

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-24/2024-DS-II

Dated: 05.07.2024

10

To,

All Internet Service Licensee

Subject: 494 of 2024: HELL ENERGY MAGY ARORSZAG KFT & ANY. Before Hon'ble Delhi High Court.

Kindly find the enclosed Hon'ble Delhi High Court order dated 30.05.2024 on the subject matter.

2. Please refer to the **para 23.5** of the said court order in respect of blocking of **websites** enumerated in the said para.

3. In view of the above, all the Internet Service licensees are hereby instructed to take immediate necessary action for blocking of the said website, as above, for compliance of the said court order.



Dir (DS-II)

Email: dirds2-dot@nic.in

Encl:A/A

Copy to:

- (i) Sh. V.Chinnasamy, Scientist E (chinnasamy.v@meity.gov.in), Electronics Niketan, Ministry of Electronics and Information Technology (MeitY) New Delhi for kind information and with request to take action as per **Annexure**.
- (ii) S.S. RANA & Co. <ssrana@ssrana.com> Plaintiff Advocate for kind information.
 - a) Take action as per Annexure.
- (iii) IT wing of DoT for uploading on DoT websites please.



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

+ **CS(COMM) 494/2024**

HELL ENERGY MAGYARORSZAG KFT. & ANR. Plaintiff

Through: **Mr. Nihit Nagpal, Mrs. Bindra Rana
and Ms. Devika Mehra, Advocates.**

versus

NATIONAL INTERNET EXCHANGE OF INDIA (NIXI) & ORS.

..... Defendants

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **30.05.2024**

I.A. 31161/2024(seeking exemption)

1. Exemption is granted, subject to all just exceptions.
2. Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Disposed of.

I.A. 31162/2024(seeking leave to file additional documents)

4. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.
5. If Plaintiff it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the said Act.
6. Disposed of.

I.A. 31163/2024(seeking exemption from advance service to MEITY and



DoT)

7. Issue notice to Defendants No. 2 and 3, by all permissible modes, upon filing of process fee, returnable on 6th November, 2024.

I.A. 31164/2024*(seeking exemption from pre-litigation mediation)*

8. As the present suit contemplates urgent interim relief, in light of the judgment of Supreme Court in *Yamini Manohar v. T.K.D. Krithi*,¹ exemption from attempting pre-institution mediation is granted.

9. Disposed of.

I.A. 31165/2024*(seeking permission to file court fee)*

10. For the grounds and reasons stated therein, the application is allowed. Plaintiff is granted one week's time to file court fees along with process fee.

11. The application is disposed of.

CS(COMM) 494/2024

12. Let the plaint be registered as a suit.

13. Upon filing of process fee, issue summons to the Defendants by all permissible modes. Summons shall state that the written statement(s) shall be filed by the Defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the Defendants shall also file affidavit(s) of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.

14. Liberty is given to the Plaintiff to file replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the Plaintiff, affidavit(s) of admission/denial of documents of the



Defendants, be filed by the Plaintiff, without which the replication(s) 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.

15. List before the Joint Registrar for marking of exhibits on 04th September, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

16. List before Court for framing of issues thereafter.

I.A. 31160/2024(u/O XXXIX Rules 1 and 2 of CPC)

17. The Plaintiffs have filed the present suit to safeguard their reputation, public image, and trademark rights, which they allege are being tarnished by certain unknown imposters. These imposters have been impleaded as ‘John Doe’/Defendant No. 11.² They are operating fake websites without authorization and causing significant harm to the Plaintiffs’ brand identity and consumer trust.

18. Plaintiff No. 1, Hell Energy Magyarország Kft. (Hell Energy Hungary Limited), is a company incorporated under the laws of Hungary. They are



the registered proprietor of the trademarks “HELL”, “



“ ” “ ” and “ ” in Class 32 under the Trade

¹ 2023 SCC OnLine SC 1382.



Marks Act, 1999³, in respect of energy drinks. Plaintiff No. 1 holds various registrations for the aforementioned marks, among others, across multiple international jurisdictions, pertaining to the goods and services they offer. These registrations not only reinforce their claim to the marks but also demonstrate the global recognition and protection of their brand. The details of relevant trademark registrations in India and elsewhere are set out in Paragraphs No. 42 and 23 of the plaint respectively, and documents to support such registrations have been placed on record. Further, Plaintiff No. 1 also owns and operates the domain names www.hellenergy.com and www.hellenergystore.com. Plaintiff No. 2, Hell-Energy Private Limited, is a company incorporated under the laws of India, engaged in importing and marketing ‘Hell Energy Drinks’ in India.

19. In April 2024, the Plaintiffs received information that their trademarks are being misused by the Imposters, who have registered the domain names “hellenergypvt.com” and “hell-energy.in”. Plaintiffs allege that the e-mail addresses associated with the aforementioned domain names are being utilised by the Imposters to dupe and defraud unsuspecting members of the general public into making financial investments by purportedly offering distributorships for the Plaintiffs’ products. This is demonstrated by referring to certain communications received by the Plaintiff from several recipients of such fraudulent emails, which enclose therewith fictitious distributorship agreements. Illustrative screenshots of one such email communication and distributorship agreement are reproduced hereunder:

² Hereinafter referred to as “*the Imposters*”.

³ “the Act”



"E-mail communication"



TOO

Approval of Hell Energy Distributorship

2 messages

HELL ENERGY DRINK <unni@hellenergypvt.com>
To: Akhterfaheem1@gmail.com

Thu, 2 May, 2024 at 12:06 pm

Dear, FAHEEM AKHTAR

As the step into the Hell Energy Private Limited family, we extend you a very warm welcome and wish you the best for your journey through a meaningful, successful and profitable business venture. You are now a part of an organization with a great legacy and exciting future. This is certifying that (Mr. FAHEEM AKHTAR) had applied online application form with reference Number HELLPVTLTD/769437700 submitted for award of the subject Distributorship of Hell Energy Pvt. Ltd.

We are pleased to inform you that you have been declared as successful candidate in -Draw of lots conducted by the company for the selection of Distributorship and subjected location up entire district pin - 244001.

Note-

1. Our company will give you product on 45% and in which you have to share 25% to 35% the Retailer or wholesaler.
2. Company will pay rent up to RS 35k per month for your space/Godown along with electricity bill.
3. Registration fee is refundable when you will complete three months with Hell Energy Pvt. Ltd

Account Details:-

Bank Name :- CENTRAL BANK OF INDIA
Beneficiary Name :- Hell Energy PVT. LTD.
Account Number :- 55517922218
IFSC Code :- CBIN0280623
Branch Name :- CHEMBUR EAST, MUMBAI

True Copy

Best Regards
Hell Energy Pvt. Ltd.
Alok Kumar (CRM)

1ST FLOOR, OFFICE NO .1, TAPASCHARYA SOCIETY,OPP. SAMARTH MANDIR,JAMBHLI NAKA,
TALADPALLI,THANE WEST, Thane, Maharashtra, 400601

Hell Energy PVT LTD.

www.hell-energy.in | CJ5 Swastik Mill Compound, V.N. Purav Marg, Chembur, Mumbai, Maharashtra-400071, India |

HELL ENERGY DRINK <unni@hellenergypvt.com>
To: Akhterfaheem1@gmail.com

Thu, 2 May, 2024 at 2:33 pm

Dear, FAHEEM AKHTAR

As the step into the Hell Energy Private Limited family, we extend you a very warm welcome and wish you the best for your journey through a meaningful, successful and profitable business venture. You are now a part of an organization with a great legacy and exciting future. This is certifying that (Mr. FAHEEM AKHTAR) had applied online application form with reference Number HELLPVTLTD/769437700 submitted for award of the subject Distributorship of Hell Energy Pvt. Ltd.



Distributorship Agreement



MAHARASHTRA

DISTRIBUTOR AGREEMENT

MEMORANDUM OF AGREEMENT entered at Pune this _____ day of _____, 20__.

BETWEEN

HELL ENERGY DRINK PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 having its registered office at NO 1 TAPASCHARYA SOCIETY, OPP SAMARTH MANDIR, JAMBHLI NAKA, TALAOPALI THANE WEST Thane-400601 Maharashtra. (hereinafter referred to as "HELL ENERGY DRINK", which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns);

AND

M/c _____
represented by its Sole Proprietor / duly Authorised Managing Partner,

Mr./ Ms.

S/o / D/o / W/o _____ Indian inhabitant, aged _____ years,

having a permanent address at _____

and presently residing at _____

having Trading Business (hereinafter called "DISTRIBUTOR" which expression shall mean and include heirs, executors, administrators and legal representatives of the sole proprietor) of the Other Part

True Copy

Pravin

”

20. Several persons have fallen prey to fraudulent activities, resulting in significant financial losses, the details of which are outlined in the plaint. These deceptive communications also reference a corporate entity named ‘Hell Energy Drink Private Limited’. However, according to investigations conducted by the Plaintiffs, no such company exists in the records of the Ministry of Corporate Affairs (MCA). This discrepancy highlights the



sophisticated nature of the fraud, leveraging non-existent corporate entities to lend credibility to their deceitful schemes and further emphasizing the urgency of addressing these fraudulent actions to protect the public and Plaintiff's business interest.

21. Based on the pleadings and documents attached to the plaint, the Plaintiffs have *prima facie* established their ownership of the trademark "HELL" and its derivative marks, along with their goodwill associated with these marks. Furthermore, as evidenced by the provided screenshots and other materials on record, it is apparent that the Imposters are misusing the Plaintiffs' registered trademarks. Specifically, they have incorporated the marks "HELL" and "HELL ENERGY" entirely in their impugned domain names hellenergypvt.com and hell-energy.in, as well as the email address unni@hellenergypvt.com. Furthermore, the Imposters are displaying the Plaintiffs' trademarks on their dubious websites and in fraudulent email communications, thereby creating a false impression of legitimacy by exploiting the Plaintiffs' well-established goodwill and reputation. This deceptive portrayal is not only misleading to the general public but also constitutes a clear infringement of the Plaintiffs' registered trademarks and an act of passing off. Moreover, it must be emphasised that there is strong element of public interest in this matter, as the pleadings and documents reveal that at least four victims have already suffered substantial financial loss consequent to being deceived by the fraudulent activities of the Imposters. Thus, the fraudulent activities of the Imposters would not only likely result in an erosion of the Plaintiffs' reputation, but also has the potential to cause grave financial injury to the public at large.

22. In view of the above, the Court finds that the Plaintiffs have made out



a strong *prima facie* case in their favour and in case no *ex-parte ad-interim* injunction is granted, Plaintiffs will suffer an irreparable loss; balance of convenience also lies in favour of the Plaintiffs and against the Imposters/ Defendant No. 11.

23. Accordingly, till the next date of hearing, the following directions are issued:

23.1. The unknown Defendant No. 11, and/or anybody acting on their behalf, are restrained from using the trademarks “HELL”/ “HELL ENERGY” and/or any other mark identical and/or deceptively similar to the



Plaintiffs’ trademarks “HELL”/ “HELL ENERGY”/ “



”, amounting to infringement or passing off, as part of their impugned domain names and/or any other website/ mode of communication, including *inter alia* email addresses, social media accounts and advertisements.

23.2. Defendants No. 4 and 5, the Domain Name Registrars, are directed to lock, block and suspend access to the concerned impugned domain names hellenergypvt.com and hell-energy.in, which are registered with them. Defendant No. 1 (NIXI) is directed to issue appropriate directions to ensure compliance in this regard.

23.3. Defendant No. 6 to 9 are directed to freeze the respective bank



accounts registered with them bearing No. 60478426947 (IFSC Code: MAHB0000089) and No. 55517922218, (IFSC Code: CBIN0280623), and disclose the identity of the beneficiaries of the said bank accounts, along with their bank account opening forms, KYC documents, complete bank statement from the date of opening account till the date of order, as available with them, in sealed cover with this Court, along with a copy thereof to the Plaintiffs, who shall use the said information solely for the purposes of impleadment and further investigation.

23.4. Defendant No. 10, Vodafone Idea Ltd., is directed to disable the mobile No. 9930373710 of the Imposters/ Defendant No. 11 and disclose the identity of the holder of the said mobile number, file the sim card application form and KYC documents as available with them, in sealed cover with this Court, along with a copy thereof to the Plaintiffs, who shall use the said information solely for the purposes of impleadment and further investigation.

23.5. Defendants No. 2 (MeitY) and 3 (DoT) to issue necessary directions/ notifications to all concerned Internet Service Providers (ISPs) and Telecom Service Providers (TSPs) in India, to block access to the websites “www.hellenergyprivt.com” and “www.hell-energy.in”.

24. Compliance of Order XXXIX Rule 3 of CPC be done with one week from today.

25. Issue notice, upon payment of process fee, by all permissible modes, returnable on the next date of hearing. Reply, if any, be filed within four weeks from date of service. Rejoinder thereto, if any, be filed within two weeks thereafter.



26. List before the Court on 06th November, 2024.

MAY 30, 2024
d.negi

SANJEEV NARULA, J



Sr. DDG (PG)

1171090/2024/CP

S.S. RANA & Co.
ADVOCATES

June 04, 2024

1. National Internet Exchange of India (NIXI)
Through its Director,
9th Floor, B-Wing, Statesman House,
148, Barakhamba Road, New Delhi 110001
Email: info@nixi.in
2. Ministry of Electronics and Information Technology
Through its Secretary,
Electronic Niketan, 6 CGO Complex
Lodhi Road, New Delhi- 110003
Email: secretary@meity.gov.in
3. Department of Telecommunications
Ministry of Communication
Through its Secretary,
Sanchar Bhavan, 20 Ashoka Road,
New Delhi- 110001
Email: moc-office@gov.in
4. HOSTINGER operations, UAB
Švitrigailos str. 34, 03230,
Vilnius, Lithuania

Also at:

Hostinger International Ltd.
Through its Grievance Officer
61 Lordou Vironos Street, 6023,
Larnaca, Cyprus
Email: abuse@hostinger.com
5. Hostinger, UAB,
Jonavos str. 60C,
44192, Kaunas, Lithuania
Email: abuse@hostinger.com
Contact No.: +37064503378
6. Bank of Maharashtra
Through its Branch Manager
No 70E, Mahabank Building,
Dayanand Saraswati Road.

Di (PG-II) - Om led R.
908/Sr Delhi (PG)
6/6/2024
US (PG TL)

No. 723/Di (PG II) by
7/6/24.

Registered Office : 317, Lawyers' Chambers, High Court of Delhi, New Delhi 110003. India
t: 91 - 11 - 4012 3000 (100 Lines) f: 91 - 11 - 4012 3010 e: ssrana@ssrana.com

w: www.ssrana.in

NEW DELHI NOIDA KOLKATA MUMBAI CHENNAI BANGALORE CHANDIGARH

Chembur, Mumbai – 400071
Email: hocomplaints@mahabank.co.in

7. Bank of Maharashtra
Through its Manager,
Head Office, 'Lokmangal',
1501, Shivajinagar, Pune – 411005
Email: hocomplaints@mahabank.co.in
8. Central Bank of India
Through its Branch Manager
Sai Kiran Apartment Plot No 217
Central Avenue, Chembur,
Mumbai - 400071
Email: bmmsro0623@centralbank.co.in
Contact No.: +91-9930079263
9. Central Bank of India
Through its Manager
Chander Mukhi, Nariman Point
Mumbai – 400 021
Email: zmmmzo@centralbank.co.in
10. Vodafone Idea Ltd.
Regional office:
A-19, Mohan Co-operative Industrial Estate,
Mathura Road, New Delhi -110044
Email id: customercare@vodafoneidea.com

Dear Sir(s),

Re: Notice of Compliance under Order XXXIX Rule 3 of the Code of Civil Procedure in C.S. (COMM) No. 494 of 2024 titled as 'Hell Energy Magyarorszag Kft. & Anr. vs. National Internet Exchange of India & Ors.' filed before the Hon'ble High Court of Delhi at New Delhi.

We are the Counsel for the Plaintiff No. 1, Hell Energy Magyarorszag Kft. of the address 1062 Budapest, Andrassy út. 126., Hungary of America and Plaintiff No. 2, Hell-Energy Private Limited of the address 203, 2nd Floor, Inizio CTS 479, 479/1

Annexure

Subject: Action requested to be taken by MEITY and Plaintiff for effective removal of content for viewing by public at large within India as per the said orders of Hon'ble Court.

It is observed that a number of orders of Hon'ble Court are issued for blocking of websites every month. There are around more than 2700 ISPs in India and these ISPs are connected among themselves in a mesh network. DOT is instructing each of the ISPs through emails/through its website for blocking of the websites as ordered by the Hon'ble Courts. Ensuring compliance of the orders by each of the ISPs is a time-consuming and complex task especially in view of multiplicity of orders of Hon'ble Courts, multiplicity of websites to be blocked and multiplicity of ISPs.

2. Allocation of Business Rules inter-alia states thus:-

'Policy matters relating to information technology; Electronics; and Internet (all matters other than licensing of Internet Service Provider).'

3. In view of above and in order to ensure effective removal by content for viewing by public at large, the plaintiff is requested to do a trace route of the web server hosting the said website. In case the web server happens to be in India, the plaintiff may inform the same to Meity who may direct the owner of such web server to stop transmission of content as per IT Act and as directed by the Hon'ble Court so that the content would be blocked from the source itself and the exercise of blocking by 2700 ISPs would not be required.

4. In case such server is located abroad i.e. outside India then access to such URL/website can be blocked through the international internet gateways which are much less in number. This would result in timely and effectively removal of undesirable content for viewing by public at large as is the requirement as per the orders of Hon'ble Court.