of doubt in the mind of the Court that Defendant No.1 intends to misuse the said mark as also the content which is published by the Plaintiffs on their website.

26. In the above facts and circumstances, this Court is of the view that the Plaintiffs have made out a *prima facie* case for grant of an *ex-parte ad interim* injunction in their favour. Balance of convenience also lies in favour of the Plaintiffs and irreparable loss and injury would be caused to the Plaintiffs if the injunction is not granted in their favour. Accordingly, till the next date of hearing, Defendant No.1 is restrained from using the domain name www.hindustantimes.tech or any other mark, name or domain name, which consists of the word *'Hindustan Times'* or is deceptively similar to the mark of the Plaintiffs. Defendant No.1 is also restrained from publishing any content including articles, stories, columns, reviews, etc. which is in violation of the Plaintiffs' copyright.

27. Upon receipt of the present order from the ld. counsel for the Plaintiffs, Defendant No.2 shall disclose the details of the registrant of the

domain name 'www.hindustantimes.tech' along with the contact details, email address, mobile number and any other details available with it.

28. Defendant No.2 is further directed to immediately block the said domain name as also block access to the impugned website 'www.hindustantimes.tech'. Defendant Nos.3 to 11 shall also block access to the said website in India. Defendant Nos.12 & 13 shall issue directions to all the ISPs to block the impugned website www.hindustantimes.tech. Further, if Defendant No.1 or Defendant No.2 come up with any other website or domain name, which is deceptively similar to or consists of Plaintiffs' mark *'Hindustan Times'* or *'HT Media'*, the Plaintiffs are permitted to approach Defendant Nos.12 & 13 for seeking directions for blocking the said website or domain name.

29. Upon a query by the Court to ld. Counsel for the Plaintiffs as to how the order would be enforced if the Registrar fails to comply with the injunction order, Mr. Sai Krishna, ld. Counsel, has drawn the attention of the Court to ***clause 5.5.2.1.4*** of the ***Registrar Accreditation Agreement of ICANN***. The said clause reads as under:

> *"5.5* ***Termination of Agreement by ICANN (Internet Corporation for Assigned Names and Numbers). This Agreement may be terminated before its expiration by ICANN (Internet Corporation for Assigned Names and Numbers) in any of the following circumstances:***
>
> *5.5.1 There was a material misrepresentation, material inaccuracy, or materially misleading statement in Registrar' application for Accreditation or renewal of Accreditation or any material accompanying the application.*

5.5.2 Registrar:

5.5.2.1 is convicted by a court of competent jurisdiction of a felony or other serious offense related to financial activities, or is judged by a court of competent jurisdiction to have:

5.5.2.1.1 committed fraud,

5.5.2.1.2 committed a breach of fiduciary duty, or

5.5.2.1.3 with actual knowledge (or through gross negligence) permitted illegal Activity in the registration or use of domain names or in the provision to Registrar by any Registered Name Holder of inaccurate Whois information; or

5.5.2.1.4 ***failed to comply with the terms of an order issued by a court of competent jurisdiction relating to the use of domain names sponsored by the Registrar****;*"

30. From the above clause, it is clear that every Registrar is bound to enforce and implement the orders passed by the Court of competent jurisdiction, failing which ICANN can be directed to terminate the agreement of accreditation with the said Registrar.

31. In view of the above clause, a copy of this order is directed to be communicated to ICANN at its email address: legal-intellectual-property@icann.org, privacy@icann.org, globalsupport@icann.org by the ld. Counsel for the Plaintiffs.

32. Compliance of Order XXXIX Rule 3 CPC qua Defendant no.1, be effected within one week from the date on which the details of Defendant

No.1 are received by the Plaintiffs. Compliance qua all other defendants be effected within one week from today.

33. Reply to the application be filed within four weeks from the service of the present order along with the paper book.

34. List the application before Court on 22nd September, 2022.

PRATHIBA M. SINGH, J.

MAY 24, 2022/*dk/sk*

IN THE HIGH COURT OF DELHI AT NEW DELHI

(ORDINARY ORIGINAL COMMERCIAL JURISDICTION)

CS (COMM) NO. OF 2022

CODE: 36017 & 36017.01

IN THE MATTER OF:

HT Media Ltd. & Anr. …Plaintiffs

versus

www.hindustantimes.tech & Ors. …Defendants

MEMO OF PARTIES

HT Media Limited
Hindustan Times House,
18-20, K.G. Marg
New Delhi – 110001
E-mail ID: sachin.kalra@hindustantimes.com

…Plaintiff No. 1

HT Digital Streams Ltd.
Budh Marg, P.S. – Kotwali
Patna – 800001
Email ID: sachin.kalra@hindustantimes.com

Also, at:
Hindustan Times House 18-20, K.G. Marg
New Delhi – 110001 …Plaintiff No. 2

Versus

1. www.hindustantimes.tech
   Uttar Pradesh, India

2. Hostinger, UAB
   Jonavos g. 60C

Kaunas, Lithuania - 44192
+37064503378
E-mail ID: domains@hostinger.com;
abuse@hostinger.com

3. Vodafone Idea Limited
Vodafone House,
Peninsula Corporate Park,
Ganpatrao Kadam Marg,
Lower Parel, Mumbai - 400 013 India

Also, At:
Birla Centurion,
10th Floor, Plot no.794,
B Wing, Pandurang Budhkar Marg,
Worli, Mumbai - 400 030 India

E-mail: florencia.depores@vodafoneidea.com;
Smitha.Menon@vodafoneidea.com;
pankaj.kapdeo@vodafoneidea.com
Radhika.gokhale@vodafoneidea.com

4. Bharti Airtel Ltd.
Airtel Centre, Tower-A, 6th floor
'A' Wing, Plot No.16, Udyog Vihar
Ph - IV, Gurgaon – 122016
E-mail: amit.bhatia@airtel.com

5. Atria Convergence Technologies Pvt. Ltd.
99A/113A, Manorayana Palya
R.T. Nagar Bangalore – 560032

Also, At:
2nd and 3rd Floor, No. 1,
Indian Express Building, Queen's Road,
Bangalore 560001 Karnataka
E-mail: nodal.term@actcorp.in;
Jitesh.chathambil@actcorp.in

6. Bharat Sanchar Nigam Ltd.
   Bharat Sanchar Bhawan, Regulation Cell
   5th floor, Harish Chandra Mathur Lane
   Janpath, New Delhi -110001
   E-mail: ddg_reg@bsnl.co.in;
   sbkhare@bsnl.co.in;
   averma@bsnl.co.in

7. Hathway Cable & Datacom Pvt. Ltd.
   'Rahejas',4 floor, Main Avenue
   Santacruz (W), Mumbai-400054
   Email: ajay.singh@hathway.net;
   dulal@hathway.net;
   sudhir.shetye@hathway.net

8. Mahanagar Telephone Nigam Ltd.
   5th Floor, Mahanagar Doorsanchar Sadan
   9, CGO Complex, Lodhi Road
   New Delhi – 110003
   E-mail: raco.mtnl@gmail.com;
   mtnlcsco@gmail.com
   gmracomtnl@gmail.com

9. Reliance Jio Infocomm Limited
   RCP 14 (TC 23), Phase 4,
   B-Block, 3rd Floor,
   C 4 130 Twane-Belapur Road,
   Gansoli, Navi Mumbai- 400701
   E-mail: care@jio.com; sunil.kr.gupta@ril.com;
   jyoti.jain@ril.com; neelakantan.an@ril.com

10. Shyam Spectra Pvt. Ltd.
    Plot No. 258, Okhla Industrial Estate,
    Phase III, New Delhi – 110020

    Also, at:
    Plot No. 21-22, 3rd Floor
    Udyog Vihar, Phase IV, Gurugram -122015

E-mail: info@spectra.co;
compliance@spectra.co

11. Tata Teleservices Ltd.
A, E & F Blocks Voltas Premises - T. B.
Kadam Marg
Chinchpokli, Mumbai – 400033
E-mail: pravin.jogani@tatatel.co.in;
anand.dalal@tatatel.co.in;
satya.yadav@tatatel.co.in

12. Department of Telecommunications
Through Secretary,
Ministry of Communications and IT,
20, Sanchar Bhawan, Ashoka Road,
New Delhi – 110001
E-mail: secy-dot@nic.in; dirds2-dot@nic.in

13. 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
E-mail ID: cyberlaw@meity.gov.in ,
gccyberlaws@meity.gov.in, … Defendants
ns.balan @meity.gov.in,
sathya.s@meity.gov.in

Vivek Ayyagari | Ramya Aggarwal
MAH/4861/2016 | D/4428/2021
Advocates for the Plaintiffs
57 Jor Bagh, New Delhi - 110003
+91 9560744337
ramya@saikrishnaassociates.com

Place: New Delhi
Date:23.05.2022

Note: Defendant No. 1 is the main contesting party in the instant Suit.

CS (Comm) No. 352 of 2022; HT Media Ltd & Anr. V/s www.hindustantimes.tech & Ors Before Hon'ble Delhi High Court

1. www.hindustantimes.tech