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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 524/2022 and I.A. 12035/2022, 13335/2022

BOMBINATE TECHNOLOGIES PRIVATE LIMITED Plaintiff

Through: Ms. Tanya Varma, Advocate (M: 9599109837).

versus

KOO COIN AND OTHERS

..... Defendants

Through:

Mr. Harish Vaidyanathan Shankar, CGSC with Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat and Mr. Alexander Mathai Paikaday, Advocates with Mr. Abhishek Singh, (G.P) (M: 9810788606).

Mr. Debarshi Dutta, Mr. Mrinal Ojha and Mr. Aayush, Advocates for D-4 (M: 9990952258).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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06.10.2022

1. This hearing has been done through hybrid mode.
2. The Plaintiff, Bombinate Technologies Pvt. Ltd., is the parent company of two mobile applications, namely 'Vookal' and 'Koo'. These applications are popular social media platforms. 'Koo' has over 10 million downloads on the Google Play Store. The platform run by the Plaintiff, which is a microblogging platform, is available in several languages such as Hindi, Kannada, Tamil, Telugu and Bengali. The Plaintiff's reputation is well established due to the large social media following it has on other well known social media platforms such as Instagram and Facebook. Additionally, the Plaintiff has launched a program called 'Koo Coin', as a rewards program for its active users. The application rewards its users with



‘Koo Coin’ if they log in once a day. These are redeemable coins.

3. The Plaintiff adopted the mark ‘KOO’ in 2019, and is the registered proprietor of the mark, under application number 4533766 in classes 9, 35, 38, and 41. Various other similar marks are also pending registration. The present suits filed by the Plaintiff relate to three domain names, namely, www.minekoo.com, www.koo.money.com and www.kootweet.com.

4. The Defendants were providing cryptocurrency and other services illegally by using the impugned domain names. Vide order dated 1st August, 2022, after considering the matter, the Court had opined at the *prima facie* stage that the said domain names which have been used for the purposes of running a website, including a blockchain based marketplace, deserve to be enjoined. On the said date, Id. Counsel appearing for GoDaddy LLC was also heard. The Court had granted an injunction in the following terms:-

“20. A perusal of these applications, websites and other documents, placed on record, clearly shows that the intention of the Defendants is to misuse the Plaintiff’s registered mark and name. They are consciously misleading customers in the sense that there exists a genuine cryptocurrency platform or a digital currency platform associated with the Plaintiff. The connection with the Plaintiff is being sought to be established by using the name and similar bird device marks. At present, it is clear that there are a large number of internet users who may be trying to access the Defendants’ platforms on the ground that the Defendants are somehow connected to the Plaintiff.

21. In order to protect the rights of the users who may be investing monies on these platforms, as also to prevent any further confusion, this Court is of the opinion that the Plaintiff has made out a prima facie case for grant of an injunction. Balance of convenience and irreparable injury is also in favour of the Plaintiff.



especially, because it involves thousands of customers on the internet, who could be deceived into believing that the Defendants' platforms are connected with the Plaintiff's.

22. *Accordingly, till the next date of hearing, MEITY is directed to block these three websites and issue immediate directions to the ISPs to block the same. The said ISPs shall also take immediate steps to block the access to all these three websites. The said Defendants 1 to 3 are also restrained from using the mark or name KOO either as a trade mark or trade name or as part of the domain name. The Defendants shall also stand restrained from offering digital coins, digital currencies or offer any other services under the domain names impugned in the present suit, consisting of the word KOO.*

23. *The DNR-Go Daddy LLC, is also represented before this Court today. GoDaddy LLC is directed to disclose to the Plaintiff the details of the registrants of these domain names, as also any billing information, subscribers' information, and any other information which may be available. This information be provided by ld. Counsel for GoDaddy LLC within 48 hours. An affidavit shall be filed by GoDaddy LLC before the Court, stating as to whether it is a customer of the Defendant No.1's website. If any other services are being provided by GoDaddy LLC to these three networks, details of the same shall also be stated in the said affidavit.*

24. *Further, the URLs as mentioned in Annexure A and B of the Plaint, shall also be blocked by MEITY, as also the ISPs."*

5. A grievance, thereafter, was raised in another domain name matter which was listed before this Court, as also in the present suit itself, that GoDaddy LLC has failed to comply with the directions given in the said order and a contempt application under Order XXXIX Rule 2A CPC being



I.A. 13335/2022, was also filed by the Plaintiff. In the said contempt application, details of the India office of GoDaddy LLC were provided. Despite appearance on the first date by GoDaddy LLC, there was non-compliance, and the Id. Counsel who appeared for GoDaddy LLC on 24th August, 2022, submitted that she has no instructions and has not been engaged in the matter. Vide order dated 24th August, 2022, fresh notice was issued in the said contempt application, and the following directions were issued:

“5. *Ms. Majumdar, Id. Counsel for the Plaintiff submits that GoDaddy has an office in India at Gurgaon. The contact details are set out below:*

GoDaddy India Web Services Private Limited

***003, Tower 4A, DLF Corporate Park,
MG Road Gurgaon - 122002***

Email: legal@godaddy.com

6. *Accordingly, let notice be served on GoDaddy including at the Gurgaon office. Since the India office of GoDaddy has been served through the e-mail at legal@godaddy.com and this is a fresh application under Order XXXIX Rule 2A CPC one opportunity is given to GoDaddy to comply with the injunction order. Notice is issued in the contempt application to GoDaddy, directing that the compliance of the order dated 1st August, 2022 shall be effected within 48 hours. Copy of the said order shall also be attached with the notice which can be given dasti to the Id. Counsel for the Plaintiff.*

7. *The blocking order issued on 1st August, 2022 shall be issued by the Department of Telecommunications within a period of two days upon receipt of the order, failing which, contempt action would be liable to be taken.*

8. *Reply to the contempt application be filed*



within a period of four weeks. Rejoinder be filed within four weeks, thereafter.”

6. On 26th September, 2022, it was submitted on behalf of the Plaintiff, that the earlier office had been closed down, and a fresh address in Sector 28 Gurgaon was supplied to the Court. The new address was then taken on record and fresh notice was issued for service at the new Gurgaon office of GoDaddy LLC. The relevant portion of the said order has been extracted hereinbelow:

“2. This is an application filed on behalf of the Plaintiff seeking modification of the address of the Defendant No.4 - GoDaddy.com, LLC. The new address of the Defendant No.4, which has been identified by the Plaintiff and mentioned in the prayer clause of the present application, is set out below:

“First Floor, 01A167, WeWork Bristol Chowk, Platina Tower, MG Road, Sector-28 Gurgaon, Haryana- 122002”

3. The address set out above is taken on record. Id. Counsel for the Plaintiff is permitted to serve the Defendant No.4 - GoDaddy.com, LLC at the above address.”

7. Despite GoDaddy LLC having been aware of the injunction order dated 1st August, 2022, the same had not been given effect to, thereby leading to issuance of notice in the contempt application being *I.A. 13335/2022*.

8. Today, Id. Counsel for the Plaintiff submits that insofar as the blocking of the three domain names is concerned, two have been blocked, being www.minekoo.com, and www.kootweet.com. Insofar as www.koo.money.com is concerned, the same was accessible even as of the



last week of September.

9. Insofar as GoDaddy LLC is concerned, Id. Counsel submits that directions against GoDaddy LLC were passed by this Court, vide order dated 1st August, 2022, in which they were to reveal billing information and details of the registrants of the domain names. The said directions have been extracted above.

10. As far as locking of the domain names are concerned, Counsel appearing for GoDaddy LLC today is not clear as to whether the domain names have been locked or not. In order to avoid any complications, it is directed that all three domain names shall be locked, suspended and *status quo* shall be maintained as to their ownership, without any further ambiguity.

11. The disclosure with regard to billing details made by GoDaddy LLC, has been handed across to the Court today, and reveals that www.minekoo.com, is registered in the name of one Mr. Dhruv Patel, Jamnagar, Gujarat, who has made several payments through his credit card. His email address reads as hi.pridepick@gmail.com. Insofar as www.koo.money.com is concerned, the same is registered in the name of one “Aliens Company”, with its registered address as “Spaceship”, located in Rajasthan. The email address provided reads as its.aliens.company@gmail.com. The details provided by GoDaddy LLC itself show that there is complete non-application of mind in registering the domain name. The Defendant GoDaddy LLC appears to be permitting entities referred to as “Aliens Company”, and “Spaceship” as an address, to register domain names, with no other relevant details provided. It appears to the Court that there is completely no rational to permit such bizarre and non-



existent entities to register domain names and indulge in fraudulent and illegal activities. The seed of such illegality is sown with the registration of the domain name which then has a cascading effect leading to thousands of persons being duped.

12. It is clear that the payments for registration of the impugned domain names have been made through credit card. The name of the person making the credit card payments has not been provided by GoDaddy LLC to the Id. Counsel for the Plaintiff, till date, and neither can such information be deciphered from the documents which have been placed before the Court today. A total payment of Rs. 1,474.34/- has been received by GoDaddy LLC for the domain name www.koo.money, but unfortunately, apart from “Aliens Company” and “Spaceship”, there are no other details available in respect of this domain name. It is incomprehensible as to how such registrations can be permitted with such few available details, and without proper verification of the person registered in the domain name.

13. Insofar as www.kootweet.com is concerned, the same has been registered by another domain name registrar - HugeDomains.com, through an individual Mr. Andrew Reberry, based in Colorado. The said individual has purchased a block of 135 domain names out of which www.kootweet.com is one of them, and has made payments for the same to the tune of over 11,000 USD. Insofar as said domain name is concerned, the Plaintiff is permitted to take steps for impleadment of the said Registrant. The Plaintiff is also permitted to take steps to implead www.minekoo.com after verifying the credibility of the details of the registrant of the said domain name through the address and mobile number provided to the Plaintiff.



14. Insofar as www.koo.money.com is concerned, the name of the exact individual whose credit card was used for making the booking of this domain name shall be provided by GoDaddy LLC, within three working days. It is clear that a crypto currency trade was being conducted on www.koo.money.com, and till date there is no clarity as to who has registered the said domain name. The nature of the services provided i.e., crypto currency, is such that every minute there were transactions that could be entered into on the internet and thus, there was an absolute necessity for GoDaddy LLC to proceed with alacrity and efficiency in these matters. However, even as has been conceded by Id. Counsel appearing for GoDaddy LLC today, it is only as of 16th September, 2022, when some of the compliances are stated to have been made by GoDaddy LLC, while the order was passed wayback on 1st August, 2022 in the presence of other Counsels representing GoDaddy LLC, who regularly appeared before this Court.

15. Under such circumstances, GoDaddy LLC is directed to file proper reply to the contempt application under Order XXXIX Rule 2A CPC, dealing with the allegations in the said application. All ISPs are also directed to block the impugned domain names, failing which, contempt action would be liable to be taken.

16. Reply be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks.

17. List on 6th January, 2023.

PRATHIBA M. SINGH, J.

OCTOBER 6, 2022/MR/SS