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

+ **CS(COMM) 420/2023 & I.As. 15278-81/2023**

ASIAN PAINTS LIMITED

..... Plaintiff

Through: Ms. Shwetassree Majumder and Ms.
Lalita Sowmya Priya, Advocates
(M. 918826384092)

versus

AJEET KUMAR AND OTHERS

..... Defendants

Through: Mr. Mrinal ojha, Mr. Debarshi Dutta,
Mr. Aayush Kevlani and Mr. Shivam
Tiwari, Advocates for D-8.
(M- 9990952258)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **16.08.2023**

1. This hearing has been done through hybrid mode.

I.A.15279/2023 & 15281/2023 (exemption from advance service to the Defendants)

2. In view of the fact that the Plaintiff has sought *ex parte ad-interim* injunction, exemption from advance service to the Defendants is granted.

3. Applications are disposed of.

I.A.15278/2023 (u/O I Rule 10 CPC)

4. The present application has been moved seeking impleadment of further domain names which are engaged in illegal use of the mark 'ASIAN PAINTS' and engaging in misleading customers and users. It is the case of the Plaintiff that the proposed Defendants are using the Plaintiff's trademark, logos, and ad-campaigns to misrepresent that they are the



Plaintiff and are providing dealerships of the Plaintiff. The facts pleaded in the application would show that the following further domain names have been registered by the proposed Defendants:

- i. <https://asianpaintsonline.agency>
- ii. <https://paintsdistributorship.com>
- iii. www.aspdeal.in
- iv. www.paintsdealerships.in
- v. www.asiapaintagency.in
- vi. asianpaints.store

5. It is the submission of Ms. Mazumdar, Id. Counsel that one of the domain names at serial number (ii) is being operated by Defendant No.1- Ajeet Kumar, who is still continuing illegal activities and collecting money from the innocent consumers as his mobile number has still not been deactivated.

6. After perusing the application, it is seen that all of the domain names and websites appear to be using the name 'ASIAN PAINTS' and some variants thereof in order to fraudulently collect monies by portraying themselves to be the Plaintiff. Accordingly, the said domain names are impleaded as Defendant Nos.31 to 42. The respective Domain Name Registrars are also impleaded.

7. The amended memo of parties is taken on record. The same is annexed with the order as **Annexure 1.**

8. The injunction order already granted on 2nd June, 2023 as modified vide order dated 6th July, 2023 is extended to all the newly impleaded Defendants as well. All Banks, telecom companies, DoT, Telephone Service Providers shall all comply with the orders passed by the Court.

9. The Delhi Police shall trace the telephone/mobile numbers '+91



1206914306’ and +91 9040762785’ and get the same deactivated. In addition details of whereabouts of Defendant No.1, who is impersonating himself as the Plaintiff and collecting money shall be investigated and action in accordance with law shall be taken. Ms.Hetu Arora Sethi, Id. Counsel shall communicate this order to the Cyber cell Delhi Police, for compliance.

10. Insofar as TRAI is concerned, due to various changes in policies and regulations, two features that were introduced are mobile portability and blocking of mobile numbers which are used for spamming. Since mobile number portability has been permitted by TRAI, it is not clear as to how the service provider *qua* a particular mobile number can be identified. Moreover, there is no doubt in the mind of the Court that blocking orders when issued by the Court would also have to be implemented by TRAI so as to ensure that the telephone numbers are not continuously being used to lure and entice innocent consumers to pay monies under the garb of offering dealerships, franchises etc.,

11. Accordingly, TRAI shall file an affidavit on these two aspects at least one week before the next date of hearing.

12. All the Domain Name Registrars shall provide the KYC particulars, credit card payment details and any other details which may be available, especially if any of these domain names/websites have availed of cloud services and any other services from these entities. The concerned Banks shall also provide the KYC details in respect of the above-mentioned domain names to the counsel for the Plaintiff.

13. Mr. Mohanti, who is present on behalf of the Delhi Police shall also undertake an investigation into Defendant No.-1 Mr. Ajeet Kumar and other registrants of these domain names and shall also file a status report in this



regard by the next date of hearing. The Delhi Police is free to take action against the said Registrants as well in accordance with law.

14. Ms. Mazumdar, Id. Counsel shall provide a copy of the application today itself to Ms. Hetu Arora Sethi, Id. ASC.

15. List on the date already fixed.

I.A.15280/2023 (for direction)

16. This is an application seeking directions against the Domain Name Registrars which have failed to comply with the orders of this Court. According to the Plaintiff, 'M/s Gname 019 Inc.' and 'Top Level Domain LLC' have not furnished the particulars relating to the www.asianpaintsdealerships.com and www.asianpaintsfranchisee.com despite specific orders.

17. Insofar as Top Level Domain LLC is concerned, since it has refused even to respond notice issued by the Plaintiff, Mr. Harish Vaidyanathan, Id. CGSC is requested to accept notice on behalf of the DoT. In view of orders blocking services of DNRs having already been passed in **CS (Comm) 567/2022** titled **Star India Pvt. Ltd. & Anr. v. MHDTV.WORLD & Ors.** and **CS (Comm) 604/2022** titled **Star India Pvt. Ltd. v. 7MOVIERULZ.TV & Ors.**, this Court is of the view that action in accordance with law shall be taken against 'Top Level Domain LLC' and its services shall be suspended by DoT, within 4 weeks.

18. Insofar as 'M/s Gname 019 Inc' is concerned, Id. Counsel for the Plaintiff submits that an email dated 12th June, 2023 has been received from the said DNR. The email has been handed over to the Court and the same reads as under:



*“Dear Sir or Madam,
The domain name has been disabled.
Pursuant to the Criminal Procedure Code 2010 (“CPC”), the Personal Data Protection Act 2012 (“PDPA”) and related laws and regulations, the registrant information should be considered as personal data. We have no right to disclose the above information and/or data to you without the request of the central authority and/or various competent authorities in Singapore.
Thank you in advance for your understanding and support.
Please be aware!*

Gname”

19. The above email is taken on record.
20. A perusal of the above email would show that the DNR relies upon the fact that its servers may be located in Singapore as a reason to not disclose the details, on the ground of privacy. This issue has been squarely dealt with by this Court in ***Neetu Singh Vs. Telegram FZ LLC 2022:DHC:3333*** where this Court has held as under:

45. This brings the Court to the defences taken by Telegram in its response to the prayer for disclosure. In this regard, this Court finds as under:

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- (i) ***In so far as the law in Singapore is concerned, the provisions of the PDPA, in fact, specifically recognize violations of law, as being an exception to privacy, when details of the originators of the infringing data can be revealed.*** Such violation of law and investigation/proceedings, would obviously include violation of copyright and other intellectual property



rights. The relevant provision of the PDPA of Singapore reads:

“17. Collection, use and disclosure without consent

(1) An organisation may —

(a) collect personal data about an individual, without the individual’s consent or from a source other than the individual, in the circumstances or for the purposes, and subject to any condition, in the First Schedule or Part 1 of the Second Schedule;

(b) use personal data about an individual without the individual’s consent, in the circumstances or for the purposes, and subject to any condition, in the First Schedule or Part 2 of the Second Schedule; or

(c) disclose personal data about an individual without the individual’s consent, in the circumstances or for the purposes, and subject to any condition, in the First Schedule or Part 3 of the Second Schedule.

...

FIRST SCHEDULE

PART 3

LEGITIMATE INTERESTS

...

3. The collection, use or disclosure (as the case may be) of personal data about an individual is necessary for any investigation or proceedings.”

Thus, the disclosure of personal data for the purpose of any proceedings, which would obviously include proceedings related to infringement of copyright would be a recognized exception to data privacy under the PDPA of Singapore.



- (ii) Moreover, copyrighted works are entitled to automatic protection in all WTO countries under the Berne Convention for the Protection of Literary and Artistic Works, 1886 read with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1995. The Plaintiffs' copyrighted works are no exception to that. Article 1 of the said Convention provides as under:

"Article 1. Establishment of a Union.

The countries to which this Convention applies constitute a Union for the protection of the rights of authors in their literary and artistic works."

Singapore is a signatory to the Berne convention and a WTO country as well. Thus, the Plaintiffs' works would enjoy protection even under the laws of Singapore. These are reciprocal protections granted to authors who can enjoy rights across the world even without seeking registrations. India recognizes copyright in foreign works and reciprocally, foreign countries recognize the copyright granted under Indian Law. **In view of this position of the law regarding copyright, compliance with local law, i.e., PDPA, cannot be an excuse for Telegram to justify the non-furnishing of the information relating to the channels through which dissemination of infringing content takes place as, such dissemination, would in the opinion of this Court, be violative of law, even under the laws of Singapore.**

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"46. In view of the above factual and legal position, in the opinion of this Court, merely because Telegram chooses to locate its server in Singapore, the same cannot result in the Plaintiffs' – who are copyright owners of course materials – being left completely remediless against the actual infringers especially in order to claim damages and avail of other legal



remedies in accordance with law. If such an argument is accepted, in the current world where most dissemination happens through online messaging services and platforms, IP violations would go completely unchecked. This cannot be the intention of law. The provisions of the IT Act and the Rules made therein have to be construed harmoniously with the rights and remedies provided to the copyright owners under the Copyright Act. Indian Courts are competent to decide issues relating to infringement of copyright and the mere fact that Telegram is operating a messaging service in India which chooses not to locate its servers in India cannot divest the Indian Courts from dealing with copyright disputes or divest copyright owners from availing their remedies in Indian Courts. In the present age of cloud computing and diminishing national boundaries in data storage, conventional concepts of territoriality cannot be strictly applied. The dynamic evolution of law is essential to ensure appropriate remedies in case of violation of copyright and other IP laws.

47. In the facts and circumstances of the present case, Telegram-Defendant No.1 is directed to disclose the details of the channels/devices used in disseminating the infringing content, mobile numbers, IP addresses, email addresses, etc., used to upload the infringing material and communicate the same, as per the list of channels filed along with the present application. If there are any further list of infringing channels, the same be also submitted to Telegram within one week. The data relating to the infringing channels and the details as to the devices/servers/networks on which they are created, their creators, operators including any phone numbers, IP addresses, email addresses, used for this purpose shall be disclosed by Telegram within a period of two weeks thereafter. The said information shall at this stage be filed in a sealed cover with the Court. Upon perusing the said



information, directions, if any, shall be passed after hearing the parties.”

21. The above decision which was rendered in the context of copyright infringement, would be equally applicable in the context of trade mark violations as well. In view of the above legal position, the said DNR is notified of the above judgement and is given another opportunity to provide the details of the registrant. If there is no compliance, then action would be liable to be taken for directing suspension of the services of ‘M/s Gname 019 Inc.,’ including for suspension of services.

22. List on 9th October, 2023.

PRATHIBA M. SINGH, J.

AUGUST 16, 2023/dk/sk



Annexure-1

List of Defendants as per Memo of Parties

S.No.	Parties	Address
1.	AJEET KUMAR (ASSOCIATED WITH THE WEBSITES)	www.asianpaintsdealerships.com; www.asianpaintsdealership.in And www.paintdealership.com) Emails: process@asianpaintsdealership.in; info@asianpaintdealership.com; dealership@asianpaintsdealerships.co; asian@asinapaintsdealership.in
2.	HARISHCHANDRA GADE (ALIAS ABHISHEK) (ASSOCIATED WITH THE WEBSITES)	www.paintsdealership.com; www.asianpaints.co) EMAILS: asian@paintsdealership.com; process@asianpaintsdealership.in; dealership@asianpaints.co Mob. No.: +91 8478827013; +91 9903084193
3.	BHAUTIK GOUSWAMI OWNER of	www.asianpaints.in EMAIL: support@asianpaints.in MOB. NO.: +91 8513945036
4.	RAJ KUMAR MEHTA (ALIAS RAJ KUMAR MITTAL) (ASSOCIATED WITH THE WEBSITE)	www.asianpaintsfranchisee.com) EMAIL: info@asianpaintsfranchisee.com Mob. No.: +91 9867624377; +91 9833285882
5.	ANIL (ASSOCIATED WITH THE WEBSITE)	www.Asianpaintsdealerships.com) EMAIL: dealership@asianpaintsdealerships.com MOB. NO.: +91 8017473823
6.	RUPA BHARTI	D-305, SHANTI NIWAS, JOSHI LN PANT NAGAR, GHATKOPAR (EAST) MUMBAI - 400077 MOB. NO.: +917208204223



7.	JOHN DOE	(OPERATORS/ USERS OF THE MOB. NOS.: +91 8334974257; +91 8961628525; +91 120 6914306)
8.	GODADDY.COM LLC	14455 NORTH HAYDEN ROAD SUITE 219 SCOTTSDALE, ARIZONA 85260 UNITED STATES OF AMERICA EMAIL: grievanceofficer@godaddy.com
9.	ENDURANCE DOMAINS TECHNOLOGY LLP	UNIT NO. 501, 5TH FLOOR & UNIT IT BUILDING NO. 3 NESCO IT PARK, NESCO COMPLEX WESTERN EXPRESS HIGHWAY, GOREGAON (EAST) MUMBAI, MAHARASHTRA 400063, INDIA EMAIL: compliance@edtpl.in abuse@publicdomainregistry.com grievance- officer@publicdomainregistry.com
10.	GNAME 019 INC GNAME.COM PTE. LTD.	EMAIL: complaint@gname.com
11.	TOP LEVEL DOMAINS LLC	EMAIL: domain.operations@web.com
12.	FEDERAL BANK FEDERAL TOWERS, P B NO. 103, ERNAKULAM, KERALA 683101	EMAIL: secretarial@federalbank.co.in contact@federalbank.co.in
13.	CANARA BANK HEAD OFFICE NO.112 J C ROAD BENGALURU - 560 002 PHONE : 080 - 22100250	E- MAIL: hosecretarial@canarabank.com
14.	YES BANK YES BANK HOUSE,	EMAIL: yestouch@yesbank.in



	OFF WESTERN EXPRESS HIGHWAY, SANTACRUZ (EAST), MUMBAI - 400055	
15.	UTKARSH SMALL FINANCE BANK UTKARSH TOWER, NH-31(AIRPORT ROAD), SEHMALPUR, KAZI SARAI, HARHUA, VARANASI, 221105, UTTAR PRADESH	EMAIL: communications@utkarsh.bank
16.	INDIAN BANK PB NO: 5555, 254-260, AVVAI SHANMUGAM SALAI, ROYAPETTAH, CHENNAI – 600 014	EMAIL: holegal@indianbank.co.in
17.	INDUSIND BANK INDUSIND BANK LIMITED, 2401 GEN. THIMMAYYA ROAD (CANTONMENT), PUNE-411 001	EMAIL: headconsumer@indusind.com headoperations@indusind.com reachus@indusind.com customercare@indusind.com
18.	ICICI BANK ICICI BANK TOWER, NEAR CHAKLI CIRCLE, OLD PADRA ROAD, VADODARA 390007, GUJARAT, INDIA.	EMAIL: headsERVICEquality@icicibank.com
19	PUNJAB NATIONAL BANK HEAD OFFICE, PLOT NO. 4, SECTOR 10, DWARKA NEW DELHI-110075	EMAIL: bo1988@pnb.co.in
20.	KOTAK MAHINDRA BANK 27 BKC, C 27, G BLOCK, BANDRA KURLA COMPLEX, BANDRA (E), MUMBAI - 400051	Email: itsecurity.bank@kotak.com customerfirst@kotak.com



21.	IDBI BANK LTD. IDBI TOWER, WTC COMPLEX, CUFFE PARADE, COLABA, MUMBAI 400005	Email: customercare@idbi.co.in
22.	CENTRAL BANK OF INDIA CHANDER MUKHI, NARIMAN POINT MUMBAI – 400 021	EMAIL: zmmmzo@centralbank.co.in
23.	MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY, THROUGH THE DIRECTOR GENERAL (DIT) CYBER LAWS ELECTRONICS NIKETAN, 6- CGO COMPLEX, LODHI ROAD, NEW DELHI- 110003	E-MAIL: cyberlaw@meity.gov.in ; gccyberlaws@meity.gov.in ; pkumar@meity.gov.in ; uoidhc@gmail.com
24.	DEPARTMENT OF TELECOMMUNICATIONS THROUGH ITS SECRETARY, MINISTRY OF COMMUNICATIONS AND IT, 20, SANCHAR BHAWAN, ASHOKA ROAD, NEW DELHI-110001,	E-MAIL: secy-dot@nic.in ; dirds2-dot@nic.in ; uoidhc@gmail.com
25.	TELECOM REGULATORY AUTHORITY OF INDIA MAHANAGAR DOORSANCHAR BHAWAN (NEXT TO ZAKIR HUSSAIN COLLEGE) JAWAHARLAL NEHRU MARG (OLD MINTO ROAD) NEW DELHI: 110 002	E-MAIL ID : ap@traai.gov.in daca@traai.gov.in



26.	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
27.	BHARTI AIRTEL LTD. AIRTEL CENTRE, TOWER- A, 6TH FLOOR 'A' WING, PLOT NO. L6, UDYOG VIHAR PH- IV, GURGAON- 122016	E-MAIL: amit.bhatia@airtel.com
28.	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
29.	RELIANCE JIO INFOCOMM LIMITED RCP 14 (TC 23), PHASE 4, B-BLOCK, 3RD FLOOR, C 4 130 THANE- BELAPUR ROAD, GANSOLI, NAVI MUMBAI- 400701	E-MAIL: care@jio.com Hitesh.marthak@relianceada.com Kapoor.guliani@ril.com mahipal.singh@ril.com sunil.kr.gupta@ril.com shilpi.kant@ril.com jyoti.jain@ril.com
30.	VODAFONE IDEA LIMITED VODAFONE HOUSE PENINSULA CORPORATE PARK GANPATRAO KADAM MARG, LOWER PAREL, MUMBAI- 400 013 INDIA	E-MAIL: florencia.depores@vodafoneidea.com raaj.goyel@vodafoneidea.com smitha.menon@vodafoneidea.com radhika.gokhale@vodafoneidea.com pankaj.kapdeo@vodafoneidea.com arun.madhav@vodafoneidea.com



31.	BANK OF MAHARASHTRA BANK OF MAHARASHTRA HEAD OFFICE LOKMANGAL, 1501, SHIVAJINAGAR PUNE-411005, 020 - 25514501 TO 12	EMAIL: hocomplaints@mahabank.co.in agmcustomerservice@mahabank.co.in
32.	TATA TELESERVICES LIMITED JEEVAN BHARATI, TOWER I, 10TH FLOOR, 124 CONNAUGHT CIRCUS NEW DELHI -110 001	
33.	JOHN DOE, OWNER OF www.asianpaintsonline.agency	
34	VAGHAMARE ROHIDAS NATHAA OWNER OF https://paintsdistributorship.com BAJAR PETH MURGUD VIDYALAYA KAVAI MURGUD KOHLAPUR MAHARASHTRA – 416 219	EMAIL: chambalindia8813@gmail.com
35.	BIGROCK SOLUTIONS LTD.	EMAIL: Grievance- officer@bigrock.com
36.	JOHN DOE OWNER OF https://aspdeal.in/	
37.	HOSTINGER, UAB	EMAIL: abuse@hostinger.com
38.	JOHN DOE OWNER OF https://paintsdealerships.in/	
39.	JOHN DOE OWNER OF https://asiapaintagency.in/	
40.	DYNADOT LLC	EMAIL: abuse@dynadot.com DataProtectionOfficer@dynadot.com



		info@dynadot.com
41.	ANURAG CHAUHAN OWNER OF https://asianpaints.store/	EMAIL: digitalchauhan@gmail.com
42	NAMECHEAP, INC.	EMAIL: abuse@namecheap.com