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

+ **CS(COMM) 610/2023 and I.A. 16723/2023-16730/2023**

**CRESSET CAPITAL MANAGEMENT LLC & ANR. .... Plaintiffs**

Through: Mr. Saurabh Kirpal, Sr. Adv. with  
Mr. Anuj Berry, Mr. Sourabh Rath,  
Mr. Vibhore Yadav & Ms. Gauri  
Pasricha, Advs.

versus

**REGISTRANT OF WWW.CRESSETCAPITAL.IN**

**WWW.CRESSETINDIALIVE.LIVE & ORS. .... Defendants**

Through: Mr. Harish Vaidyanathan Shankar  
CGSC with Mr Gokul Sharma GP,  
Mr. Srish Kumar Mishra, Mr. Sagar  
Mehlawat, Mr. Alexander Mathai  
Paikaday, Mr. Krishnan V and Mr.  
M Sriram, Adv. for D- 7 & 8. (M:

Mr. Mrinal Ojha, Mr. Debarshi Dutta,  
Mr. Anand Raja & Ms. Tanya  
Chaudhry, Advs. for D-6.

Ms. Hetu Arora Sethi, Adv.

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**

**ORDER**  
**% 01.09.2023**

1. This hearing has been done through hybrid mode.

**I.A. 16729/2023 (for exemption)**

2. This is an application seeking leave to file a lengthy list of dates and events. For the reasons stated in the application, the exemption is allowed,



subject to all just exceptions.

3. Accordingly, application is disposed of.

**I.A. 16730/2023 (for exemption from giving advance notice)**

4. This is an application filed by the Plaintiffs, seeking exemption from serving notice to Defendant No. 7- Ministry of Electronics and Information Technology & Defendant No. 8- Department of Telecommunications under Section 80 of the CPC

5. Exemption is allowed. However, Mr. Harish V. Shankar, Id. CGSC has been requested to accept notice. Application is disposed of.

**I.A. 16728/2023 (exemption)**

6. This is an application seeking exemption from filing original documents. Recording the Plaintiffs' undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be produced/filed at the time of Admission/Denial, if sought, strictly as per the provisions of the Commercial Courts Act and the DHC (Original Side) Rules, 2018. Application is disposed of.

**I.A. 16727/2023 (Exemption from filing court fee)**

7. This is an application for exemption from filing court fee. The court fee to be deposited within one week failing which the Registry shall put up a report before this Court. Application is disposed of.

**I.A. 16726/2023 (for additional documents)**

8. 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'). If the Plaintiffs, wish to file additional documents at a later stage, they shall do so strictly as per the provisions of the Commercial Courts Act and the



DHC (Original Side) Rules, 2018.

9. Application is disposed of.

**I.A. 16725/2023 (u/S 12A of the Commercial Courts Act)**

10. This is an application seeking exemption instituting pre-litigation mediation. In view of the fact that urgent *ex-parte interim* injunction is being sought in the present case as also the order passed by the Division Bench of this Court in *Chandra Kishore Chaurasia v. R A Perfumery Works Private Ltd, 2022/DHC/004454*, the application is allowed and disposed of.

**I.A. 16724/2023 (exemption from advance service to the Defendants)**

11. In view of the fact that the Plaintiffs have sought *ex parte ad-interim* injunction, the exemption from advance service to the Defendants is granted.

12. Application is disposed of.

**CS (COMM) 610/2023**

13. Let the plaint be registered as a suit.

14. Issue summons to the Defendants through all modes upon filing of Process Fee.

15. The summons to the Defendants shall indicate that the 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 Plaintiffs, without which the written statement shall not be taken on record.

16. Liberty is given to the Plaintiffs to file the replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiffs, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiffs, 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.

17. List before the Joint Registrar for marking of exhibits on 3<sup>rd</sup> November, 2023. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

18. List before Court on 27<sup>th</sup> September, 2023.

**I.A. I.A. 16723/2023 (u/O XXXIX Rules 1 & 2 CPC)**

19. Issue notice.

20. The present suit is another in the series of Domain Name cases repeatedly being filed before this Court seeking protection against frauds being committed by registering domain names consisting of well-known trademarks and brand names.

21. This suit has been filed by M/s Cresset Capital Management, LLC and Cresset Administrative Services Corporation, both US-based companies engaged in providing investment advisory and asset management services. The case of the Plaintiffs is that they were set up in 2017 by their founders Mr. Eric Becker and Mr. Avy Stein to provide wealth management expertise and also guide clients for new investment opportunities. According to the Plaintiffs, the 'Cresset' mark has gained global recognition since 2017, as evidenced by numerous credentials and awards received in a short time. The Plaintiffs' claim to be handling funds worth more than 40 billion dollars. The websites [www.cressetcapital.com](http://www.cressetcapital.com) and [www.cressetpartners.com](http://www.cressetpartners.com) have been continuously used since 2017 to promote the Plaintiffs' business.

22. The trademark 'Cresset' is stated to be registered in the US - however, the same is yet to be applied for registration in India. The claim of the Plaintiffs is that their marks enjoy global reputation and goodwill owing to the online presence of the Plaintiffs through the websites. In order to



establish goodwill, Id. Sr. counsel relies upon various articles published in Indian magazines/publications including the Economic Times, Mint, Forbes, PR Newswire, Thinkadvisor.com, etc.

23. In the present case, the grievance of the Plaintiffs' is that one Mr. Karthikeyan Ganesan appears to have registered various domain names, which are enumerated below:

- (i) [www.cressetcapital.in](http://www.cressetcapital.in)
- (ii) [www.cressetindialive.live](http://www.cressetindialive.live)
- (iii) [www.cressetindialive.com](http://www.cressetindialive.com)
- (iv) <https://wap.stockix.in> (wherein a subdomain has been created)

24. The allegation is that all these domain names/subdomains which have been noticed since May, 2023 when complaints were received from certain consumers/users that they have started investing money through these websites. The websites had replicated the content of the Plaintiffs' website and thus users were unable to decipher that the said websites were fraudulent websites. All these websites/ domain names appear to be run by one Mr. Karthikeyan Ganesan. The contents of the emails sent by the users of the Plaintiff, which have been received are set out below illustratively:

<u>Name</u>	<u>Email Id</u>	<u>Content of email received</u>
Nagaraj	<a href="mailto:ganesh.narayanaug231@gmail.com">ganesh.narayanaug231@gmail.com</a>	<i>Hello, I have noticed that somebody has started whatsapp group in the name Cresset capital India, and now they are getting members to register under institutional account by collecting money. Could you please confirm if you are starting in India or it is a fake membership they are making here please?</i>



		<i>VP name is Mr. Michael Pedersen. Key person name Mr. Karthikeyan Ganesan</i>
Niket Mittal	<a href="mailto:niket.mittal@gmail.com">niket.mittal@gmail.com</a>	<i>Hi Team, I am Niket Mittal, based out of India. Recently I came across a WhatsApp group managed by Mr. Karthikeyan Ganesan (+91-7983915243). He has introduced us as an employee of Cresset and has been giving buying recommendation on the Indian stocks. So can you please confirm that this is an official group of Cresset and he is your employee.</i>
Sundaram Iyer	<a href="mailto:sundaram69@gmail.com">sundaram69@gmail.com</a>	<i>Hi, would like to know if you have a team or Associatea operating in India. I have been approached by a team lead Mr. Karthikeyan Ganesh for investment into equity thru Cresset India. Please find below his whatsapp message:</i>  <i>1: Cresset is a Wall Street financial institution Currently promoting the brand in India</i> <i>Here is our website:</i> <a href="https://www.cressetcapital.in/">https://www.cressetcapital.in/</a> <i>2: We currently only have a studio in India, and I will hold a meet and greet in the future at the Shangri-La Eros Hotel in New Delhi</i> <i>3: We held 5 membership sessions in India Always loved by Indian investors</i> <i>4: We are also teaching on the online live broadcast platform</i> <i>5: At present, everything we do is free Mainly push the Cresset brand become our member</i> <i>6: The institutional account is the same as your personal account</i> <i>Your own after registration</i> <i>no one else can use</i> <i>Funds are also free to enter and exit</i>



Krishna Byale	<a href="mailto:krish.p491@gmail.com">krish.p491@gmail.com</a>	<p><i>Hi Team,</i></p> <p><i>I have recently joined a whatsapp group with name below</i></p> <p><i>"Cresset Capital Business School phase 6 India School District" where teachers and a assistant provides updates on stocks to buy and sell. Also they suggested to open below institutional account so we can trade through institutional account, just curious to know wheather this is genuine website and people and beling to Cresset capital?</i></p> <p><i>Website: m.creseetcapital.in</i></p> <p><i>Please comfirm wheather this website is genuine as they suggested to open account and add money to trade through above cresset capital institutional account, also would like to know if I add money will it be safe and secure to trade along with withdraw money?</i></p> <p><i>Looking forward to hear your response as I'm quite afraid to add money and trade on above website ?</i></p>
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25. A perusal of the emails and the domain names which have been registered as also the websites which are running would show that the said Registrants of the Domain Names are brazenly using the Cresset name, the Cresset logo as also the content of the Plaintiffs' website only with a view to completely impersonate themselves as the Plaintiffs and collect money fraudulently from gullible consumers. A bare persual of the websites leave no manner of doubt that the same are a fraudulent imitation and violation of the Plaintiffs' common law rights in the mark 'Cresset' as also in the logo.



The Domain Name Registrars (DNRs) of these domain names are as under:

<b><u>S. No.</u></b>	<b><u>Domain Name Registrar</u></b>	<b><u>Website</u></b>
DNR-1	Web Commerce Communications (Singapore) Pvt. Ltd. – Defendant no. 4	<a href="http://www.cressetcapital.in">www.cressetcapital.in</a> <a href="http://www.cressetindialive.live">www.cressetindialive.live</a>
DNR-2	Global Domain Group LLC - Defendant no. 5	<a href="http://www.cressetindialive.com">www.cressetindialive.com</a>
DNR-3	Godaddy.com, LLC - Defendant no. 6	<a href="https://stockix.in">https://stockix.in</a> - In which the subdomain <a href="https://wap.stockix.in">https://wap.stockix.in</a> is created.

The Plaintiffs have also impleaded MEITY/DoT as Defendant Nos. 7 and 8 respectively.

26. After perusing the record it is clear that the mark ‘Cresset’ as also the accompanying logo is being misused by unscrupulous persons to create fraudulent websites and to illegally and unlawfully collect monies portraying themselves to be the Plaintiffs. All the domain name registrations which are on record show that they are privacy protected and, thus, the whereabouts or the identities of the persons who have registrated the domain names is unknown except to the Registrars of the domain name. The said domain names deserve to be taken down immediately in order to ensure that further duping of innocent persons is curtailed. A detailed investigation also deserves to be directed in the present case through the Cyber cell, Delhi Police for effective action against the persons behind such websites.

27. Under these circumstances, the Court had also called upon Ms. Hetu Arora Sethi, Id. Additional Standing Counsel, GNCTD, appearing for the





Cyber Cell of the Delhi Police in similar matters to assist the Court.

28. After perusing the record, it is clear that the Plaintiff had made out a *prima facie* case for grant of an injunction. The present facts and circumstances leave no doubt that the balance of convenience is heavily tilted in favour of the Plaintiffs as, if the impugned websites of the Defendants are allowed to operate, it would harm not just the Plaintiffs irreparably, but would also severely damage public interest. Similar factual matrix as the present case has also been considered by this Court in a batch of over 40 cases including ***Dabur India Limited v. Ashok Kumar & Ors, 2022:DHC:1049***, wherein it was held that operation of infringing websites would be against public interest and cause incalculable harm to the public.

Relevant extracts of the said order are extracted below:

*“17. Under these circumstances, the use of the aforementioned domain names and the hosting of websites using the same, in a manner so as to deceive the general public as also small businesses, who may be enticed into seeking franchisees and distributorships, using the mark/name DABUR, ought not to be permitted.*

*18. The legal rights of the Plaintiff are severely affected by the use of the mark ‘DABUR’, as also various logos of the various products and images thereof. Moreover, apart from the rights of the Plaintiff, which are being infringed, it would also not be in public interest to permit these domain names and websites to operate, so as to continue to deceive and cheat the general public in India and abroad.*

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*21. This Court is convinced that the Plaintiff has made out a *prima facie* case for the grant of ex-parte injunction and the balance of convenience is in favour of the Plaintiff. **Irreparable loss would be caused to***



**the Plaintiff if an ex-parte injunction is not passed in favour of the Plaintiff. The loss to the public is also incalculable.”**

29. This Court would also reiterate the observations made by a Id. Single Judge of this Court in the judgement, ***UTV Software Communication Ltd. and Ors. v. 1337X to and Ors., 2019 (78) PTC 375 (Del)***, wherein it was observed that while blocking of websites was a cumbersome exercise, there is a definitive requirement to frame some policy in this regard. The relevant observations of the Court in the judgement of ***UTV Software Communication Ltd. (supra)*** are as under:

**“104. This Court is of the view that since website blocking is a cumbersome exercise and majority of the viewers / subscribers who access, view and download infringing content are youngsters who do not have knowledge that the said content is infringing and / or pirated, it directs the MEITY/DOT to explore the possibility of framing a policy under which is a warning is issued to the viewers of the infringing content, if technologically feasible in the form of e-mails, or pop-ups or such other modes cautioning the viewers to cease viewing/downloading the infringing material. In the event the warning is not heeded to and the viewers /subscribers continue to view, access or download the infringing/pirated content, then a fine could be levied on the viewers/subscribers.”**

30. Recently, this Court in ***Universal City Studios LLC & Ors vs DotMovies.Baby and Ors, 2023:DHC:5842***, taking into consideration the dynamic nature of the infringing activity carried out by hydraheaded rogue websites decided to pass a Dynamic+ Injunction. The relevant extracts of the said decision are extracted as under:



*“16. The dynamism of the injunction, by itself, in one country or another may not, however be sufficient to protect copyright owners. There is an imminent need to evolve a global consensus in this regard inasmuch as despite ISPs blocking these websites, the said websites can be accessed through VPN servers, and other methods to which the long arm of the law cannot extend etc.*

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*19. **As innovation in technology continues, remedies to be granted also ought to be calibrated by Courts.** This is not to say that in every case, an injunction qua future works can be granted. Such grant of an injunction would depend on the fact situation that arises and is placed before the Court.*

*20. In the facts and circumstances as set out above, an ex parte ad interim injunction is granted restraining the Defendants, who are all rogue websites, from in any manner streaming, reproducing, distributing, making available to the public and/or communicating to the public any copyrighted content of the Plaintiffs including future works of the Plaintiffs, in which ownership of copyright is undisputed, through their websites identified in the suit or any mirror/redirect websites or alphanumeric variations thereof including those websites which are associated with the Defendants’ websites either based on the name, branding, identity or even source of content. To keep pace with the dynamic nature of the infringement that is undertaken by hydra-headed websites, this Court has deemed it appropriate to issue this ‘Dynamic+ injunction’ to protect copyrighted works as soon as they are created, to ensure that no irreparable loss is caused to the authors and owners of copyrighted works, as there is an imminent possibility of works being uploaded on rogue websites or their newer versions immediately upon the films/shows/series etc. The Plaintiffs are permitted to implead any*



*mirror/redirect/alphanumeric variations of the websites identified in the suit as Defendants Nos. 1 to 16 including those websites which are associated with the Defendants Nos. 1 to 16, either based on the name, branding, identity or even source of content, by filing an application for impleadment under Order I Rule 10 CPC in the event such websites merely provide new means of accessing the same primary infringing websites that have been enjoined. The Plaintiffs are at liberty to also file an appropriate application seeking protection qua their copyrighted works, including future works, if the need so arises. Upon filing such applications before the Registrar along with an affidavit with sufficient supporting evidence seeking extension of the injunction to such websites, to protect the content of the Plaintiffs, including future works, the injunction shall become operational against the said websites and qua such works. If there is any work in respect of which there is any dispute as to ownership of copyright, an application may be moved by the affected party before the Court, to seek clarification.”*

31. Accordingly, the following directions are issued:

- i. The Defendants’ websites and any other websites bearing the mark ‘Cresset’ shall stand restrained from using the mark ‘Cresset’ or the ‘Cresset’ logo or portraying themselves in any manner as originating from the Plaintiffs including for the purpose of collecting monies or misusing the said mark in any manner whatsoever.
- ii. The Domain Name Registrars shall immediately lock and suspend the said domain names, thereby bringing down the websites.
- iii. The Domain Name Registrars shall also disclose the details of the persons who have registered these domain names including any KYC details, credit card information, etc., which may be available if the said



Defendants have availed of cloud services or any other services from the said DNRs.

iv. DoT/MEITY shall, immediately, give instructions to all ISPs to block the above websites within 48 hours of the release of the order.

v. Considering the fact that the 'Cresset' is an invented mark, if any other domain names and websites come to the Plaintiffs' knowledge consisting of the mark 'Cresset' or the logo the Plaintiffs, the Plaintiffs shall file an affidavit before the Registrar with sufficient evidence that the content and branding of the Plaintiffs are being infringed in an unauthorised manner. Upon filing of such affidavits, the Plaintiffs are free to serve the said affidavits on the DNRs and inform the DNRs, who shall immediately lock and suspend the said domain names as well.

vi. Access to the websites shall also be blocked by all the ISPs upon blocking orders being issued by MEITY/DOT.

vii. Insofar as the person/s who appear to be running these websites and collecting monies from consumers are concerned, the cyber cell, Delhi Police shall, immediately, on the basis of today's order, commence action in accordance with law.

32. In the meantime, the cyber cell shall also enquire about any bank accounts which the said individual may have opened and issue a freezing order in respect of all the bank accounts. The details of the bank accounts may be available on the websites which are currently operational. Copy of the paperbook be served upon Ms. Sethi, Id. Counsel today itself by counsel for the Plaintiff.

33. Since the identity of most of the Defendants are not known, the service of summons and notices shall be permitted through emails, as



available.

34. List on 27<sup>th</sup> September 2023.

**PRATHIBA M. SINGH, J.**

**SEPTEMBER 1, 2023**

*dj/am*

*[corrected and released on 5<sup>th</sup> September, 2023]*