

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-32/2022-DS-II**Dated:08-11-2024****To,**

All Internet Service Licensee's

Subject: CS (Comm) No. 303 of 2022; Burger King Corporation & Swapnil Patil & Ors. Before Hon'ble Delhi High Court

Kindly find the enclosed Hon'ble Delhi High Court order dated **18.10.2024** on the subject.

2. Please refer **Para 13** of said court order regarding blocking of **websites** enumerated in **para 11(i)** of the aforesaid court order.

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

Digitally signed by

Ram Kailash Meena

Director (DS-II)Date: 08-11-2024 17:27:00
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. Mr. Harish Vaidyanathan Shankar (hvscgscdhc@gmail.com), learned Central Government Standing Counsel for kind information
- iii. Sh. Mukul Kochhar (mukul@ira.law), Attorney, Ira Law counsel for the plaintiff for kind information.

(a) Take action as per Annexure.

iv. 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) 303/2022, I.A.42225/2024**

BURGER KING CORPORATION Plaintiff

Through: Mr. Mukul Kochhar, Ms. Aakriti
Bansal, Advs. (8860959528)

versus

SWAPNIL PATIL & ORS. Defendants

Through: Appearance not given.

CORAM:

JUSTICE PRATHIBA M. SINGH



ORDER

% **18.10.2024**

1. This hearing has been done through hybrid mode.

I.A.42225/2024 (for stay) in CS (COMM) 303/2022

2. The present suit has been filed by the Plaintiff- Burger King Corporation (now Burger King Company LLC) seeking protection of its marks 'BURGER KING', 'BK' 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. Further, vide the said order it was also directed that the Cyber Crime Division/Cell, Mumbai, shall undertake the investigation in accordance with law and take all necessary action, including tracing the persons who are operating these websites, freezing of bank accounts and obtaining any further details which may be available in respect of the persons who have registered these websites and collected huge sums of money from unsuspecting consumers.

4. In this suit, earlier, many unknown Defendants have been known to have obtained registration of domain names, which were a variation of the words 'BURGER KING', 'INDIA', 'FRANCHISE' or 'FRANCHISES', etc. It is stated that these websites available at these domain names prominently displayed the Plaintiff's 'BURGER KING' trade mark and devices and solicited franchise applications from the unsuspecting general public. Further, it is stated that upon receiving a franchise application, the unknown Defendants appeared to have sent emails to the unsuspecting victims, in the guise of representatives of the master franchisee of the Plaintiff's exclusive licensor in the Asia-Pacific region viz. Restaurant Brands Asia Limited. These unknown Defendants also have been known to circulate various forged and/ fabricated documents including 'approval letters', 'letters of intent', and 'invoices' all prominently bearing the Plaintiff's trademarks. In furtherance to the forgery and fabrication, the unknown Defendants asked the victims to transfer monies for payment of 'registration fees', 'franchise fee', 'equipment fee' etc., for procuring a



‘BURGER KING’ franchise. Once the victims transferred such monies, the unknown Defendants would cease all contact with the victims and stop responding to their calls and/ or emails.

5. In the present suit, injunctions have already been granted by this Court in favour of the Plaintiff vide orders dated 10th May 2022, 28th July 2022, 24th November 2022, 21st December 2022, 22nd December 2022, 6th January 2023, 1st February 2023, 20th February 2023, 19th April 2023, 27th April 2023, 21st June 2023, 21st July 2023, 15th September 2023, 4th December, 2023, 16th February, 2024 and 3rd April, 2024 in respect of various illegal domain names. A table detailing the injunction orders passed by this Hon’ble Court against the various domain names and bank accounts registered by the various Defendants, have been listed in paragraph 8 of this application.

6. In the present application, the case of the Plaintiff is that recently a master franchise of the Plaintiff had come across new instances of fraudulent websites and bank accounts, the details of which have been set out in paragraph 11 of the application as under:

“a. Bank account number 15460100085033 registered with Federal Bank Limited. (Previously impleaded as Defendant No. 10)

i. The details of the bank account are as follows:

Name:	Restaurant Brands Asia Limited (i.e. the name appearing on Defendants' invoice but likely incorrect)
Account No.:	15460100085033
IFSC:	FDRL0001829



Branch:	Andheri East (Federal Bank Limited)
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ii. The Plaintiffs Indian master franchisee has received a complaint alleging that the Main Defendants had issued a letter of intent to an individual towards opening a 'BURGER KING' outlet in Bhopal, Madhya Pradesh. Based on the letter of intent issued by the Main Defendants, the said individual was asked to make a payment of Rs. 2,65,500/- (Rupees Two Lacs Sixty Five Thousand and Five Hundred Only) to the Main Defendants' bank account registered with Federal Bank Limited. A copy of the letter of intent received by the Plaintiffs Indian master franchisee has been filed along with this application.

iii. Federal Bank Limited was impleaded as Defendant No. 10 in the present suit and was deleted from the array of parties vide order dated December 12, 2022 based on its undertaking to comply with further directions passed by the Court in the present suit.

b. Domain name 1 - www.burgerkingpartnerindia.com

i. A Whois search has revealed that this domain name was registered on September 6, 2024 through Defendant No. 16, i.e., GoDaddy.com, LLC.

ii. The registrant contact details of the impugned domain name have been masked on behalf of the Main Defendants by Domains By Proxy, LLC.

iii. The website available at this domain name prominently displays the Plaintiff's registered BURGER KING trade marks and as in the case of all other previous domain names, invites applications from members of the general public to apply for a "BURGER KING" franchise. Printouts of the website available at this domain name have been filed along with the present application.



iv. The letter of intent sent by the Main Defendants also mention the email address, info@burgerkingpartnerindia.com, which is being used by the Main Defendants to communicate with their victims.

c. Domain name 2 -

www.burgerkingfranchiseeindia.com

i. This domain name was registered on August 16, 2024 through FastDomain Inc. The registrant contact details for this domain name have been masked by FastDomain Inc.

ii. The website available at this domain name is identical to the website available at Domain name 1, i.e., www.burgerkingpartnerindia.com and prominently displays the Plaintiff's registered BURGER KING. Printouts of the website available at this domain name have been filed along with the present application.

iii. The website also mentions the email address info@burgerkingfranchiseeindia.com.

iv. Pertinently, this Hon'ble Court had previously directed FastDomain Inc. to suspend a virtually identical domain name www.burgerkingfranchisee.com (as opposed to ... franchiseeindia.com) vide order dated September 15, 2023."

7. As per the application, it is claimed that the main Defendants are continuously expanding their scale of operations and, therefore, there is an imminent need to restrain these domain names and block the bank accounts as well. In the present application, it is stated that the defrauding Defendants are obtaining registration of domain names, which are a variation of the words 'BURGER KING', 'INDIA', 'FRANCHISE', 'FRANCHISES' or misspellings thereof such as 'BURGAR' and 'KING'



(with a small 'L' instead of an 'I'). It is stated that the websites available at these domain names prominently display the Plaintiffs' 'BURGER KING' trademarks and solicit franchise applications. It is also averred that despite Plaintiff obtaining injunction orders, the Defendants repeatedly evaded orders by creating new domains and bank accounts to continue their fraudulent scheme. It is stated that in the last two years approximately 30 domain names and 21 bank accounts have been opened by the Defendants.

8. The Court has, from time to time passed several orders protecting the mark 'BURGER KING'. 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 as noted above. The domain names, which have been already injuncted/blocked have been set out in paragraph 8 of the application. The Plaintiff has, however, has come across further defrauding by unknown persons using the above two domain names as listed in paragraph 6 above.

9. Specifically, it has been revealed that some unsuspecting consumer who wanted to obtain a Burger King franchise was sent a letter of intent ('LOI') to pay a sum of Rs.2,65,000/- to the bank account of Restaurant Brands Asia Limited which has registered its domain name at serial no. (ii) as listed in paragraph 6 above *i.e.*, www.burgerkingpartnerindia.com and uses an email account which is info@burgerkingpartnerindia.com. The bank account details related to said account as provided along with the fraudulent letter of intent is as under:



Name	Restaurant Brands Asia Limited
Account Number	15460100085033
IFSC Code	FDRL0001829
Branch	Andheri East
Bank	Federal Bank Limited

10. It is seen from the impugned bank account, the domain names listed in paragraph 6 above as also the letter of intent attached with the present application, that the said domain names are infringing in nature as they use the name 'BURGER KING' fully and they are also collecting money from the unsuspecting customers through the bank account.

11. The Plaintiff has, thus, made out a *prima facie* case for grant of interim relief. Balance of convenience is also in favour of the Plaintiff and against the Defendants. Irreparable harm would be caused, not only to the Plaintiff but also to the public – unsuspecting customers if an *ex-parte ad interim* injunction as prayed is not granted in favour of the Plaintiff. It is accordingly deemed appropriate to extend the injunction order dated 10th May, 2022 to cover these domain names. Accordingly, the following directions are issued:

- (i) Accordingly, an interim injunction is granted restraining www.burgerkingpartnerindia.com and www.burgerkingfranchiseindia.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.burgerkingpartnerindia.com thereby ensuring



that the website is no longer accessible to any consumers. Further, if the email address info@burgerkingpartnerindia.com is opened by or through concerned DNR, the said email shall also be suspended/blocked;

- (iii) FastDomain Inc. shall, with immediate effect, suspend/block the domain name www.burgerkingfranchiseeindia.com thereby ensuring that the website is no longer accessible to any consumers. Further, if the email address info@burgerkingfranchiseeindia.com is opened by or through concerned DNR, the said email shall also be suspended.

12. GoDaddy.com LLC and FastDomain Inc. shall disclose the identity of the registrants of the domain names: www.burgerkingpartnerindia.com & www.burgerkingfranchiseeindia.com, respectively to the Plaintiff within two weeks.

13. Let the Ministry of Electronics and Information Technology ('MeitY') and Department of Telecom ('DoT') issue instructions to all Internet Service Providers ('ISPs') for blocking of the said infringing websites/ domain names.

14. The Federal Bank Limited is directed to freeze and bank account bearing no. 15460100085033 and file an affidavit of compliance within one week. Further, Federal Bank Limited shall disclose in the said affidavit the identity of the of the account holder of the bank account number 15460100085033, along with the KYC documents.

15. Ms. Hetu Arora Sethi, Id. ASC through Mr. Arjun Basra, Id. Counsel submits that the Federal Bank Limited, Andheri West Branch is noticed to have opened several bank accounts of persons registering the domain name



‘BURGER KING’. Accordingly, the order dated 12th December, 2022, whereby Federal Bank Limited was deleted from the array of parties, is thus recalled and Federal Bank Limited is reinstated as a party in the present suit.

16. The amended memo of parties be filed within a week.

17. Let Court notice be issued to Id. Counsel for Federal Bank who has appeared. The details of the said counsel is as under:

Mr. Harshad V. Hameed
[Email-adv.harshad@gmail.com](mailto:adv.harshad@gmail.com)
Mob. No. 9818223896

18. In addition, the Branch Manager of Federal Bank Limited, Andheri East shall be present in Court on the next date of hearing, either virtually or physically.

19. Order XXXIX Rule 3 CPC shall be complied within a week.

20. List on 11th December, 2024 i.e., the date already fixed.

21. The amended memo of parties be filed within a week. Copy of the present order be communicated to all the concerned service providers including GoDaddy.com LLC, FastDomain Inc., all the email service providers, MeitY, DoT and Federal Bank Limited who shall carry out the directions given in the order with immediate effect.

PRATHIBA M. SINGH, J.

OCTOBER 18, 2024

dj/bh

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

Original Commercial Civil Jurisdiction

CS (Comm) No. ____ of 2022

Burger King Corporation ... Plaintiff

Versus

Swapnil Patil & Ors. ... Defendants

MEMO OF PARTIES

Burger King Corporation

5505, Blue Lagoon Drive,

Miami, Florida 33126

United States of America

Email: office@ira.law

... Plaintiff

Versus

1. Swapnil Patil

Email: info@burgerkingfranchises.co.in

support@burgerkingfranchises.co.in;

franchise@burgerkingfranchises.co.in

info@burgerkingfranchise.co.in

Phone: +91 7709155644

... Defendant No. 1

2. Vinay Nayak

Email: info@burgerkingfranchises.co.in;

support@burgerkingfranchises.co.in;

franchise@burgerkingfranchises.co.in

info@burgerkingfranchise.co.in

Phone: +91 7291823890

... Defendant No. 2

3. Shushil Jadhav

Email: info@burgerkingfranchises.in

Phone: +91 9819100695

... Defendant No. 3

4. Namecheap, Inc.

4600, East Washington Street,

Suite 305, Phoenix,

Arizona - 85034

United States of America
 Email: legal@namecheap.com ... Defendant No. 4

5. Dreamscape Networks International Pte Ltd

3 Irving Road #09-01
 Singapore 369522
 Email: info@dreamscapenetworks.com ... Defendant No. 5

6. National Internet Exchange of India

9th Floor, B-Wing,
 Statesman House, 148,
 Barakhamba Road,
 New Delhi – 110001
 Email: info@nixi.in ... Defendant No. 6

7. Ministry of Communications

Department of Telecommunications
 Sanchar Bhawan, 20 Ashoka Road
 New Delhi – 110001
 Email: Dysecyvig.hq-dot@nic.in ... Defendant No. 7

8. Ministry of Electronics & Information Technology

Electronics Niketan, 6,
 CGO Complex, Lodhi Road
 New Delhi – 110003
 Email: s.chaudhary@gov.in ... Defendant No. 8

9. Bank of India


Star House, C-5, “G” Block,
 Bandra Kurla Complex,
 Bandra (East), Mumbai - 400051
 Email: manasi.phene@bankofindia.co.in ... Defendant No. 9

10. Federal Bank Limited

Federal Towers,
 Aluva – 683101
 Kerala
 Email: alwy@federalbank.co.in ... Defendant No. 10

- 11. Punjab National Bank**
Plot No. 4, Sector – 10,
Dwarka, New Delhi – 110075
Email: care@pnb.co.in ... Defendant No. 11
- 12. UCO Bank**
UCO Bank Head Office
10, BTM Sarani, Kolkata
West Bengal – 700001S
Email: hopgr.calcutta@ucobank.co.in
customercare.calcutta@ucobank.co.in ... Defendant No. 12
- 13. Bharti Airtel Limited**
Airtel Center,
Plot No. 16, Udyog Vihar,
Phase – IV, Gurgaon,
Haryana – 122001
Email: compliance.officer@bharti.in
... Defendant No. 13
- 14. Vodafone Idea Limited**
10th Floor,
Birla Centurion, Century Mills Compound,
Pandurang Budhkar Marg,
Worli, Mumbai – 400030
Email: Pankaj.kapdeo@vodafoneidea.com
... Defendant No. 14
- 15. John Doe** ... Defendant No. 15

New Delhi
Dated: May 07, 2022


Aditya Gupta | Mukul Kochhar
D/2700/2010 | D/3649/2018
Ira Law
Advocates for the Plaintiff
Email: office@ira.law
Ph.: 9958158982

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.