

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
COMMERCIAL & ADMIRALTY DIVISION  
CIVIL SUIT NO. 586 OF 2014

CEVEN LIMITED.....PLAINTIFF  
-VERSUS-  
ERASTUS GICHUHI.....1<sup>ST</sup> DEFENDANT  
DANIEL THUKU.....2<sup>ND</sup> DEFENDANT  
TIDAL SPACE LIMITED.....3<sup>RD</sup> DEFENDANT  
EXPRESS PAYMENTS LIMITED.....4<sup>TH</sup> DEFENDANT  
ACCESS KENYA LIMITED.....5<sup>TH</sup> DEFENDANT

IN COURT ON 15<sup>th</sup> DAY OF DECEMBER, 2014  
BEFORE THE HON. LADY JUSTICE F.S. AMIN

APPLICATION FOR ORDERS:

ORDER

1. THAT this application be certified urgent and be heard ex-parte in the first instance.
2. THAT a mandatory injunction be issued compelling the 1<sup>st</sup> and 2<sup>nd</sup> Defendants to immediately grant the Plaintiff and/or any person designated by the Plaintiff full administrator privileges to the PataPawa system in its entirety including the Plaintiff's server co-hosted by the 5<sup>th</sup> Defendant and to disclose all administrator passwords and login particulars relating thereto.
3. THAT pending the hearing and determination of this application Interpartes, the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agent's assigns, servants and/or any other persons howsoever acting under their directions be restrained from accessing, modifying, amending, deleting, collocating, transacting on, Leaching or in any other manner interfering in any way with the PataPawa system and the Plaintiff's software, data and/or information on the Plaintiff's server co-hosted by the 5<sup>th</sup> Defendant.
4. THAT pending the hearing and determination of this suit the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agent's assigns, servants and/or any other persons howsoever acting under their directions be restrained from accessing, modifying, amending, deleting, collocating, or in any other manner interfering in any way with the PataPawa system and the Plaintiff's software, data and/or information on the Plaintiff's server co-hosted by the 5<sup>th</sup> Defendant.
5. THAT pending the hearing and determination of this Application Interpartes, the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agent's assigns, servants and/or any other persons howsoever acting under their directions be restrained from accessing, modifying, amending, deleting, collocating, transacting on or in any other manner interfering in any way with the software, data and/or information on any server co-hosted by the 5<sup>th</sup> Defendant on behalf of the 3<sup>rd</sup> Defendant.
6. THAT pending the hearing and determination of this suit the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agent's assigns, servants and/or any other persons howsoever acting under their directions be restrained from accessing, modifying, amending, deleting, collocating, transacting on or in any other manner interfering in any way with the software, data and/or information on any server co-hosted by the 5<sup>th</sup> Defendant on behalf of the 3<sup>rd</sup> Defendant.



7. THAT pending the hearing and determination of this application interpartes, the 5<sup>th</sup> Defendant be compelled to bar the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agents, assigns, servants and/or any other persons howsoever acting under their directions from accessing the Secondary/duplicate server and the Plaintiff's server co-hosted by the 5<sup>th</sup> Defendant.
8. THAT pending the hearing and determination of this suit, the 5<sup>th</sup> defendant be compelled to bar access to 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agents, assigns, servants and/or any other persons howsoever acting under their directions from accessing the secondary/duplicate server and the Plaintiff's server co-hosted by the 5<sup>th</sup> Defendant.
9. THAT an order be issued compelling the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agents, assigns, servants and/or any other persons having apparent control thereof to forthwith provide full access to and permit the Plaintiff, its advocates and/or any other persons designated by this permit the Plaintiff, its advocates and/or any other persons designated by this Honorable Court enter and re-enter their premises wherever located to search for, identify, inspect, copy, reproduce, duplicate or otherwise preserve and/or seize and place into the custody of this Honorable court any materials, documents, accounts equipment, records, computers, computer programmes, servers, electronic system, networks, data and information in any form as deemed necessary for the purpose of obtaining full information and evidence pertaining to the Pata Pawa system and all transactions relating thereto.
10. THAT an order be and is hereby issued restraining the 5<sup>th</sup> Defendant from modifying, amending and/or deleting data or information in any other manner interfering with the inspection and preservation of the full information and evidence pertaining to the Pata Pawa System and all transactions relating thereto or in any other manner assisting or permitting a breach of any order herein by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants.
11. THAT an order be and is hereby issued compelling the 5<sup>th</sup> Defendant to grant access and permission forthwith to the Plaintiff, its advocates and/or any other persons designated by this Honourable court enter and re-enter their premises at Barclays Plaza, Nairobi or wherever located to search for identify, inspect, copy, reproduce, duplicate or otherwise preserve and/or seize and place into the custody of this Honourable court any materials. Documents, accounts, equipment, records, computers, computer programmes, servers, electronic systems, networks, data and information in any form as deemed necessary for the purpose of obtaining full information and evidence pertaining to the Pata Pawa system and all transactions relating thereto pursuant to this order.
12. THAT the Officer Commanding Station Central Police Station do supervise and ensure compliance with this order.
13. THAT the costs of this application be borne by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants herein.

**UPON READING** the application dated 11<sup>th</sup> December, 2014 and presented to this Court on the same day by Counsel for he Plaintiff/Applicant under the Provisions of Section 1A, 1B, 3 and 3A of the Civil Procedure Act Cap 21 Laws of Kenya and Order 40 Rules 1 & 10 of the civil Procedure Rules 2010; and Section 37 of the Copyright Act (Cap 130 Laws of Kenya and all other enabling provisions of the Law; **AND UPON READING** the Supporting affidavit of **HENRY WAWERU** sworn on 10<sup>th</sup> December, 2014 together with the annexures thereto; **AND WHEREAS** this matter coming up exparte in chambers;

**IT IS HEREBY ORDERED:**

1. **THAT** the application be and is hereby certified as urgent.
2. **THAT** a mandatory injunction be and is hereby issued compelling the 1<sup>st</sup> and 2<sup>nd</sup> Defendants to immediately grant the Plaintiff and/or any person designated by the Plaintiff full administrator privileges to the PataPawa system in its entirety including the Plaintiff's server co-hosted by the 5<sup>th</sup> Defendant and to disclose all administrator passwords and login particulars relating thereto.
3. **THAT** pending the hearing and determination of this application Interpartes, the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agent's assigns, servants and/or any other persons howsoever acting under their directions be and are hereby restrained from accessing, modifying, amending, deleting, collocating, transacting on. Leaching or in any other manner interfering in any way with the PataPawa system and the Plaintiff's software, data and/or information on the Plaintiff's server co-hosted by the 5<sup>th</sup> Defendant.
4. **THAT** pending the hearing and determination of this suit the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agent's assigns, servants and/or any other persons howsoever acting under their directions be restrained from accessing, modifying, amending, deleting, collocating, or in any other manner interfering in any way with the PataPawa system and the Plaintiff's software, data and/or information on the Plaintiff's server co-hosted by the 5<sup>th</sup> Defendant.
5. **THAT** pending the hearing and determination of this Application Interpartes, the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agent's assigns, servants and/or any other persons howsoever acting under their directions be and are hereby restrained from accessing, modifying, amending, deleting, collocating, transacting on or in any other manner interfering in any way with the the software, data and/or information on any server co-hosted by the 5<sup>th</sup> Defendant on behalf of the 3<sup>rd</sup> Defendant.
6. **THAT** pending the hearing and determination of this suit the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agent's assigns, servants and/or any other persons howsoever acting under their directions be and are hereby restrained from accessing, modifying, amending, deleting, collocating, transacting on. Leaching or in any other manner interfering in any way with the software, data and/or information on any server co-hosted by the 5<sup>th</sup> Defendant on behalf of the 3<sup>rd</sup> Defendant.
7. **THAT** pending the hearing and determination of this application interpartes, the 5<sup>th</sup> Defendant be compelled to bar the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agents, assigns, servants and/or any other persons howsoever acting under their directions from accessing the Secondary/duplicate server and the Plaintiff's server co-hosted by the 5<sup>th</sup> Defendant.
8. **THAT** pending the hearing and determination of this suit, the 5<sup>th</sup> defendant be compelled to bar access to 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants and/or their employees, agents, assigns, servants and/or any other persons howsoever acting under their directions from accessing the secondary/duplicate server and the Plaintiff's server co-hosted by the 5<sup>th</sup> Defendant.
9. **THAT** an order be and is hereby issued restraining the 5<sup>th</sup> Defendant from modifying, amending and/or deleting data or information in any other manner interfering with the inspection and preservation of the full information and evidence pertaining to the Pata Pawa System and all transactions relating thereto or in any other manner assisting or permitting a breach of any order herein by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants until 22<sup>nd</sup> December, 2014.

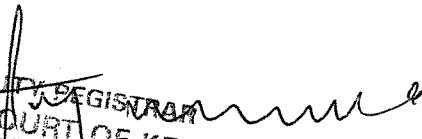
10. THAT the Applicant do serve the Respondents forthwith.

11. THAT the matter be listed for Mention on 22<sup>nd</sup> December, 2014.

12. THAT costs reserved.

GIVEN UNDER my hand and seal of this Honourable Court this 15<sup>th</sup> day December, 2014.

ISSUED at Nairobi this ..... 16<sup>th</sup> ..... day of ..... Dec ..... 2014

  
DEPUTY REGISTRAR  
HIGH COURT OF KENYA  
DEPUTY REGISTRAR  
HIGH COURT OF KENYA  
NAIROBI