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

Date of decision: 15th September, 2023

+ **CS(COMM) 303/2022 & I.As.17896/2023**

BURGER KING CORPORATION Plaintiff

Through: Mr. Mukul Kochhar and Mr. Raunaq
Kamath, Advocates. (M:
9873941450)

versus

SWAPNIL PATIL & ORS. Defendants

Through: Ms Hetu Arora Sethi, ASC, GNCTD
for Delhi Police Cyber Cell. (M:
9810368590)
Ms. Shweta Sahu & Mr. Brijesh
Ujjainwal, Advs. for D-
16/GoDaddy.com LLC. (M:
9987115749)

CORAM:

JUSTICE PRATHIBA M. SINGH



Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

I.A.17896/2023 & 17923/2023

2. The present suit has been filed by the Plaintiff- Burger King Corporation seeking protection of its marks 'BURGER KING' and also the Crescent Logo Design and Hamburger Refresh Design Logo. The claim of the Plaintiffs is that some of the Defendants are offering fake franchises under the Burger King Trade Mark to unsuspecting persons, and duping them of large sums of money. The said logos are set out below:



Crescent Logo Design	Hamburger Refresh Design Logo
	

3. Vide order dated 17th August, 2023, this Court has directed the Cyber Crime Division, Mumbai police to conduct investigation in accordance with law and take all necessary action in respect of the fraudulent activities being undertaken by various nefarious websites.

4. The present two applications have been filed by the Plaintiff seeking further orders in respect of fake, illegal and fraudulent websites using the name 'Burger King' in an unauthorised manner. After the filing of the applications and during the court proceedings, another domain name has also been brought to the notice of the Court. Thus, the Court is taking into consideration the said illegal domain names, which are as under:

- i. www.burgerkingind.co.in as also the attached email address and bank account
- ii. www.burgerkingfranchisee.com

5. The Court has heard Id. Counsel for the Plaintiff. Clearly there is a need to take stringent action as the application reveals that there is misuse of the domain names. Considering that the Delhi Police would need to investigate this matter, Ms. Hetu Arora Sethi, Id. ASC, has been requested to accept notice.



6. The interim injunctions have already been passed by this Court recognising the Plaintiff's right in the mark '*BURGER KING*' vide order dated 10th May, 2022 and subsequent orders extending the same to other domain names. The domain names, which have been already enjoined/blocked have been set out in paragraph 10 of the application. The Plaintiff has, however, come across further defrauding by unknown persons and using the above two domain names. Specifically, it has been revealed that some unsuspecting consumer who wanted to obtain a Burger King franchise have paid a sum of Rs.2,65,000/- to the bank account of the domain name at serial no. (i) i.e. www.burgerkingind.co.in. The said bank account details are as under:

Name	Burger King India Limited
Account Number	60449688238
IFSC Code	MAHB0000311
Branch	West Andheri
Bank	Bank of Maharashtra

7. In addition, the email being used for the fraudulent activity is info@burgerkingind.co.in. The Domain Name Registrar of this website is GoDaddy LLC and the DNR of the website www.burgerkingfranchisee.com is FastDomain Inc.

8. All these domain names and websites, as well as the bank accounts operated through these domain names, which are being used to fraudulently collect money under the name of the Plaintiff by misusing the Plaintiff's brand and marks. It is accordingly deemed appropriate to extend the injunction order dated 10th May, 2022 to cover these domain names. There is an urgent need to stop any further amounts being received in these



fraudulent bank accounts.

9. Accordingly, the following directions are being issued:

- (i) Accordingly, an interim injunction is granted restraining www.burgerkingind.co.in and www.burgerkingfranchisee.com from in any manner using the mark/name BURGER KING or the logos extracted above, for any purpose, including for collecting moneys under the garb of issuing franchises, dealerships etc.
- (ii) GoDaddy.com LLC shall, with immediate effect, suspend/block the domain name www.burgerkingind.co.in thereby ensuring that the website is no longer accessible to any consumers.
- (iii) If the email address info@burgerkingind.co.in is opened by or through GoDaddy.com LLC, the said email shall also be blocked.
- (iv) FastDomain Inc shall, with immediate effect suspend/block the domain name www.burgerkingfranchisee.com thereby ensuring that the website is no longer accessible to any consumers. If any email addresses are opened through the DNR- FastDomain Inc, the said email addresses shall also be blocked.
- (v) NIXI is also directed not to permit any domain name/website to be opened under the '.co.in' or '.in' extensions consisting of the mark 'Burgerking', where the words 'BURGER' and 'KING' appear together.
- (vi) The bank account number 60449688238 opened through the West Andheri branch of Bank of Maharashtra shall be frozen with immediate effect and the complete statement of the said bank account shall be placed on record by the Bank of Maharashtra. The concerned Headquarters of the Bank of Maharashtra shall also investigate as to



how a bank account in the name of `Burger King India Pvt Ltd` has been permitted to be opened, without verifying the credentials.

(vii) The Cyber Cell/IFSO Delhi Police is allowed to investigate the following mobile numbers and take action in accordance with law:

S. No.	Mobile Number	Telecom Service Provider
1	9038343545	Bharti Airtel Limited
2	9875572536	Reliance Infocomm Limited
3	9385983270	Bharat Sanchar Nigam Limited

(viii) DoT and MeitY shall issue blocking orders qua the above domain names/websites with immediate effect. The same shall be given effect to by all ISPs.

(ix) Bank of Maharashtra is directed to disclose the identity of the account holder, KYC details and any other documents, which it may have.

(x) A Mareva injunction is granted for freezing the said bank accounts.

(xi) The Delhi Police shall obtain all the CDR records from the respective telecom service providers, namely Bharti Airtel, Reliance InfoComm Ltd., Bharat Sanchar Nigam Limited and investigate into the matter. All action in accordance with law shall be taken against the persons who are involved in this illegal and unlawful activity. If a FIR needs to be registered, the same may also be done. Delhi Police to place a status report in respect of the same by the next date of hearing.



10. For the reasons contained in the application, the application under Order I Rule 10 CPC is allowed. The amended memo of parties is taken on record. Let the same be placed in the main pleadings so that it is accessible to the Court. *I.A.17896/2023 and I.A.17923/2023* are disposed of in the above terms.

11. Compliance of Order XXXIX Rule 3 shall be made within one week by email.

12. List on 27th September, 2023, the date already fixed.

13. Copies of the present order be communicated by the Registry to the following entities/persons:

S. No.	Entity	Person and/or Contact details
1.	Bank of Maharashtra	Mr. V.K. Gupta, Standing Counsel (E-mail: vinodgupta501@hotmail.com Mob. No.: 9582206578)
2.	Bharti Airtel	(E-mail: compliance.officer@bharti.in)
3.	Reliance Infocom	(E-mail: grievance.officer@jio.com)
4.	BSNL	Mr. Sameer Agarwal, Advocate (E-mail: sameer.lawyer@gmail.com Mob. No.: 9873405405, 9810047285)
5.	DOT	Mr. Harish V. Shankar, CGSC (E-mail: hvscgscdhc@gmail.com Mob. No.: 9810788606)
6.	MeitY	(E-mail: cyberlaw-legal@meity.gov.in and adg2ds-dot@gov.in)
7.	GoDaddy LLC	Ms. Shweta Sahu, Advocate (E-mail: shweta.sahu@godaddy.com)



		godaddylitigation.nda@nishithdesai.com Mob. No.: 9004057125)
8.	FastDomain Inc.	(E-mail: legal@fastdomain.com)
9.	National Internet Exchange of India	(E-mail: info@nixi.in)

PRATHIBA M. SINGH
JUDGE

SEPTEMBER 15, 2023/dk/am