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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS (COMM) 193/2022 & I.As.4841-43/2022**

LIVING MEDIA INDIA LIMITED & ANR. Plaintiffs

Through: Mr. Hrishikesh Baruah, Mr. Shahrukh
Ejaz, Ms. Nilotpals Bansal, Md.
Mobashir, Advocates for P-1 & 2
along with Mr. Rohit Mehra & Ms.
Nikita Sachdeva, Legal Counsels (M-
7838390214).

versus

AABTAK CHANNEL.COM (JOHN DOES) & ORS..... Defendants

Through: Mr. Dayan Krishnan, Sr. Advocate
with Mr. Deepak Gogia & Mr. Jithin
M. George, Advocates for D-33.
Appearance not given for D-31/Google
LLC.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 30.03.2022

1. This hearing has been done through hybrid mode.

I.A. 4843/2022(for exemption)

2. Allowed, subject to all just exceptions. ***I.A. 4843/2022*** is disposed of.

CS (COMM) 193/2022

3. Let the plaint be registered as a suit.

4. Issue summons to the Defendant through all modes upon filing of
Process Fee. Summons are accepted by Defendant No.31 and Defendant
No.33.

5. The summons to the Defendants shall indicate that a written statement
to the plaint shall be positively filed within 30 days from date of receipt of
summons. Along with the written statement, the Defendants shall also file an

affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

6. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

7. List before the Joint Registrar for marking of exhibits on 27th May, 2022. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

8. List before Court on 3rd August, 2022.

I.A. 4841/2022 (u/O XXXIX Rule 1 and 2 CPC)

9. The Plaintiffs have filed the present suit seeking permanent injunction restraining infringement of trade marks, copyright, passing off, dilution, rendition of accounts, damages, etc., against the Defendants. Plaintiff No.1 is engaged in the business of news publication and printing of various magazines including India Today and Business Today. Plaintiff No.2 runs popular television news channels including 'AAJ TAK'.

10. It is the case of the Plaintiffs that Plaintiff No.1 has registered the mark 'AAJ TAK' bearing trade mark number 1242922 in class 38 and trade



mark number 1242921 in class 41. Moreover, the mark is also registered in favour of Plaintiff No.1 under various classes. The said

marks are stated to have been licensed to Plaintiff no. 2 vide a Trade Mark License Agreement dated 01st October, 2003.

11. The mark 'AAJ TAK' is a well-known mark which is used extensively on social media. The Plaintiffs have created various accounts, profiles and handles on social media and content sharing platforms such as Facebook, Twitter, YouTube, Instagram etc. wherein millions of people subscribe to them. The mark 'AAJ TAK' has also been extended to various programs such as 'Agenda Aaj Tak', 'Sahitya Aaj Tak', 'Budget Aaj Tak', 'Panchayat Aaj Tak'. The Plaintiffs also claim to have established an extensive digital-first ecosystem with the suffix 'TAK' by using marks such as 'Bharat Tak', 'Astro Tak', 'Fit Tak', 'Mobile Tak', 'Kids Tak', 'Life Tak', 'Mumbai Tak', 'News Tak', 'Sports Tak', 'Food Tak', 'Duniya Tak', 'Crime Tak' etc.

12. Thus, the Plaintiffs claim that their goodwill and reputation is not merely limited to the mark 'AAJ TAK', but also extends to various formative marks of 'AAJ TAK' and other marks ending with the word 'TAK'. The 'AAJ TAK' series of marks, as also various marks such as 'Yoga Tak', 'Tech Tak', 'Sports Tak', 'Mobile Tak', 'News Tak', 'Astro Tak', 'Duniya Tak', 'Punjab Tak', 'U.P. Tak', 'M.P. Tak', 'Crime Tak', 'Gujarat Tak' etc., are all registered in favour of the Plaintiffs.

13. In the present suit, the grievance of Plaintiffs is that various known and unknown parties have started using Plaintiffs' trademark 'AAJ TAK' in on online platforms including Facebook, Twitter, Instagram. Various parties have also uploaded videos using infringing marks which are either derived from the mark 'AAJ TAK' or use the mark 'TAK' as suffix. Some parties are also using similar logo forms and devices as that of the Plaintiffs'

registered marks. According to the Plaintiffs, such indiscriminate use of 'AAJ TAK' mark on online platforms severely impinges upon the Plaintiffs' rights in their marks and names. Mr. Baruah, ld. counsel, submits that the Defendant Nos.1 to 30, who are anonymous websites, YouTube channels, social media pages, social media handles, and social media accounts are violating the registered marks of the Plaintiffs by using the Plaintiffs' marks and their various derivative forms illegally and unauthorisedly.

14. On behalf of the Defendants No. 31 and 33, i.e., Twitter and Google, which runs the video sharing platform YouTube, it is submitted by ld. Counsels that the said Defendants are only intermediaries and only upon a court order being passed, can the posts/profiles/accounts be taken down. Reliance is placed upon Rule 3(1)(d) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Mr. Krishnan, ld. Sr. counsel, further argues that it is only the infringing use that can be taken down and all use of the words or expressions 'AAJ TAK' cannot be taken down as the same is a common expression in the Hindi language. In response, Mr. Baruah, ld. Counsel for the Plaintiffs, submits that the Plaintiffs are seeking injunction to restrain only infringing use of Plaintiffs' mark 'AAJ TAK' on various social media platforms.

15. Having considered the plaint and the averments made therein, as also the documents placed on record, there can be no doubt that the reputation and goodwill in the name and mark 'AAJ TAK' is well established. The television news channel 'AAJ TAK' is one of the most popular news channels in India. The mark 'TAK' is also used by the Plaintiffs in respect of various programs and social media accounts, profiles, and handles. Thus, the Plaintiffs' rights deserve to be protected. There are a large number of

infringing posts/profiles/accounts which are being used on the internet against which injunction is being sought in the present suit. This Court is *prima facie* convinced that a case is made out for grant of an *ad-interim* injunction against some of the Defendants. Most of the offending names and logos used are infringing in nature. Thus, barring the name ‘Sach Tak’, all the remaining infringing profiles, accounts, videos, channels are liable to be taken down as they are either using identical or deceptively similar names including logos and writing styles which is a colourable imitation of the Plaintiffs’ Aaj Tak logo.

16. For the sake of ready reference, the directions issued *qua* each of the offending names/platforms/accounts/posts is set out hereinbelow:

Defendant No.	Impugned names	Impugned marks	Plaintiffs’ Trade Mark(s) and Artistic Work(s)	Directions
Defendant No. 1	AABTAK NEWS CHANNEL (YouTube Channel)	 AABTAK NEWS CHANNEL	AAJ TAK    	Defendant No.1 is a YouTube channel using the name ‘AabTak’. This YouTube channel shall be taken down.

				
Defendant No. 2	Rajasthan TAK (YouTube Channel)	 Rajasthan TAK	AAJ TAK   	Defendant No.2 is a YouTube channel using the name 'Rajasthan Tak'. This YouTube channel shall be taken down.
Defendant No. 3	Aap TAK (Youtube Channel)	 Aap Tak	AAJ TAK  	Insofar as Defendant Nos.3, 4, 5, 6, 7 and 8 are concerned, these YouTube channels, Facebook page, and Instagram pages are using the name 'Aap Tak'. These YouTube channels, Facebook page, and Instagram pages shall be taken down.
Defendant No. 4	AapTAK news Channel (Facebook Page)	 Aaptaknews Channel	AAJ TAK  	

Defendant No. 5	Aap Tak News Channel (Instagram Page)	 Aap TAK News Channel	AAJ TAK  	
Defendant No. 6	Aap TAK Network (YouTube Channel)	 Aap TAK Network	AAJ TAK  	
Defendant No. 7	Aap Tak (Facebook Page)	 Aap TAK	AAJ TAK   	

			  	
Defendant No. 8	Aap Tak (Instagram Page)	 AapTAK	AAJ TAK     	

			 	
Defendant No. 9	Haryana Tak (Facebook page)	 Haryana TAK	AAJ TAK  HARYANA TAK	Defendant Nos.9 and 10 are Facebook page and YouTube channel respectively, using the mark 'Haryana Tak'. The Facebook page and the YouTube channel shall be taken down.
Defendant No. 10	Haryana Tak (YouTube channel)	 Haryana TAK	AAJ TAK  HARYANA TAK	
Defendant No. 11	Samay Tak News (Facebook Page)	 Samay TAK News	AAJ TAK   	Defendant Nos. 11,12,13 and 14 are Facebook page, YouTube channels, and website, using the mark 'Samay Tak' and logo which are identical to Plaintiffs' mark and logo. The Facebook page, YouTube channels, and the website shall be taken down.

			   	
Defendant No. 12	Samay Tak News (YouTube Channel)	 Samay TAK News	AAJ TAK   	

Defendant No. 13	Samaytak news.com (Website)	Samay TAK News	AAJ TAK	

			 	
Defendant No. 14	Samay Tak (YouTube Channel)	 Samay TAK	AAJ TAK  सबसे तेज़ 	
Defendant No. 15	sachtaknews.com (Website)	 sachTAKnews.com	AAJ TAK  सबसे तेज़  SAHITYA TAK	No order at this stage.
Defendant No. 16	Sach Tak News (Youtube Channel)	 Sach TAK News	AAJ TAK  सबसे तेज़	No order at this stage.

			 SAHITYA TAK	
Defendant No. 17	Sach Tak News (Facebook page)	 Sach TAK News	AAJ TAK  सबसे तेज़  SAHITYA TAK	No order at this stage.
Defendant No. 18	Sach Tak News (Instagram Page)	 Sach TAK News	AAJ TAK  सबसे तेज़  SAHITYA TAK	No order at this stage.
Defendant No. 19	Sach Tak News (Twitter Page)	 Sach TAK News	AAJ TAK  सबसे तेज़  SAHITYA TAK	No order at this stage.

Defendant No. 20	Kal Tak (Facebook Page)	 Kal TAK	AAJ TAK  	Defendant No.20 is a Facebook page which is using the name 'Kal Tak'. This Facebook page shall be taken down.
Defendant No. 21	Ab Tak TV News Channel (Facebook Page)	 Ab TAK TV News Channel	AAJ TAK     	Defendant Nos.21, 22, 23, 24, 25, 26 and 27 are Facebook pages, Instagram page, website, Twitter page, YouTube channel and Google Play Store mobile application using the name 'Ab Tak'. These Facebook pages, Instagram page, website, Twitter page, YouTube channel and Google Play Store mobile application shall be taken down.

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Defendant No. 22	Ab Tak Breaking News (Facebook Page)	 Ab TAK Breaking News	AAJ TAK   सबसे तेज़    	

			 	
Defendant No. 23	abtaktvlive.com (Website)	 Ab TAK TV India	AAJ TAK      	

			 	
Defendant No. 24	Ab Tak Tv News Channel (Instagram Page)	 Ab TAK Tv News Channel	AAJ TAK   सबसे तेज़     	

				
Defendant No. 25	Ab Tak TV News Channel (Twitter Page)	 Ab TAK Tv News Channel	       	

Defendant No. 26	Ab Tak TV News Channel Pvt. Ltd. (YouTube Channel)	 Ab TAK TV News Channel Pvt Ltd	AAJ TAK      	
Defendant No. 27	Ab Tak TV Live (Google Play Store Mobile Applicatio		AAJ TAK	

	n)		       *	
Defendant no. 28	Twitter tak Website		'AAJ TAK' 	Defendant Nos.28, 29 and 30 are website, twitter page, and Instagram page, using the mark 'Twitter Tak'. This name would not just be violative of
Defendant no. 29	Twitter tak twitter		'AAJ TAK'	

	page	twitter tak		Plaintiff's rights but also the Defendant No.33's rights in the mark 'TWITTER'. The adoption clearly appears to be dishonest. The said website, Twitter page, and Instagram page shall be taken down.
Defendant No. 30	Twitter tak Instagram page		'AAJ TAK' 	

17. If any Basic Subscriber's Information (BSI) details of Defendant No. 1 to 30, apart from what is already mentioned in the memo of parties, are available with Defendant Nos.31 to 36, the same shall be provided to the Plaintiffs in respect of their respective pages/handles/videos within one week. The Plaintiffs' counsel shall file an amended memo of parties so as to enable the said parties to appear in the matter and serve them a copy of the summons being issued today.

18. Compliance of Order XXXIX Rule 3 CPC be done through email considering the large number of Defendants who are to be served in this matter. If the Defendants wish to contest the matter, they shall file a reply upon service within four weeks. Rejoinder be filed within four weeks, thereafter.

19. Insofar as anonymous Defendants described as John Does, are concerned, the following directions are issued:

- i) Wherever the mark 'AAJ TAK' is being identically used on an online platform such as Twitter, Facebook, Instagram or in any videos, the same shall be taken down within 36 working hours upon information, including the specific URLs, being given by

the Plaintiffs to the respective platforms i.e., Defendant Nos.31 to 36;

- ii) In the case of a deceptive logo or a different mark with either the word 'AAJ' or 'TAK' being contained in the mark, the social media platform shall take down the said page/video/post within a period of 36 working hours as per Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021;
- iii) In the case of pages/videos/posts where the platforms do not take it down, within 36 hours, intimation shall be given to the Plaintiffs, upon which the Plaintiffs are free to avail of their remedies in accordance with law. Thereafter, upon an order being passed by the Court of competent jurisdiction, the said platform shall abide by the orders, if any, passed.
- iv) For the specific pages/videos/posts to be taken down, the URL shall be supplied by the Plaintiffs to the respective platforms and the same shall be filed on record in an affidavit in the same format as contained in the plaint.

20. In order to incorporate the specific logos in the order, the Plaintiff is permitted to supply the said logos in a pen drive to the Court Master today itself.

21. List before the Joint Registrar on 27th May, 2022.

22. List before the Court on 3rd August, 2022.

PRATHIBA M. SINGH, J.

MARCH 30, 2022/Rahul/Sk