

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:28.02.2023

To,

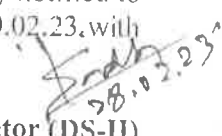
All Internet Service Licensees'

**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 20.02.23 in the subject matter for compliance in respect of blocking of following **two websites** mentioned in **para 13 (ii)** of the said court order:

- (i) www.burgerkingbusiness.com
- (ii) www.indiaburgerkingfranchise.in

3. Accordingly, in view of the above, all the Internet Service licensees are hereby notified to take immediate necessary blocking action for compliance of the court order dated 20.02.23, with respect to **two websites** mentioned in **para 13(ii)** of the court order.


Director (DS-II)
Tel: 011-2303 6860
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 necessary action.
- (ii) Mr. Harish Vaidyanathan Shankar, learned Central Government Standing Counsel for kind information along with technical limitation in blocking at ISPs.
- (iii) Sh. Mukul Kochhar, Attorney, Ira Law counsel for the plaintiff (mukul@ira.law) for kind information along with technical limitation in blocking at ISPs.
- (iv) IT wing of DoT for uploading on DoT website.

DDG (DS) / Dir. (DS-II) / 300 DS-II

794852/2023/CR

27/2/24

 ira law

By email/ speed post

February 23, 2023

Ministry of Communications

Department of Telecommunications

Sanchar Bhawan, 20 Ashoka Road

New Delhi – 110001

Email: Dysecyvig.hq-dot@nic.in; hvscgscdhc@gmail.com

**RE: IMPORTANT AND URGENT NOTICE REGARDING INJUNCTION ORDERS
PASSED IN BURGER KING CORPORATION V. SWAPNIL PATIL & ORS., CS (COMM)
NO. 303 OF 2022, DELHI HIGH COURT**

Dear Sirs,

We act for Burger King Company LLC, having its offices at 5707, Blue Lagoon Drive, Miami, Florida 33126, United States of America (hereinafter referred to as "**the Plaintiff**").

The captioned suit has been filed by the Plaintiff for permanent injunction restraining infringement of trademarks, passing off, dilution, damages, rendition of accounts, delivery up etc.

The said suit was listed on February 20, 2023 before Hon'ble Mr. Justice Amit Bansal and vide order dated February 20, 2023 the Hon'ble High Court has granted an ad-interim injunction directing you (Defendant No. 6) to take the following steps:

1. Issue directions to all ISPs to block the websites available at the domain names (i) www.burgerkingbusiness.com and (ii) www.indiaburgerkingfranchise.in so that the same are not accessible and file an affidavit of compliance thereby confirming issuance of the said directions within 3 weeks from 20.02.23.

A copy of the order dated February 20, 2023 passed by the Hon'ble High Court of Delhi granting the ad-interim injunction is attached.

The above suit is now listed before the Joint Registrar on March 21, 2023.

Sincerely,



Raunaq Kamath
Advocate for the Plaintiff
Enrl. No. D/3242/2010

P-1-R-

3-A, Plot No. 8B, Jangpura B, Mathura Road, New Delhi –
110014, India

Email: office@ira.law | Phone: +91 11-40204694

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(COMM) 303/2022

BURGER KING CORPORATION

..... Plaintiff

Through: Mr.Raunaq Kamath and Mr.Mukul
Kochhar, Advocates.

versus

SWAPNIL PATIL & ORS.

..... Defendants

Through: Ms.Shweta Sahu, Mr.P.Khare,
Mr.Brijesh Ujjainwal, Advocates for
D-16/Godaddy.Com, LLC.

Mr.Harish Vaidyanathan Shankar,
CGSC, Mr.Srish Kumar Mishra,
Mr.Sagar Mehlawat and
Mr.Alexander Mathai Paikaday,
Advocates for D-7 and D-8.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

20.02.2023

%

I.A. 3319/2023 (O-XXXIX R-1 & 2 of CPC)

1. The present application has been filed on behalf of the plaintiff seeking further interim orders on account of new domain names, bank accounts and mobile numbers that have recently come to the knowledge of the plaintiff.

2. It has come to the notice of the plaintiff that the main defendants in the suit have obtained the registration of the following domain names:
“www.burgerkingbusiness.com” and “www.indiaburgerkingfranchise.in”.

3. Further, the plaintiff has also come across three new bank accounts with the proposed defendant no.18, HDFC Bank Limited, the details of which are given below:

ACCOUNT 1

*Name: Burger King India Limited
A/c No.: 50100562887799
Bank: HDFC Bank, Mumbai, Andheri East
IFSC: HDFC0000086*

ACCOUNT 2

*Name: Burger King India Limited
A/c No.: 50100433634535
Bank: HDFC Bank, Mumbai, Andheri East
IFSC: HDFC0000086*

ACCOUNT 3

*Name: Burger King India Limited
A/c No.: 50100542394491
Bank: HDFC Bank, Mumbai, Andheri East
IFSC: HDFC0000086*

4. The plaintiff has also come across two new email addresses, "info@burgerkingfranchise.in" and "franchise@burgerkingbusiness.com" and two new phone numbers, +91 8961292537 and +91 8167393808, which are used by the main defendants for contacting the victims.

5. Insofar as prayer (c) of the present application is concerned, the counsel appearing for the defendant no.16 submits that the email address "info@burgerkingfranchise.in" stands suspended in compliance of the order passed by this Court on 21st December, 2022.

6. Issue notice.

7. Notice is accepted by the counsel appearing for the defendants no. 7, 8 and 16.

8. Notice be issued to the remaining defendants through all modes

IN THE HIGH COURT OF DELHI AT NEW DELHI
(Ordinary Original Commercial Civil Jurisdiction)

I.A. No. 3319 of 2023

IN

C.S. (Comm.) No. 303 of 2022

Burger King Corporation ... Plaintiff

Versus

Swapnil Patil & Ors. ... Defendants

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THROUGH

New Delhi
Dated: February 17, 2023


Ira Law
Advocates for the Plaintiff
Email: office@ira.law
Ph.: 9958158982

NOTE - There is 1 Plaintiff and 18 Defendants in this matter.

All parties have been served and affidavit of service has been filed.

List of documents in support of this application have been filed vide a separate index dated February 17, 2023.

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI
Original Commercial Civil Jurisdiction
I.A. No. 3319 of 2023
IN
CS (Comm) No. 303 of 2022

Burger King Corporation ... Plaintiff
Versus
Swapnil Patil & Ors. ... Defendants

URGENT APPLICATION

The Registrar
High Court of Delhi
New Delhi




Sir,

It is hereby stated that the accompanying application and documents attached thereto, may kindly be treated as very urgent as per the Delhi High Court Rules. Hence it is most humbly prayed that the Hon'ble Court may be pleased to kindly list the application for hearing on February 20, 2023 and oblige.

THROUGH

New Delhi
Dated: February 17, 2023


Ira Law
Advocates for the Plaintiff
Email: office@ira.law
Ph.: 9958158982

IN THE HIGH COURT OF DELHI AT NEW DELHI
(Ordinary Original Commercial Civil Jurisdiction)

I.A. No.3319of 2023

IN

C.S. (Comm.) No. 303 of 2022

In the matter of:

Burger King Corporation ... Plaintiff

Versus

Swapnil Patil & Ors. ... Defendants

APPLICATION UNDER ORDER XXXIX RULES 1 & 2 READ
WITH SECTION 151 OF THE CODE OF CIVIL
PROCEDURE, 1908 ON BEHALF OF THE PLAINTIFF

The Plaintiff above named *showeth* as under:

1. The Plaintiff has filed the present suit seeking a permanent injunction restraining infringement of the Plaintiff's registered trademarks "BURGER KING", "BK", Crescent Logo Design





- and the Hamburger Refresh Design Logo -



, passing off, dilution, damages, rendition of accounts, delivery up etc. The present suit is pending before this Hon'ble Court and the plaint may kindly be referred to.

2. In the present suit, the Plaintiff had demonstrated the manner in which the Defendant Nos. 1 to 3 and Defendant No. 12, i.e., the unidentified John Doe Defendants (hereinafter collectively referred to as the 'Main Defendants') are duping innocent persons. The Main Defendants are communicating with persons seeking a BURGER KING franchise and issuing documents such as "approval letters" and "letter of intent" and

“invoices” by misusing the Plaintiff’s registered trademarks

BURGER KING and the logos  and . The various approval letters, invoices and letters of intent issued by the Main Defendants also contain bank account details for transfer of funds. Since innocent persons were being duped on account of this fraud, several of them had written to the Plaintiff’s Indian master franchisee and these complaints had been filed along with the plaint. Accordingly, this Hon’ble Court had passed an ad-interim injunction order dated May 10, 2022.

3. Subsequently, in early June 2022 the Plaintiff learned that the Main Defendants had obtained registration of new domain names, i.e., www.burgerkingfranchises.com and www.burgerkingfranchise.in and were also using a different bank account to continue with their infringing activities. The Plaintiff immediately filed I.A. No. 11730 of 2022 under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908. The infringing domain names were blocked upon advance service of the said application and the new bank account was frozen vide this Hon’ble Court’s order dated November 24, 2022.
4. Thereafter in November 2022, the Plaintiff’s Indian master franchisee received more complaints from victims of the Defendants fraudulent activities. These complainants revealed that the Main Defendants had obtained registration of two more domain names www.burgerkingfranchise.com and

www.burgerkingfranchise.in and opened five new bank accounts 110054628296, 110078859893, 110080686442, 110084817397 and 110069829830 with Defendant No. 15, i.e., Canara Bank Ltd. in order to continue their illegal operations. Accordingly, the Plaintiff filed I.A. Nos. 21036 of 2022 and 22069 of 2022 *inter alia* seeking directions for freezing the five new bank accounts registered with Defendant No. 15 and disclosure of the details of the account holders. Vide orders dated December 21 and 22, 2022, this Hon'ble Court allowed the Plaintiff's applications and *inter alia* passed directions to Defendant No. 15 to freeze the five new bank accounts and disclose KYC details of the account holders.

5. In late December 2022, the Plaintiff's Indian master franchisee received another complaint which revealed that the Main Defendants had opened a new bank account with Defendant No. 17, Yes Bank Limited bearing number 061899500164311. The Plaintiff filed I.A. No. 169 of 2023 *inter alia* seeking directions for freezing the newly discovered bank account and disclosure of details of the account holder. On January 6, 2023, this Hon'ble Court allowed the Plaintiff's aforementioned application.
6. In January 2023 the Plaintiff's Indian master franchisee received several more complaints which revealed that the Main Defendants had obtained registration of six (6) new domain names namely www.burgerkingind.in, www.burgerkingfranchise.co.in, www.burgerkingfranchise.co, www.burgerkingind.com, www.burgerkingpartners.in and

www.burgerkingbusiness.com and opened a new Bank account with Defendant No. 18 (HDFC Bank Limited) bearing number 50100581778775. These complaints also revealed that the Main Defendants were using the mobile numbers +91 7044930161 and +91 8961407473 both of which are registered with Defendant No. 10 (Bharti Airtel Limited). The Plaintiff immediately filed I.A. No. 1932 of 2023 under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 and vide order dated February 1, 2023 this Hon'ble Court passed directions for suspension of the aforementioned six domain names, freezing the HDFC bank account and disclosure of identity and KYC documents of the HDFC bank account and the mobile numbers being used by the Main Defendants.

7. Recently, the Plaintiff's Indian master franchisee has received more complaints and the Plaintiff has also conducted independent enquiries, which have revealed the following:
 - a. The Main Defendants have obtained registration of the following new domain names -

Domain Name	Domain Name Registrar	Date of Registration	Registrant Details	Status of website
www.burgerkingfranchiseindia.com	BigRock Solutions Ltd.	23.01.2023	Name: Gaurav Kappor Address: Shop No. 2	This website has been suspended by the domain name registrar on February 16, 2023.

			<p>Dhaval Giri Bldg Liberty Garden Rd No Mumbai</p> <p>Phone no.: +91 9718523402</p> <p>Email: r68272303@gmail.com</p>	<p>As on February 15, 2023, this website was a mirror image of the websites www.burgerkingfranchises.co.in, www.burgerkingfranchise.co.in, www.burgerkingpartners.in and www.burgerkingbusiness.com which were suspended by this Hon'ble Court's orders dated May 10, 2022 and February 1, 2023.</p>
www.burgerkingbusiness.com	OwnRegistrar, Inc.	23.12.2022	WhoisSecure	No website is available at this domain name.
www.indiaburgerkingfranchise.in	Hosting Concepts B.V. d/b/a Openprovider	08.02.2023	Redacted for privacy	Redirects to the Plaintiff's website www.burgerking.in

- b. The Main Defendants had also opened three new bank accounts with Defendant No. 18 (HDFC Bank Limited), the details of which have been provided hereinbelow:

ACCOUNT 1

Name: Burger King India Limited
A/c No.: 50100562887799
Bank: HDFC Bank, Mumbai, Andheri East
IFSC: HDFC0000086

ACCOUNT 2

Name: Burger King India Limited
A/c No.: 50100433634535
Bank: HDFC Bank, Mumbai, Andheri East
IFSC: HDFC0000086

ACCOUNT 3

Name: Burger King India Limited
A/c No.: 50100542394491
Bank: HDFC Bank, Mumbai, Andheri East
IFSC: HDFC0000086

- c. While the website www.burgerkingfranchise.in has been blocked by Defendant No. 16 (GoDaddy.com, LLC) following this Hon'ble Court's order dated December 21, 2023, however, the Main Defendants appear to have continued use of the email address info@burgerkingfranchise.in.
- d. The Main Defendants are also using the email address franchise@burgerkingbusiness.com to communicate with their victims.

- e. The Main Defendants are contacting their victims using the mobile numbers (i) +91 8961292537 and (ii) +91 8167393808. A truecaller search conducted by the Plaintiff has revealed that all the aforementioned mobile numbers are registered with Defendant No. 10 (Bharti Airtel Limited).
8. These new complaints have yet again confirmed that despite the numerous injunction orders passed by this Hon'ble Court, the Main Defendants have continued their fraudulent and illegal activities thereby intentionally and blatantly violating this Hon'ble Court's order dated May 10, 2022.
9. In light of the foregoing, the Plaintiff is seeking issuance of directions for **suspension** of the two new fraudulent domain names (i) www.burgerkingbusiness.com and (ii) www.indiaburgerkingfranchise.in to Defendant Nos. 1 to 3 and 12 as well as the respective domain name registrars and directions to Defendant No. 18 (HDFC Bank Limited) to **freeze** the bank account numbers 50100562887799, 50100433634535 and 50100542394491 and **disclose** on affidavit the identity of the account holder, KYC documents, identity related documents and bank statements from the date of opening of the accounts till date. It is pertinent to mention that under identical circumstances, this Hon'ble Court has previously granted similar relief to the Plaintiff vide orders dated May 10, November 24, December 21, December 22, 2022, January 6 and February 1, 2023.
10. The Plaintiff is also seeking issuance of directions to Defendant No. 10, i.e., the network provider of the newly

discovered mobile numbers (i) +91 8961292537 and (ii) +91 8167393808, to disclose on affidavit the CDR cell ID of the aforementioned mobile numbers along with the complete identity, i.e., name, address, phone number, e-mail ID, billing and payment details, KYC documents, identity related documents of the respective subscribers of the mobile numbers (i) +91 8961292537 and (ii) +91 8167393808 along with the last 10 GPS locations of the said phone numbers. Vide orders dated May 10, 2022, January 6 and February 1, 2023 this Hon'ble Court had passed similar directions to Defendant No. 10. Hence, the present application.

11. It is submitted that it is clear from the above that the Plaintiff has a strong prima facie case in its favour. The Plaintiff is suffering irreparable and incalculable loss of goodwill and reputation on account of the continued infringing activities of the Main Defendants. The balance of convenience is also in favour of the Plaintiff and it is imperative that this Hon'ble Court passes urgent orders to protect the interests of the public who are being duped on account of the Main Defendants' fraudulent activities mentioned hereinabove.

PRAYER

12. Keeping in view the aforesaid circumstances, it is respectfully prayed before this Hon'ble Court that it may be pleased to grant the following reliefs to the Plaintiff:

- a. An order directing for suspension of the domain names (i) www.burgerkingbusiness.com and (ii) www.indiaburgerkingfranchise.in by Defendant No. 1

(Swapnil Patil), Defendant No. 2 (Vinay Nayak), Defendant No. 3 (Shushil Jadhav), Defendant No. 12 (John Doe Defendant) and the respective domain name registrars.

- b. An order directing Defendant Nos. 6 and 7, i.e., Ministry of Communications and Ministry of Electronics & Information Technology respectively to issue directions to all ISPs to block the website available at the domain names (i) www.burgerkingbusiness.com and (ii) www.indiaburgerkingfranchise.in so that the same are not accessible and file an affidavit of compliance within a time period specified by this Hon'ble Court.
- c. An order for directing Defendant No. 16 (GoDaddy.com, LLC) to suspend the email address info@burgerkingfranchise.in and file an affidavit of compliance within a time period specified by this Hon'ble Court;
- d. An order directing for suspension of the email address franchise@burgerkingbusiness.com by Defendant No. 1 (Swapnil Patil), Defendant No. 2 (Vinay Nayak), Defendant No. 3 (Shushil Jadhav), Defendant No. 12 (John Doe Defendant) and the respective domain name registrars.
- e. An order directing Defendant No. 18, HDFC Bank Limited, to immediately freeze the bank account numbers 50100562887799, 50100433634535 and 50100542394491 and file an affidavit of compliance within a time period specified by this Hon'ble Court;

- f. An order directing Defendant No. 18, HDFC Bank Limited, to disclose on affidavit the identity of the account holder of bank account numbers 50100562887799, 50100433634535 and 50100542394491, KYC documents, identity related documents and bank statements from the date of opening of the accounts till date, within a time period specified by this Hon'ble Court;
- g. An order directing Defendant No. 10, Bharti Airtel Limited, to disclose on affidavit the CDR cell ID along with complete identity, i.e., names, address, phone number, e-mail IDs, billing and payment details, KYC documents, identity related documents of the subscribers of the phone number (i) +91 8961292537 and (ii) +91 8167393808 along with the last 10 GPS locations of the said phone numbers, within a stipulated time period specified by this Hon'ble Court;
- h. An ex parte ad interim order in terms of prayers (a), (b), (c), (d), (e), (f) and (g); and
- i. Pass any other order as this Hon'ble Court may deem fit in the facts and circumstances of this case.

New Delhi
Dated: February 17, 2023

(3122)
Ira Law
Advocates for the Plaintiff
Email: office@ira.law
Ph.: 9958158982

IN THE HIGH COURT OF DELHI AT NEW DELHI
(Ordinary Original Civil Commercial Jurisdiction)

I.A. No. _____ of 2023

IN

CS(Comm) No. 303 of 2022

Burger King Corporation

... Plaintiff

Versus

Swapnil Patil & Ors.

... Defendants

AFFIDAVIT OF MS. PREETIKA KASHYAP, AGED APPROXIMATELY 27 YEARS, DAUGHTER OF MR. TEKCHAND, R/O BUNGALOW NO. 8, RAJAJI MARG. CHANAKYAPURI, NEW DELHI - 110011

I, the above-named deponent hereby solemnly affirm and declare as under:

1. I am the authorized signatory of the Plaintiff and as such am well conversant with the facts and circumstances of the present case.

I have read the contents of the accompanying application and say that these are true to the best of my knowledge and based on records, information and legal advice received and believed to be true.

3. I say that I adopt the contents of the accompanying application as part and parcel of my affidavit, the same not being reproduced herein for the sake of brevity.


DEPONENT

VERIFICATION

Verified at Delhi on this 7 FEB 2023 day of February 2023 that the contents of paragraphs 1 to 3 of my above affidavit are true to my




S. No	Detail of document(s) and parties	Documents in power/possession, control, custody of	Original or photocopy or office copies	Mode of execution / issuance or receipt	Line of custody	Page No.
3.	Printout of the certificate of franchise dated February 4, 2023	Plaintiff	Copy	Sent by the Plaintiff's Indian Master Franchisee to the Plaintiff	Sent by the Plaintiff's Indian Master Franchisee to the Plaintiff	44
4.	Printout of the Whois report of the domain name www.burgerkingfranchiseindia.com	Plaintiff	Printout	Downloaded from the website www.whois.com	Plaintiff	45 – 47
5.	Printout of the website available at the domain name www.burgerkingfranchiseindia.com as on February 10, 2023	Plaintiff	Printout	Downloaded from the website www.burgerkingfranchiseindia.com	Plaintiff	48 – 84
6.	Printout of the Whois report of the domain name www.indiaburgerkingfranchise.in	Plaintiff	Printout	Downloaded from the website www.whois.com	Plaintiff	85 – 87
7.	Printout of the Whois report of the domain name www.burgerkingbusiness.com	Plaintiff	Printout	Downloaded from the website www.whois.com	Plaintiff	88 – 90
8.	Printout of email dated February 16, 2023 received by the Plaintiff's counsel from BigRock Solutions Ltd.	Plaintiff	Printout	Plaintiff	Plaintiff	91 – 95

S. No	Detail of document(s) and parties	Documents in power/possession, control, custody of	Original or photocopy or office copies	Mode of execution / issuance or receipt	Line of custody	Page No.
9.	Printout of the Truecaller search reports for the mobile numbers +91 8961292537 and +91 8167393808	Plaintiff	Printout	Downloaded from the website www.truecaller.com	Plaintiff	96 – 101
10.	Proof of service	NA	NA	NA	NA	102-133

THROUGH

New Delhi
Dated: February 17, 2023


Ira Law
Advocates for the Plaintiff
Email: office@ira.law
Ph.: 9958158982

NOTE – All parties have been served and proof of service has been filed at s. no. 10 page nos. 102 - 133.

LETTER OF INTENT

Date:- 25-01-2023

Ref:- GRO/RET/LOI/0542

Subject:- Confirmation of application Acceptance

Mr. Nakul Singhal

S/O Late Dharmendra Kumar Agrawal

Address:- H. No.-324, Basant View Colony, Aligarh Road,
Hathras, Uttar Pradesh-204101

RESTAURANT BRANDS ASIA LIMITED

Corporate office:- Unit Nos. 1003 to 1007, 10th Floor,
Mittal Commercial, Asan Pada Road, Andheri East
Mumbai – 400059 IN.
(CIN) L55204MH2013FLC249986

We are very glad to inform you that your application, documents and location is selected to open Burger King Franchise in City:- Hathras, District:- Hathras, Pin Code:-204101, State:- Uttar Pradesh.

Your documents verification has been done by our expert and as per report given by them our operations sales team confirmed that we can go ahead and open Burger King Franchise. We always believe in helping our partners so going forward on this way we want to inform you that after registration till running Burger King Franchise. Our executive will dedicatedly help you and resolve your all queries.

From our side we are nominating Mr. Rajeev Sharma (CRM Sales & Marketing), his employee ID BKIND4935R and contact no. +918167393808

We want to inform you that once registration get done then you will get a registration no. that will be used for future reference. Going forward we want to inform you that once registration get completed then we will help you to get NOC, License, Security deposit/bank guarantee (done by company, paid by Applicant).

We want to inform you that to get registration done please deposit not exceeded than Rs.2,65,500.00 (Rupees Two lakh sixty-five thousand Five Hundred only) this amount is refundable at any time if you fail to establish Burger King Franchise.

Bank Details:- BURGER KING INDIA LIMITED

A/C No:- 50100562887799

IFSC:- HDFC0000086

Branch:- Mumbai, Andheri East

Finance Manager:- Mr. Prabir Mondal

Kindly note Burger King India Limited does not accept any type of Cash/DD/Cheque. Please pay using RTGS, NEFT, IMPS or digital transactions only. Once again please accept our personal congratulations and best wishes for future endeavors.

Thanking You,

Your faithfully

For BURGER KING INDIA LIMITED



General Manager

