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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 109/2024**
SEQUOIA CAPITAL OPERATIONS LLC & ORS. Plaintiffs

Through: Ms. Priya Adlakha, Mr. Vardaan Anand and Mr. Shiv Mehrotra, Advocates for P-1.
Ms. Sneha Jain, Mr. Yatin Garg, Mr. Akshay Maloo and Mr. Rajit Ghosh, Advocates for P-2 & 3.

versus

SEENE TRADER & ORS. Defendants

Through: Ms. Nidhi Raman, CGSC with Mr. Zubin Singh, Advocates for D-7 & 8.
Mr. Tejas Karia, Ms. Swati Agarwal, Mr. Shashank Mishra, Mr. Mohit Singh, Ms. Akshit Rastogi, Ms. Vedika Rathore, Ms. Rithika Mathur and Ms. Ritika Bansal, Advocates for WhatsApp LLC.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
14.03.2024

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I.A. 5182/2024(u/O I Rule 10 and Order VI Rule 17 r/w Section 151 of CPC on behalf of Plaintiffs)

1. Through the present application, the Plaintiffs have invoked the provisions of the Code of Civil Procedure, 1908 ["CPC"] to implead WhatsApp LLC as Defendant No. 10 and to extend the directions contained



in paragraph No. 18.4 of the injunction order dated 05th February, 2024 with suitable modifications, to WhatsApp LLC.

2. As noted previously, Mr. Tejas Karia, counsel representing WhatsApp LLC, does not dispute that WhatsApp LLC would be a proper party for the purpose of effective implementation of this Court's direction. In view thereof, the request for impleadment is allowed and WhatsApp LLC is arrayed as Defendant No. 10 to the present suit. The amended plaint along with the amended memo of parties, annexed with the application, are taken on record.

3. This brings us to the bone of contention between the parties: how the following direction passed on 05th February, 2024, has to be extended to WhatsApp LLC, and if any modifications are required for its implementation:

"18.4 Defendant No.2 is also directed to remove/block the WhatsApp groups/communities as well as WhatsApp accounts of the mobile numbers as mentioned in DOCUMENT-B, or any other groups/ community groups created by/ administered by the phone numbers of the group admins of the aforesaid group that are misusing the Plaintiff's trademarks in their communications."

4. Mr. Karia opposes the Plaintiffs' request, arguing that of the phone numbers enlisted in Document-B to the plaint, except the phone number +44 7882642932, no evidence depicting violation of Plaintiffs' rights in the marks "SEQUOIA", "SEQUOIA CAPITAL", "PEAK XV", "PEAK XV PARTNERS" and the associated devices, has been supplied against the remaining numbers/ groups/ community/ channels by the Plaintiffs. Mr. Karia further submits that the Plaintiffs have not provided sufficient identifiers for WhatsApp LLC to locate the group "SENEE GROUP OFFICIAL 8571" for necessary action. In the event the Court were to direct



WhatsApp LLC to suspend/ block the group's operations, he insists that Plaintiffs must provide further information, such as the name of the group administrators or the group/ community invite link to the said WhatsApp group.

5. The Court has considered the afore-noted submissions and examined the record. Given that the parties are *ad-idem* in respect of involvement of the WhatsApp account holder of the phone number +44 7882642932 in the infringing activities, which has also been demonstrated to the Court, WhatsApp LLC is directed to remove/ block access to the WhatsApp account of the afore-noted mobile number. They shall also, within four weeks from today, file in a sealed cover, the Basic Subscriber Information relating to the WhatsApp account of the mobile number +44 7882642932, as is available with them. A copy thereof shall also be supplied to the counsel for Plaintiffs, which shall be strictly used by them only for the purpose of investigation and identification of the perpetrators.

6. Further, on a query of the Court, Mr. Karia states that if WhatsApp LLC blocks an account under court directions, no prior intimation is addressed to the WhatsApp account holder before such an action. Therefore, the immediate concern of the Court is that if the accounts were to be blocked at the insistence of the Plaintiffs, no grievance redressal mechanism would be available to the account holders, except for following the tedious and long-drawn process of writing to the Grievance Cell of WhatsApp India to ascertain the reasons for blocking of their accounts.

7. A suggestion has come from counsel for Plaintiffs that prior to the Court issuing any directions, Plaintiffs can, at the first instance, notify such account holders through WhatsApp communication or through text



messages on their phone numbers informing them the details of the present proceedings along with intimation of the next date of hearing, and the reason for seeking a blocking order. This would afford an opportunity to the genuine account holders to put forth their stand before the Court. The above suggestion is accepted and it is directed accordingly. Let the proof of dispatch of messages to the account holders be furnished before Court on the next date of hearing. Accordingly, the directions regarding the suspension/blocking of the remaining phone numbers/ groups/ channels/ communities, are deferred.

8. It is also pointed out by counsel for Plaintiffs that they do not know service provider details of phone numbers mentioned in Documents A, B and C to the plaint. They state that they have used third-party services, such as Truecaller and Paytm, to ascertain the telecom service provider, but are not able to gather any information. Ms. Nidhi Raman, counsel for Defendants No. 7 [Ministry of Electronics and Information Technology, Union of India] and 8 [Department of Telecommunication, Ministry of Communications and IT, Union of India], is requested to seek instructions regarding the process/ mechanism to be adopted to discern the telecom service providers of any given phone number and apprise the Court regarding the same on the next date of hearing.

9. Re-notify on 20th March, 2024.

SANJEEV NARULA, J

MARCH 14, 2024

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