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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 524/2022 & I.As. 12035/2022, 12036/2022, 12037/2022, 12038/2022**
BOMBINATE TECHNOLOGIES PRIVATE LIMITED Plaintiff
Through: Ms. Shwetaree Majumder and Mr.
Prithvi Singh, Advocates.
(M:8860680136)

versus

KOO COIN AND OTHERS Defendant
Through: Mr. Moazzam Khan and Ms. Shweta
Sahu, Advocates for D-4.
(M:9987115749)
Mr. Harish V. Shankar, CGSC, Mr.
Srish Kumar Mishra, Mr. Sagar
Mehlawat, Mr. Alexander Mathai
Paikaday, Advocates.
(M:9810788606)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **01.08.2022**

I.A. 12037/2022 (for exemption)

1. Allowed, subject to all just exceptions.
2. Accordingly, **I.A. 12037/2022** is disposed of.

I.A. 12036/2022 (for additional documents)

3. This is an application seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (*hereinafter*, '*Commercial Courts Act*'). The Plaintiff, if it wishes to file additional documents at a later stage, shall

do so strictly as per the provisions of the Commercial Courts Act.

4. Accordingly, **I.A. 12036/2022** is disposed of.

I.A. 12038/2022 (exemption from advance service to the Defendants)

5. In view of the fact that the Plaintiff has sought an *ex parte ad-interim* injunction, the exemption from advance service to the Defendants is granted.

6. Accordingly, **I.A. 12038/2022** is disposed of.

CS(COMM) 524/2022 & I.As. 12035/2022(for stay)

7. The present suit has been filed by Plaintiff- Bombinate Technologies Pvt. Ltd., against three platforms, among several other Defendants, listed hereinbelow:

- i. Defendant No.1- Koo Coin,
- ii. Defendant No.2- Koo Network,
- iii. Defendant No.3- Indian Creatives Koo Tweet Social Media,
- iv. Defendant No.4- GoDaddy LLC,
- v. Defendant No.5 to 13- Internet Service Providers (*hereinafter* “ISPs”),
- vi. Defendant No.14- Department of Telecommunications (*hereinafter* “DoT”),
- vii. Defendant No.15- John Does.

8. The case of the Plaintiff is that it is the parent company of two mobile applications namely, “Vokal” and “Koo”. These applications are popular social media platforms/ applications. “Koo” has over 10 million downloads on the Google Play Store, making it one of the most sought after mobile applications, as per the Plaintiff. The platform run by the Plaintiff is projected as a micro-blogging platform available in several Indian languages, apart from English, such as Hindi, Kannada, Tamil, Telugu, Gujarati and Bengali.

Various Government platforms are stated to have promoted the Plaintiff's platform. The Plaintiff's reputation is claimed to be well-established due to the large social media following that it has on other known social media platforms. It is submitted that the application has over 28,000 followers on Instagram and over 60,580 followers on Facebook. Additionally, the Plaintiff, has launched a scheme/ program which is called "Koo Coin", as a reward program for all its active users. The application rewards its users with "Koo Coins" if they check into the application once a day. Koo Coins are redeemable coins, and can be redeemed by a user upon linking their UPI ID to the application.

9. It is submitted by the Id. Counsel for the Plaintiff that the Plaintiff



adopted the trademark 'KOO', along with the birdie device in 2019. The Plaintiff is the registered proprietor of the mark "KOO" under application no. 4533766 in classes 9, 35, 38 and 41, as of 17th June, 2020. Various other similar marks are also pending registration, including the device marks.

10. As per the Plaint, the domain name www.kooapp.com is registered in favour of the Plaintiff since October, 2019, and is used to promote the Koo micro blogging platform.

11. The grievance of the Plaintiff, in the present suit, is that a website by the name www.koo.money has been launched, which claims to be a block chain based market place, where buyers and sellers can carry out transactions involving digital goods and assets. The website is using the Plaintiff's registered mark "KOO", along with the aforementioned bird

device. The website has been pointed out to the Court, along with the Whois details. The Whois details are privacy protected. The domain name was registered on 30th May, 2022, and Defendant No.4 is the Domain Name Registrar (*hereinafter* “DNR”) of the said domain name. Defendant No.1 has launched a digital currency on this website called ‘Koo Coin’, released in May, 2022. The same is valued in INR as under on the website www.koo.money :

launching Price	1 KOO = 0.90 INR
Total Supply	40 LAC KOO COIN

12. It is submitted by Id. Counsel for the Plaintiff that several complaints were made by the Plaintiff to the National Cyber Crime Reporting Portal, the Ministry of Electronics and Information (*hereinafter* “MEITY”), the Federal Trade Commission, etc.

13. The grievance is also against Defendant No.2, who runs a similar website called www.minekoo.com, both as a website and as a mobile application. The mobile application is referred to as “Koo Network”. The said Defendant No.2 has a whitepaper published on its website relating to cryptocurrency. Screenshots of the said website are extracted hereinbelow:



14. There is a reasonable apprehension that Defendant No. 1 and 2 are connected. Moreover, Defendant No.4 is also the DNR for Defendant No.2. The mobile application of Defendant No. 2, “Koo Network” is also available on the Google Play Store, wherein several user reviews criticising the app and calling it a vague application, have repeatedly appeared. The application is stated to have a low rating of 3.7 stars.

15. Defendant No.3 has developed an application “Koo Tweet Social Media” which is a social networking platform available on the Google Play Store. The nature of the application is very similar to the Plaintiff’s micro-blogging application.

16. The grievance of the Plaintiff is that there are several Android Application Package (*hereinafter* “APK”) providers, who are providing

links to these websites. Moreover, a number of URLs are also leading users to these websites and platforms. Id. Counsel for the Plaintiff submits that the three Defendants, along with unknown people, may be involved in fraudulent transactions, and collection of money from innocent users under the garb of offering digital currencies. The entire operation of the website and the services, appears to be vague, since the details of the persons who have registered these domain names are not available and there is large scale misuse of the Plaintiff's mark. Therefore, the said Defendants deserve to be enjoined on an urgent basis.

17. The Court has queried the Counsel for the Plaintiff as to why all platforms have been impleaded in one suit, to which it is submitted by the Id. Counsel, that since the details of these persons who have registered the said domain names and are running the fraudulent websites are not available, and since the issue of misuse of the Plaintiff's trademark is common to all, they have been impleaded in one suit. However, if directed by the Court, upon receiving details of the registrants of these platforms, any further proceedings are required to be initiated, the Id. Counsel for the Plaintiff would take appropriate steps in accordance with law.

18. On behalf of the DNR -Go Daddy LLC, it is submitted by Mr. Khan that he does not have any instructions. However, his client would comply with any orders for disclosure of the details of the registrants of the domain name and any other available details.

18. The Court has heard the Counsels and perused the documents. The mark 'KOO' under no. 4533766, is a registered trademark of the Plaintiff in respect of several classes - 9, 35, 38, and 41, which includes services being provided online and on social media platforms. A perusal of the

Defendants' websites and applications show that they are vague, and indulging in misuse of the Plaintiff's marks. Defendant No.1, for example, is providing "Koo money" to online users. On the Defendant No. 1's website it reads that it is based in the United Kingdom, however, the conversion of "koo money" is being given in Indian rupees. It also claims Go Daddy LLC i.e., the DNR, is also one of its customers along with other well known companies. The Description of "Koo Coin", which is a term being used by the Defendant No.1, is as under:



19. Insofar as Defendant No.2 is concerned, the said Defendant is running a mobile application, as also a website. Some of the users who have given their comments and reviews on the Google Play Store have stated that this application appears to be fake and, although the users have started mining, the coins are not increasing or decreasing. Thus, the users are of the opinion that the entire application itself does not seem to be genuine. Moreover, even the whitepaper content which has been showed, appears to have been taken from another digital currency site. Defendant No.3 is running "Koo Tweet Social Media" as an Indian social media tweeting platform. It is also

using an identical trademark “KOO”, for similar services as the Plaintiff.

20. A perusal of these applications, websites and other documents, placed on record, clearly shows that the intention of the Defendants is to misuse the Plaintiff’s registered mark and name. They are consciously misleading customers in the sense that there exists a genuine cryptocurrency platform or a digital currency platform associated with the Plaintiff. The connection with the Plaintiff is being sought to be established by using the name and similar bird device marks. At present, it is clear that there are a large number of internet users who may be trying to access the Defendants’ platforms on the ground that the Defendants are somehow connected to the Plaintiff.

21. In order to protect the rights of the users who may be investing monies on these platforms, as also to prevent any further confusion, this Court is of the opinion that the Plaintiff has made out a *prima facie* case for grant of an injunction. Balance of convenience and irreparable injury is also in favour of the Plaintiff, especially, because it involves thousands of customers on the internet, who could be deceived into believing that the Defendants’ platforms are connected with the Plaintiff’s.

22. Accordingly, till the next date of hearing, MEITY is directed to block these three websites and issue immediate directions to the ISPs to block the same. The said ISPs shall also take immediate steps to block the access to all these three websites. The said Defendants 1 to 3 are also restrained from using the mark or name KOO either as a trade mark or trade name or as part of the domain name. The Defendants shall also stand restrained from offering digital coins, digital currencies or offer any other services under the domain names impugned in the present suit, consisting of the word KOO.

23. The DNR-Go Daddy LLC, is also represented before this Court today. GoDaddy LLC is directed to disclose to the Plaintiff the details of the registrants of these domain names, as also any billing information, subscribers' information, and any other information which may be available. This information be provided by Id. Counsel for GoDaddy LLC within 48 hours. An affidavit shall be filed by GoDaddy LLC before the Court, stating as to whether it is a customer of the Defendant No.1's website. If any other services are being provided by GoDaddy LLC to these three networks, details of the same shall also be stated in the said affidavit.
24. Further, the URLs as mentioned in Annexure A and B of the Plaint, shall also be blocked by MEITY, as also the ISPs.
25. Compliance under Order XXXIX Rule 3 be effected *qua* ISPs, and Defendant Nos.1 to 3, within three days.
26. List on 6th October, 2022.

PRATHIBA M. SINGH, J

AUGUST 1, 2022

dj/ss