

\$~34(Original Side)

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

+ CS(COMM) 176/2021, I.A. 5407/2021, I.A. 5408/2021 &  
I.A. 5409/2021

“SNAPDEAL” PRIVATE LIMITED ..... Plaintiff

Through: Ms. Shwetasree Majumder,  
Adv.

versus

GODADDYCOM LLC AND ORS ..... Defendants

Through: Ms. Shweta Sahu & Mr.  
Moazzam Khan, Advs. for D1  
to 4

**CORAM:**

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

**ORDER**

% **16.04.2021**

(Video-Conferencing)

**CS(COMM) 176/2021**

1. Issue summons. Summons are accepted on behalf of Defendant Nos. 1 to 4 by Mr. Moazzam Khan. Let summons issue to the remaining defendants by all modes.

2. Written statement, accompanied by affidavit of admission and denial of the documents filed by the plaintiff, be filed within four weeks, 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 two weeks thereof.

3. List before the concerned Joint Registrar for completion of pleadings, admission and denial of documents and marking of exhibits

on 7<sup>th</sup> July, 2021.

**I.A. 5409/2021 (under Section 151 of CPC, 1908 – for exemption)**

1. Subject to the plaintiff filing legible copies of any dim or illegible documents on which he may seek to place reliance, within four weeks from today, exemption is granted for the present.
2. The application is disposed of.

**I.A. 5408/2021 (under Order XI, Rule 1(4), read with Section 151 of CPC, 1908 – seeking leave to file additional documents)**

1. The plaintiff is granted liberty to file additional documents within four weeks from today, subject to the right of the defendant to admit or deny the same.
2. This application stands disposed of.

**I.A. 5407/2021 (under Order XXXIX, Rule 1 & 2, read with Section 151 of CPC, 1908)**

1. The prayer Clause in this application, under Order XXXIX, Rule 1 and 2 of the Code of Civil Procedure, 1908, reads thus:

“In the light of the foregoing, it is respectfully prayed that this Hon’ble Court may, during the pendency of the present suit, be pleased to issue:

- (a) An order for temporary injunction restraining the Defendant Nos. 1-32 and all others acting through

them or on their behalf from suspending all registrations listed in Document A and to reveal the name and contact particulars of the registrants of the same, and from offering any domain names which incorporate the Plaintiff's SNAPDEAL trademarks listed in paragraph 10 of the plaint thus amounting to infringement of the Plaintiff's registered trademark, passing off and unfair competition,;

(b) An order directing Defendant No. 33 (DoT) to issue a notification calling upon the various internet and telecom service providers registered under it to refrain from registering domain names containing the trademark SNAPDEAL or such other websites that may subsequently be notified by the Plaintiff;

(c) An order directing Defendant No. 34 (NIXI) to ensure that domain locks are put on all the domains listed in Document A during the pendency of the present proceedings and, and to ask the domain registrars accredited with it to show cause as to why their registrar accreditation should not be cancelled in view of their services of masking the particulars of domain registrants despite contractual stipulations to the contrary.





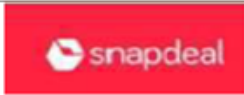

(d) Any further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(e) It is prayed that the above orders may be passed *ex-parte*.

It is accordingly prayed.”

2. The facts are brief.

3. The plaintiff was incorporated in year 2007 and is essentially providing online e-commerce services. The plaintiff is the proprietor of the following registered trademarks:

Trademark	Registration No.	Class	Registration Date	Status
	1950285	35, 38	15/04/2010	Registered
SNAP DEAL	1950286	35, 38	15/04/2010	Registered
SNAPDEAL.COM	2102124	35, 38	18/02/2011	Registered
SNAPDEAL	2126759	39	07/04/2011	Registered
	3203510	35	05/03/2016	Registered
	3525400	35	14/04/2017	Registered
	3525401	35	14/04/2017	Registered
	3525407	35	14/04/2017	Registered
	3191889	35	22/02/2016	Registered

4. The plaintiff also claims to be the owner of several domain names incorporating the “SNAPDEAL” trademark, including [www.snapdeal.apartments](http://www.snapdeal.apartments), [www.snapdeal.asia](http://www.snapdeal.asia), [www.snapdeal.associates](http://www.snapdeal.associates), [www.snapdeal.audio](http://www.snapdeal.audio), [www.snapdeal.bid](http://www.snapdeal.bid), [www.snapdeal.bingo](http://www.snapdeal.bingo), [www.snapdeal.biz](http://www.snapdeal.biz), [www.snapdeal.blackfriday](http://www.snapdeal.blackfriday), [www.snapdeal.build](http://www.snapdeal.build), [www.snapdeal.business](http://www.snapdeal.business), [www.snapdeal.capital](http://www.snapdeal.capital), [www.snapdeal.cards](http://www.snapdeal.cards), [www.snapdeal.care](http://www.snapdeal.care), [www.snapdeal.cash](http://www.snapdeal.cash), [www.snapdeal.center](http://www.snapdeal.center), [www.snapdeal.chat](http://www.snapdeal.chat), [www.snapdeal.claims](http://www.snapdeal.claims).

5. The plaintiff claims that it has come across infringement of its registered trademarks on a widespread basis, by use of domain names incorporating the “SNAPDEAL” registered trademark of the plaintiff, and that it had to approach this Court on various occasions, in all of which it has obtained injunctions. Among these are *Snapdeal Private*

*Limited v. Aadi Sins*<sup>1</sup>, *Snapdeal Pvt Ltd. v. Grievance Officer of Twitter India*<sup>2</sup> and *Snapdeal Pvt Ltd v. snapdealluckydraws.org.in*<sup>3</sup>.

6. It is, in these circumstances that the prayers, in this application, have been made.

7. Mr Khan, learned counsel for the Defendant No. 1 submits, apropos prayer (a) in this application, that, while he has no objection to grant of the initial part of prayer (a), for a restraint and suspension of the registrations listed in document 'A' annexed to the plaint and disclosure of the particulars of the registrants thereof (without prejudice to his objections to the very maintainability of the suit), the latter half of prayer (a), which calls for an injunction against the defendants from "offering any domain names which incorporate the plaintiff's "SNAPDEAL" trademark listed in paragraph 10 of the plaint, thus amounting to infringement of the plaintiff's registered trademark, passing off an unfair competition" cannot be granted. He relies, for this purpose, on the judgement of a learned Single Judge of High Court of Bombay in *Hindustan Unilever Ltd. v. Endurance Domains Technology LLP*<sup>4</sup> and of a learned Single Judge of this Court in *Tata Sky Limited v. NIXI*<sup>5</sup>.

8. *Prima facie*, it appears to me, the reliance on the judgement in *Tata Sky*<sup>5</sup> may not be entirely apposite. The prayer, in that case, was

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<sup>1</sup> CS (Comm) 1214/2018

<sup>2</sup> CS (Comm) 621/2019

<sup>3</sup> CS (Comm) 264/2020

<sup>4</sup> 2020 SCC Online Bom 809

<sup>5</sup> (2019) 259 DLT 468

for a restraint against the respondent from registering the domain names which were “identical or deceptively similar to the official domain name www.tatasky.com of the plaintiff”. This Court expressed the view that the adjudication of deceptive similarity was a matter which, statutorily, lay within the domain of courts or other statutory adjudicating authorities, and could not be left to the Domain Name Registrar. As such, it was opined, *prima facie*, that no direction could issue, to the Domain Name Registrar not to register domain names *which were deceptively similar* to the domain name of the plaintiff in that case. In the present case, *per contra*, there is no prayer for any injunction against registration of any domain name which is deceptively similar to that of the plaintiff. The precise prayer in the plaint is for an injunction against the registration of any domain name *containing* “SNAPDEAL”. Implementation of any such direction, if issued by this Court, would not require any adjudicatory exercise at the end of the Domain Name Registrar, or any determination of whether any proposed domain name is, is not, deceptively similar to that of the plaintiff. The inhibitions expressed by this court in *Tata Sky*<sup>5</sup>, may not, therefore, apply in the present case.

9. *Hindustan Unilever*<sup>1</sup>, on the other hand, does go a step further and also comments on the procedural and practical aspects of grant of such an injunction. Para 19 of the judgement of the High Court of Bombay in *Hindustan Unilever*<sup>1</sup> reads thus:

“19. So much for blocking access. But to ask for the ‘continued suspension’ of domain name registration is also technically incorrect. Any domain name Registrar can always suspend a domain that is registered. But the entire process of registration itself is entirely automated and machine-driven.

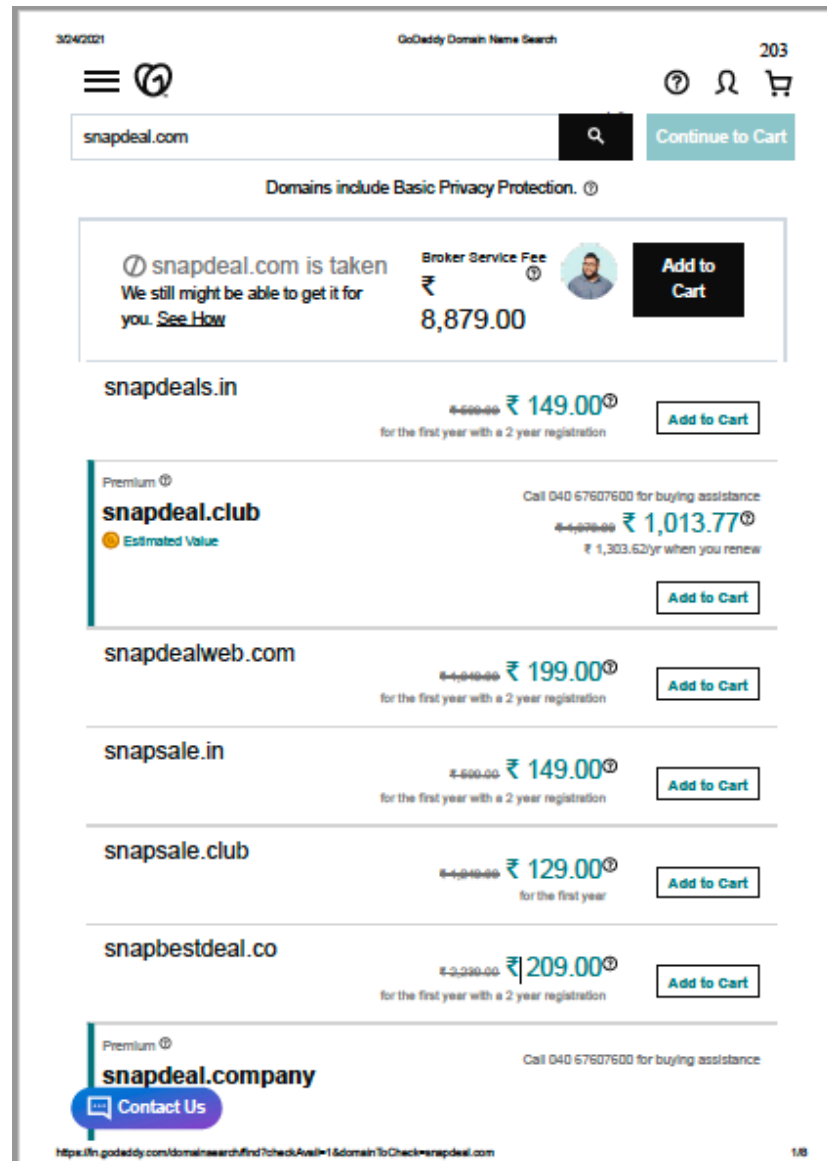
No domain name registrar can put any domain names on a black list or a block list. The notion that domain name registrar's have a person or a team of persons scanning and checking every domain name application betrays a wholesale lack of understanding of how domain name registration actually works. If a user wanted to register, say, *chroniclesofwastedtime.com*, there is no individual at any domain name registrar to question, to ask why, what for or anything. If the domain name is free, the applicant can take it to registration. That is all there is to it. That registration will continue until suspension or expiry."

**10.** In the context of the aforesaid observations, of the High Court of Bombay, I put it, to Mr Khan, that the issue of whether to direct, by way of injunction, the Domain Name Registrar not to permit registration of any domain name containing the word "SNAPDEAL" or not, was entirely different from the issue of whether such a direction, if issued, was capable of implementation or not. It is for this Court to take a decision as to whether to grant an injunction as sought in prayer (a) of the present application or not. I required Mr Khan, however, to specifically address the Court as to whether, if this Court were to direct the Domain Name Registrar not to offer any domain names which incorporate the "SNAPDEAL" trademarks listed in paragraph 10 of the plaint, such a direction was incapable of implementation.

**11.** Ms. Majumdar submits that the plaintiff only wants the Domain Name Registrars – including Mr Khan's client – to block the availability of the "SNAPDEAL" as any part of a domain name which a prospective registrant desires to register. She submits that if "SNAPDEAL" is thus blocked, no one would be able to apply for

registration of the domain name containing the word “SNAPDEAL”.

12. Ms. Majumdar has also invited my attention to the following printout from the webpage of godaddy.com:



(Such offers continue on the succeeding pages.)

13. Ms. Majumdar submits that the defendant is clearly brokering



the use of the “SNAPDEAL” trademark of the plaintiff, along with differential prices; for example, the “SNAPDEAL.club” domain name is being offered for ₹ 1013.77 whereas the “SNAPDEALS.IN” domain name is being offered for ₹ 149.00. This, she submits, is completely impermissible and amounts to rank infringement of the registered trademark of the plaintiff.

**14.** In order to enable Mr. Khan to obtain specific instructions on whether, if this Court were to grant *ad interim* relief, in terms of prayer (a) of the plaint, such an order was capable, or incapable, of implementation, re-notify on 22<sup>nd</sup> April, 2021 as part-heard.

**15.** The Registry is directed to e-mail a copy of this order, to learned Counsel for both parties, at their respective e-mail Ids, as soon as it is uploaded.

**C.HARI SHANKAR, J**

**APRIL 16, 2021**

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