

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-54/2023-DS-II

Dated: 21.12.2023

To,

All Internet Service Licensee's

Subject: CS (COMM) No. 882 / 2023: The Indian Hotels Company Limited V. John Doe & Ors Before Hon'ble Delhi High Court

Kindly find the enclosed Hon'ble Delhi High Court order dated **13.12.2023** on the subject matter.

2. Please refer to the **para 20(vi)** of the said court order in respect of blocking of **2 websites** enumerated in said **para**.
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 websites, as above, for compliance of the said court order.



JTO (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) Aiswarya Debadarshini (Aiswarya@fiduslawchambers.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) 882/2023**

THE INDIAN HOTELS COMPANY LIMITED Plaintiff
Through: Ms. Shwetasree Majumdar, Ms.
Priya Adlakha, Mr. Rohan Krishna Seth and
Ms. Aiswarya Debadarshini, Advs.

versus

**JOHN DOE ALIAS AMAR ASSOCIATED WITH THE
WEBSITE WWW.GINGERHOTELMUMBAI.INFO
AND ORS.** Defendants

Through: Mr. Shivam Narang, Adv. for
Defendant 2
Dr. Manish Kumar, Mr. Rishav Dubey and
Mr. Kumar Gaurav, Advs for Defendant 4
Ms. Nidhi Raman, CGSC with Ms. Theepa
Murugesan, GP, Ms. Sanya Bhatia, Mr.
Zubin Singh and Mr. Debarchan De, Advs.
for Defendants 5 and 6

**CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR**

% **ORDER**
13.12.2023

CS(COMM) 882/2023

1. The grievance of the plaintiff in the present case is that various domain names and websites have sprung up, which, by infringing the plaintiff's registered trade marks, are inviting persons to pay money to book rooms in the plaintiff's hotels. The plaintiff has also provided, in para 30, a tabular comparison of images contained on one such fake website www.gingerhotelmumbai.info, which replicates images from



the plaintiff's genuine website www.gingerhotels.com, viewing which a consumer would be deceived into believing that bookings with the plaintiff could be accessed through the website www.gingerhotelmumbai.info.

2. The plaintiff is a hotel company of considerable repute, which was established as far back as in 1899. One of the well-known sub brands of the plaintiff is GINGER, and the plaintiff holds the following registrations of the mark GINGER in both as a word mark as well as in the form of various device marks:

S.No.	Trademark	Registration No.	Date of application/ registration	Class
1.		1407317	19 December 2005	43
2.	GINGER	3727471	15 January 2018 (user claim: 19 December 2005)	43
3.		3849551	1 June 2018	43
4.		3858433	13 June 2018	43
5.		3849552	1 June 2018	43

3. The plaintiff came across the website www.gingerhotelmumbai.info, which purports to be a website through which the booking in the plaintiff's hotel would be secured. It is obvious that the domain name www.gingerhotelmumbai.info infringes the plaintiff's registered trade mark. The plaintiff also has a similar domain name www.gingerhotels.com, thereby, exacerbating the possibility of likelihood of confusion in the minds of the consumer.



4. As the identity of the registrant of the domain name gingerhotelmumbai.info, which resolves to the website www.gingerhotelmumbai.info is unknown, the plaintiff has impleaded the said person through the domain name itself, as Defendant 1.

5. After this suit was signed, Ms. Majumdar submits that a second similar fake domain name www.hotelgingermumbai.info was registered on 5 December 2023. As such, two applications under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC) seeking interlocutory relief, have been filed being IAs 24961/2023 and 24962/2023. Ms. Majumdar submits that, as knowledge of the second infringing website was gained after the plaint was signed, the plaint does not incorporate reference to the second website. However, she submits that she would suitably amend the plaint in order to incorporate the said references. She is given liberty to do so.

6. It is in these circumstances that the plaintiff has approached this Court by means of the present suit, seeking a decree of injunction against the aforesaid two domain names and a restraint against any domain name which is deceptively similar to the plaintiff's registered trade mark springing up in future.

7. Concomitantly, the plaint also seeks a direction against Defendant 2 NameCheap, Inc., who is the Domain Name Registrar (DNR) for both the injurious domain names gingerhotelmumbai.info and hotelgingermumbai.info, to permanently delete the domain names.



Defendants 3 and 4 are the banks in which the amounts earned through use of the domain name gingerhotelmumbai.info are deposited. Accordingly, the suit seeks a decree of mandatory injunction directing Defendants 3 and 4 to close the bank accounts in which the aforesaid monies are deposited. The plaint also seeks a direction to Defendant 7, who is a telecom service provider to block the Phone No. 9023915101, used by the registrant of the domain name gingerhotelmumbai.info. The plaint further prays that Defendants 5 and 6, who are MEITY and DOT, may be directed to issue necessary directives to Defendants 2 and 7 to ensure compliance with the aforesaid. Further the suit seeks damages, rendition of accounts and costs.

8. Let the plaint be registered as a suit. Issue summons in the suit.
9. Summons are accepted on behalf of Defendants 2 by Mr. Shivam Narang, on behalf of Defendant 4 by Dr. Manish Kumar, on behalf of Defendants 5 and 6 by Mr. Zubin Singh.
10. Let summons issue to Defendant 1 presently at the website www.gingerhotelmumbai.info and to Defendants 3 and 7 at the addresses and emails provided in the memo of parties through all modes.
11. Defendant 2 is directed to provide, within a week, on affidavit the BSI details of the registrant of the domain names gingerhotelmumbai.info and hotelgingermumbai.info.



12. Ms. Majumdar undertakes, on such details being provided, to file an amended memo of parties impleading the said registrants. Thereupon, let summons also issue to the said registrants, as per the details provided by Defendant 2.

13. Written statement, accompanied by affidavit of admission and denial of the documents filed by the plaintiff be filed within 30 days of receipt of summons, with advance copy to learned Counsel for the plaintiff who may file replication thereto, accompanied by affidavit of admission and denial of the documents filed by the defendants within 30 days thereof.

14. List before the learned Joint Registrar (Judicial) for completion of the pleadings, admission and denial of documents and marking of exhibits on 13 February 2024, whereafter the matter would be placed before the Court for case management hearing and further proceedings.

I.A. 24961/2023 and I.A. 24962/2023 (both under Order XXXIX Rules 1 and 2 of the CPC)

15. These are applications seeking interlocutory injunctive reliefs. The facts stated in the plaint, *prima facie*, make out a case of persons who are resorting to duplicity by floating websites through which members of the public are made to believe that they can book rooms with the plaintiff and, thereby, making illegally financial gains. The case discloses a *prima facie* case of infringement of the plaintiff's



registered trade mark as well as an illegal attempt, which is also possible criminal in nature, by the defendants, to dupe the public into making payments at the websites of the defendants, with the hope of obtaining bookings with the plaintiff.

16. Such activities have necessarily to be nipped in the bud.

17. Accordingly, issue notice on these applications, returnable before the Court on 14 March 2024.

18. Notice is accepted on behalf of Defendants 2 by Mr. Shivam Narang, on behalf of Defendant 4 by Dr. Manish Kumar, on behalf of Defendants 5 and 6 by Mr. Zubin Singh.

19. Let notice issue to Defendant 1 presently at the website www.gingerhotelmumbai.info and to Defendants 3 and 7 at the addresses and emails provided in the memo of parties through all modes.

20. Till the next date of hearing, the following interim directions are issued:

(i) The registrants of the domain names gingerhotelmumbai.info and hotelgingermumbai.info are directed, forthwith, to discontinue the use of the said domain names and to take down the websites www.gingerhotelmumbai.info and www.hotelgingermumbai.info, to which the domain names



resolve. If the registrants of the said domain names are also operating any other social media webpages, they would forthwith discontinue the said webpages as well.

(ii) Defendant 2 is directed to suspend and block the access to the domain names gingerhotelmumbai.info and hotelgingermumbai.info till the next date of hearing. Defendant 2 is also directed to disclose, on affidavit, the complete details of the registrants of the aforesaid domain names as already directed hereinabove within one week, with advance copy to learned Counsel for the plaintiff.

(iii) Defendants 3 and 4 are directed to freeze the bank accounts of Defendant 1, details of which are provided in Document A filed with the plaint. Should the plaintiff come across any other bank account in which the proceeds from the use of the domain names are deposited, the plaintiff would be at liberty to intimate the said bank accounts to Defendants 3 and 4, which would proceed forthwith to block the said accounts as well.

(iv) Defendants 3 and 4 are also directed to place on record, within a week, the complete KYC documents and up to date account statements of the aforesaid bank accounts and any other similar bank accounts to which the plaintiff may draw the attention of Defendants 3 and 4 during the pendency of these proceedings.



(v) Defendant 7 is directed to block access to phone No. 9023915101, used by the registrant of the domain name gingerhotelmumbai.info and to place, on affidavit, the complete KYC documents, relating to registrant and owner of the said phone number. Should the plaintiff come to learn of any other phone number/numbers, which is/are being used by the registrant of the aforesaid domain name, the plaintiff would place the said details on record by way of an affidavit and provide the said detail to Defendant 7, who is directed in such event to immediately block the said phone number/numbers as well.

(vi) Defendants 5 and 6 are directed to issue directives/notifications calling upon internet service providers registered under them, to suspend the access to the websites www.gingerhotelmumbai.info and www.hotelgingermumbai.info.

21. Compliance with Order XXXIX Rule 3 of the CPC be effected within a week.

I.A. 24963/2023 (Section 12A of the Commercial Courts Act, 2015)

22. This is an application for exemption from the requirement of pre-institution mediation. There can be no question of pre-institution mediation in the present case as the identity of the infringers is unknown. Accordingly, the prayer for exemption is granted.



23. The application is allowed accordingly.

I.A. 24964/2023 (Order XI Rule 1(4) of the CPC)

24. This application seeks permission to file additional documents. The plaintiff is permitted to place additional documents on record in accordance with Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (CPC) as amended by the Commercial Courts Act within four weeks from today.

25. The application stands disposed of accordingly.

I.A. 24965/2023 (Exemption)

26. Subject to the plaintiff filing legible copies of any dim or illegible documents within 30 days, exemption is granted for the present.

27. The application is disposed of.

I.A. 24966/2023 (exemption from advance service)

28. This is an application for exemption from advance service of the suit papers on the defendants. Inasmuch as the identity of Defendant 1 is unknown and the case relates to fraudulent websites, through which credulous members of the public are made to deposit money with the hope of securing bookings with the plaintiff, there is



no question of relegating the plaintiff to effect advance service on the defendants. The prayer for exemption from advance service is, therefore, granted.

29. The application is allowed accordingly.

C.HARI SHANKAR, J

DECEMBER 13, 2023

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[Click here to check corrigendum, if any](#)

IN THE HIGH COURT OF DELHI AT NEW DELHI
 (Ordinary Original Commercial Jurisdiction)
 C.S. (COMM) NO. OF 2023

IN THE MATTER OF:

The Indian Hotels Company Limited ...Plaintiff

VERSUS

John Doe (alias Amar)
 (associated with the website 'www.gingerhotelmumbai.info')
 & Ors. ...Defendants

MEMO OF PARTIES

IN THE MATTER OF:

The Indian Hotels Company Limited
 Registered Office at:
 Mandlik House, Mandlik Road,
 Mumbai- 400 001
 Through its constituted attorney
 Mr. Naveen Batra, Corporate Director-Legal

Also at:

Taj Palace Hotel,
 Sardar Patel Marg,
 Diplomatic Enclave,
 New Delhi-110 021
 Email: litigation@fiduslawchambers.com ...Plaintiff

Versus

1. John Doe (*alias* Amar)
 (associated with the website 'www.gingerhotelmumbai.info')
 Email: Not known
 Mob. No.: +91 9023915101 ...Defendant No. 1
2. NameCheap, Inc.
 Of the Address:
 4600 East Washington Street,
 Suite 305, Phoenix, AZ 85034, USA
 Through its Grievance Officer
 Email: grievanceofficer@namecheap.com;

shivam.narang1753@gmail.com ...Defendant No. 2

3. Punjab National Bank
 Head Office at:
 Plot No. 4, Sector-10,
 Dwarka, New Delhi- 110075
 Through its Managing Director & CEO ...Defendant No. 3

Served through its Standing Counsel:
 Mr. Santosh Kumar Rout
 Email: skrlawfirms@gmail.com;
advskrout@yahoo.com
 Contact No. + 91 9990432878

4. Canara Bank
 Head Office at:
 112 J C Road, Bengaluru - 560 002
 Through its Director
 E-mail: hosecretarial@canarabank.com;
holegal@canarabank.com;
tmwing@canarabank.com;
lea_nodalho@canarabank.com ...Defendant No. 4

Also served through its Standing Counsel:
 Dr. Manish Kumar
 Email: dr.manishkumar08@gmail.com
 Contact No. + 91 9971105049/ 9415812073

5. Ministry of Electronics and Information Technology
 Through the Director General (DIT) Cyber Laws
 Electronics Niketan, 6-CGO Complex,
 Lodhi Road, New Delhi-110003
 E-mail: cyberlaw@meity.gov.in;
gccyberlaws@meity.gov.in;
pkumar@meity.gov.in;
uoidhc@gmail.com ...Defendant No. 5

6. Department of Telecommunications
 Through its Secretary,
 Ministry of Communications and IT,

20, Sanchar Bhawan, Ashoka Road,
New Delhi-110001

E-mail: secy-dot@nic.in;
dirds2-dot@nic.in;
uoidhc@gmail.com;
abhinesh.meena@gov.in

...Defendant No. 6

7. Reliance Jio Infocomm Limited

Regional office at:

RK Four Square,
Building Number – 4,
DLF Cyber City, Phase – 2,
Gurgaon – 122002

E-mail: care@jio.com
Hitesh.marthak@relianceada.com
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shilpi.kant@ril.com
jyoti.jain@ril.com

...Defendant No. 7

Filed by:



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Aiswarya Debadarshini
Enrl. No.: [D/2663/2010], [D/2172/2017],
[D/8530/2021]
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Advocates for the Plaintiff
F – 12, Sector – 8,
Noida – 201301

Place: New Delhi

Date: December 08, 2023

Mob. No.: 9911167179

litigation@fiduslawchambers.com

Note: - Actual Name and Physical address of the Defendant No. 1 is not available with the plaintiff. Defendant No. 1 is the main contesting party.

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.