

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-50/2023-DS-II

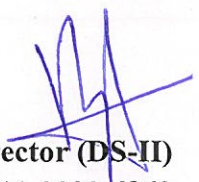
Dated: 04.12.2023

To,
All Internet Service Licensee's

Subject: CS(COMM) 578 of 2023 titled AUDEMARS PIGUET HOLDING S.A versus ASHOK KUMAR & ORS. Before Hon'ble DISTRICT JUDGE (COMMERCIAL COURT)-02, SOUTH, SAKET, DELHI.

Kindly find the enclosed Hon'ble Delhi High Court order dated **21.10.2023** on the subject matter.

2. Please refer to the **para 22** of the said court order in respect of blocking of **02 websites** enumerated in the **memo of parties i.e.** defendant nos. 1 & 2.
3. Accordingly, 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.


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 with request to take action as per **Annexure**.

- (ii) Mr. Rakesh kumar (rakeshkumarcgsc@gmail.com), learned Central Government Standing Counsel for kind information.
- (i) Anusha Banerjee (anusha@unitedandunited.com), Plaintiff Advocate for kind information.
 - (a) Take action as per Annexure-II.
- (iii) IT wing of DoT for uploading on DoT website.

**IN THE COURT OF MS. ANURADHA SHUKLA
BHARDWAJ: DISTRICT JUDGE (COMMERCIAL
COURT)-02, SOUTH, SAKET, DELHI**

CS (COMM) 578/23

M/s. AUDEMARS PIGUET HOLDING S.A

Vs.

ASHOK KUMAR AND ORS.

21.10.2023

ORDER

1. Vide this order, I shall dispose off application u/o XXXIX rule 1 & 2 CPC filed by plaintiff.

2. Case of the plaintiff is that the Plaintiff, Audemars Piguet Holding S.A. is a company organized and existing under the laws of Switzerland and is the world's oldest independent watchmaker.

3. It is stated that Plaintiff Company was founded by Jules Louis Audemars and Edward Auguste Piguet in the Vallee de Joux in the year 1875, acquiring the name Audemars Piguet & Cie in 1881. In 1875, Jules Louis Audemars and Edward Auguste Piguet formed a partnership and began their business. In the year 1881 Audemars Piguet & Cie was officially founded, and was



based in Le Brassus, a village inside the Vallee De Joux in Switzerland.

4. It is stated that Plaintiff Company is an industry leader and is engaged in business of manufacturing, selling, distribution, advertising of luxurious watches and related goods (*hereinafter referred to as the "said goods and businesses"*).

5. It is averred that Plaintiff Company is the owner and proprietor of the trademark/label and trade name

AUDEMARS PIGUET, 

 , 

 ,  (and its variants)
(hereinafter collectively referred as the said trademark/label).

6. It is further stated that the said goods and business of the Plaintiff under the said trademarks/labels have goodwill & reputation which is global in character and extends into India as well. Plaintiff's said trademarks have garnered the reputation of a well-known Trade Mark

within meaning of Section 2 (1) (zg) of the Trade Marks Act, 1999.

7. It is pleaded that Defendant Nos. 1 and 2 (as mentioned in Memo of Parties) are engaged in manufacturing, marketing, soliciting and trading of counterfeit watches, clocks, wall clocks, bags, perfumes and other allied and cognate products (hereinafter referred to as the “*impugned goods & impugned business*”) through their websites which are rogue in nature and are making aforesaid impugned goods available for sale across India including within the jurisdiction of this Court. The rogue websites of Defendant Nos. 1 and 2 are hereinafter collectively be referred to as the “*impugned rogue websites*”.
8. It is further the case of plaintiff that the Defendant Nos. 3 to 4 are the Domain Name Registrars of the impugned rogue websites/URLs of Defendant Nos. 1 to 2 and are responsible for providing the requisite support to website/domain name to defendant nos. 1 & 2.
9. It is pleaded that the Defendant No. 5 is the respective Web Hosting Service Providers of the websites of Defendant Nos. 1 and 2. The impugned rogue websites/URLs of the Defendant Nos. 1 and 2 successfully operate because of the web hosting support provided to them by the Defendant No. 5.

10. It is stated that the National Internet Exchange Authority of India (NIXI) i.e Defendant No. 6 can direct complete closure of impugned rogue websites through blocking of Defendants' domain names infringing said Trademarks/Label/Trade Name/Domain Name of Plaintiff and to call upon respective domain name registrars of the impugned rogue websites/URLs of the Defendant Nos. 1 and 2 to completely block the access to impugned rogue websites/URLs/URLs.
11. It is further averred that the Department of Telecommunications (DOT) Defendant No. 7 is having the requisite power and jurisdiction to block the listings/ URL(s)/ web pages by directing all Internet Service Providers (ISPs) operating in India to block the listings/ URL(s) as listed in the 'Schedule – A' filed herewith along with the documents through the help of ISPs.
12. It is stated that the Ministry of Electronics and Information Technology (MeitY), Government of India, Defendant No. 8 has the final authority to order blocking of websites and webpages found to be disseminating illegal content and infringing the said word/mark/Trademark/Label.
13. It is further stated that Plaintiff learnt about the Defendant No. 1 in the third week of February, 2023 and

served them with a Cease-and-Desist notice dated February 20, 2023, to which the Plaintiff has not received any response till date. Further, the Plaintiff while conducting a check on the internet during the course of online monitoring, came across the impugned rogue websites/URLs of Defendant No. 2 in the month of May-June, 2023. Being aggrieved thereby, Plaintiff caused an inquiry into the infringing activities of Defendant No. 1 and 2, which revealed that they are offering low quality, unauthorized services, and counterfeit goods under the impugned rogue websites/URLs.

14. Plaintiff seeks appropriate orders directing the government bodies NIXI, DOT and MEITY (impleaded as Defendant No. 6, 7 and 8 respectively) to completely block the access to the impugned rogue website since these websites are anonymous in nature and operate behind a veil of secrecy and are not obliged to follow any orders of any court.

15. In support of his submissions, Ld. Counsel for the plaintiff has relied upon cases titled as ***UTV SOFTWARE COMMUNICATION LTD. & ORS. VERSUS 1337X.To & ORS.*** CS COMM 724/2017; ***BULGARI SPA VERSUS ASHOK KUMAR & ORS.*** [TM NO. 06 OF 2022]; ***SONY PICTURES ANIMATION INC. Versus FLIXHD.CC/ AND OTHERS*** CS(COMM) 366 OF 2023; ***RADO***

UHREN AG & ORS Versus JOHNNY WALKER & ORS. [TM NO. 195 OF 2021]; **PANASONIC HOLDINGS VERSUS ASHOK KUMAR & ORS.** CS (COMM) 135 of 2023; **COLGATE PALMOLIVE CO. AND ANR. v. NIXY & ANR.** CS (COMM) 193 OF 2019; **BULGARI S.P.A v. NUTANDAS GEMS PVT. LTD.** CS (COMM) 658 OF 2021 and **RED CHILLIES ENTERTAINMENT PVT. LTD. v. ASHOK KUMAR & ORS.** CS (COMM) 240 OF 2023.

16. In **UTV Software Communication Ltd. (Supra)** Hon'ble High Court for the first time recognized need of dynamic injunction, relying upon the judgment of High Court of Singapur in case of **Disney Enterprises Vs. M. I Ltd.(2018) SGHC 206**, wherein the judgments in **Twentieth Century Fox Vs. British Telecommunications PLC, 2012 1 ALL ER 869** and **Cartier International AG Vs. British Sky Broadcasting Ltd.** were relied.

17. In **Universal City Studios LLC & Ors. Vs. Dotmovies.Baby & Ors. CS (COMM) 514/2023 dt. 09.08.2023.** The Hon'ble Court held that *“after having perused the printouts of various websites, this court has no doubt in holding that such websites have the potential to curb creation of copyrighted content and hurt the thriving content creation industry in India & abroad, as they offer unlicensed/unauthorized alternate platforms than those*

offered by the copyright owners themselves. Ignoring the existence of such rouge websites could result in curtailing and stifling creativity itself in as much as the creation of this content involves enormous investments and collaborative work of various creative people.... All these efforts and works would be jeopardized if such pirated/unauthorized content is permitted to be available for users, that too at no cost or even minimal cost.”

18. In **Red Chillies Entertainment Pvt. Ltd. Vs. Ashok Kumar/John Doe & Ors., 2023 SCC online Del. 2023**, the Hon’ble High Court held that websites blocking has emerged as one of the most successful, cost effective and proportionate means to address the issue of rogue website. The court cautioned as regards the extent the website blocking stating that it should be proportionate and commensurates with the extent and nature of infringement. It stated that court should pass a website blocking order only if it is satisfied that the same is necessary and proportionate.
19. Coming to the facts of the case, plaintiff has exhibited as to how defendant no.1 & 2 are rogue websites. They are providing watches & other products in the name of plaintiff. They are providing phone numbers for contact and nothing else in form of details as to office address, location, place of business etc. The enquiry is permitted

through Whatsapp. The websites are selling Audemars Piguet Royal Ox in a manner which looks like the company is giving discounts of up to 56% on watches.

20. Upon consideration of the facts and arguments of Ld. Counsel for the plaintiff, I am satisfied that defendant no.1 & 2 are running rogue websites. The plaintiff has a strong prima facie case warranting ex-parte ad-interim injunction. The plaintiff is suffering huge losses in terms of money and reputation built over more than a century and thus balance of convenience also lies heavily in favour of plaintiff. I am satisfied that if ex-prate injunction as prayed, is not granted plaintiff shall suffer irreparable loss and injury. Defendant Nos. 1 & 2 by themselves as also through their individual proprietors/partners, agents, representatives, distributors, assigns, heirs, successors, stockists and all other acting for and on their behalf are hereby restrained till next date of hearing from using, selling, manufacturing, marketing, soliciting, exporting, importing, displaying, advertising or in any manner dealing in or selling/soliciting through online websites and/or online platform or through social medias or in any manner using the impugned counterfeit goods under impugned marks or any other word/mark which may be identical with and/or deceptively similar word/mark to the plaintiff's said trademark/label/tradename AUDEMARS

PIGUET, *AUDEMARS PIGUET*
Le Brassus, *AUDEMARS PIGUET*
Le Brassus

AUDEMARS PIGUET, **AP**, *AP*
AUDEMARS PIGUET

in relation to their impugned goods and allied and cognate products and from doing any other acts or deeds amounting to or likely to infringe plaintiff's said registered trademark/label/trade name.

21. Further, defendant nos. 3, 4 & 5 are directed till next date of hearing to block/restrain the websites of defendant nos. 1 & 2 and/or mirror/redirect/alphanumeric websites which are put in play by D-1 & D-2 when conducting any trademark or copyright infringement in respect of trademark/label of plaintiff. Further, D-6 is directed to block the rogue websites as mentioned in the order operating under .IN and .Bharat domains and/or mirror/redirect/alphanumeric websites as mentioned hereinabove. Defendant nos. 3 to 6 are also directed to provide such details of defendant nos. 1 & 2 as available with them including exact ownership detail as provided to them at the time of registration of the domain name.

22. Further, D-7 & 8 are directed till next date of hearing to issue necessary blocking orders against the rogue websites of defendant nos. 1 & 2 within 7 working days.

23. Plaintiff shall comply with the provisions of order 39 rule 3 CPC qua this relief.

(Anuradha Shukla Bhardwaj)
District Judge (Commercial Court-02)
South Distt., Saket, New Delhi/21.10.2023

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.

**IN THE COURT OF DISTRICT JUDGE-NEW DELHI AT
SAKET DISTRICT COURT, NEW DELHI**

**IN
CS(COMM) No. ____ of 2023**

IN THE MATTER OF:

AUDEMARS PIGUET HOLDING S.A ...Plaintiff

VERSUS

ASHOK KUMAR & ORS. ...Defendants

MEMO OF PARTIES

AUDEMARS PIGUET

11, Lungotevere Marzio,
Rome 00186,
Italy

Through its Constituted Attorney
Ms. Meena Bansal
96, Sukhdev Vihar, Mathura Road,
New Delhi – 110 025

...Plaintiff

VERSUS

ASHOK KUMAR

Website: <https://fashiongodown.in/>

Address:

Phone Number: 8401858126

Email Id: ffashiongodown0@gmail.com ...Defendant No. 1

ASHOK KUMAR 1

Website: <https://watchobucket.in/>

Address:

Email Id: support@watchobucket.in ...Defendant No. 2

Godaddy D3

NameCheap Inc D4

National Internet Exchange of India (NIXI)
9th Floor, B-Wing, Statesman House,
148, Barakhamba Road, New Delhi 110001
Email: legal@nixi.in

...Defendant No. 6

The Department of Telecommunications [DoT]
Ministry of Communications,
Government of India, Sanchar Bhawan
20, Ashoka Road, New Delhi – 110001
Email: Adetds2-dot@gov.in

...Defendant No. 7

Ministry of Electronics and Information Technology (MeitY)
Through the Division of Cyber Laws & E-Security
Government of India, Electronics Niketan,
6, CGO Complex,
Lodhi Road, New Delhi – 110003
Email: Webmaster.meity@gov.in

...Defendant No. 8

UNITED & UNITED
ADVOCATES FOR THE PLAINTIFF
52, SUKHDEV VIHAR, MATHURA ROAD
NEW DELHI - 110 025
Ph.No.26843455, 46560881
E-mail: rishi@unitedandunited.com

Place: New Delhi
Dated: .09.2023