

REPUBLIC OF KENYA
IN THE CHIEF MAGISTRATE'S COURT AT NAIROBI
MILIMANI LAW COURTS
CRIMINAL CASE NO. 2374 OF 2017



IN THE MATTER OF: AN APPLICATION BY GALOT INDUSTRIES LIMITED,
MANCHESTER OUTFITTERS LIMITED AND
KINGWOLLEN MILLS LIMITED

IN THE MATTER OF: AN APPLICATION FOR TERMINATION OF CRIMINAL
PROCEEDINGS AND INSTITUTION OF FRESH
CRIMINAL CHARGES

IN THE MATTER OF: THE CONSTITUTION OF KENYA, 2010

IN THE MATTER OF: THE PENAL CODE CAP 63 LAWS OF KENYA AND THE
CRIMINAL PROCEDURE CODE

IN THE MATTER OF: THE COMPANIES ACT, 2015

GALOT INDUSTRIES LIMITED1ST APPLICANT
MANCHESTER OUTFITTERS LIMITED2ND APPLICANT
KINGWOOLLEN MILLS LIMITED3RD APPLICANT

-VERSUS-

PRAVIN GALOT1ST RESPONDENT
THE DIRECTORATE OF CRIMINAL INVESTIGATIONS.....2ND RESPONDENT
DIRECTOR OF PUBLIC PROSECUTIONS3RD RESPONDENT
RAJEEV MODI4TH RESPONDENT
PUSHPINDER SINGH MANN5TH RESPONDENT
JOPHECE YOGO6TH RESPONDENT

CERTIFICATE OF URGENCY



I MAK'OGONYA T.T. TIEGO an Advocate of the High Court of Kenya do hereby certify this application as urgent on the grounds that 1st Respondent who is not a Director of the Applicants has on the basis of a false Report and statements he made to the officers of the 2nd Respondent , caused the 3rd Respondent to prefer Criminal charges against the 4th to 6th Respondents , who are officers of the Applicants , touching on the Applicants' operations and it is contended that these proceedings have been commenced with ulterior motives and an abuse of the process of this Court and hence it is imperative that this application be certified as urgent and be heard of at the earliest instance.

DATED at Nairobi this **25th** day of **March** 2019

MAK'OGONYA T.T. TIEGO

P.105/2896/95 Practice No. LSK/2019/03832

TIEGO & CO.

ADVOCATES FOR THE APPLICANTS

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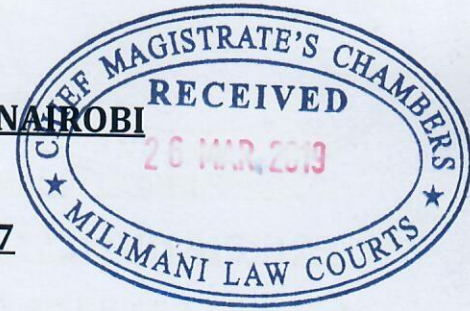
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NOTICE OF MOTION



(Under Sections 21,38,52 , 66 and 122A of the Criminal Procedure Code, Sections 101,104(i), 108, 112AA,113,115,117,121(i),122(1)(i) &(2),129 and 395(b) of the of the Penal Code , Articles 28,29,30,47,50,157,159 ,160, 162 and 169 of the Constitution of Kenya , 2010 and all other enabling provisions of the law

TAKE NOTICE that this Honourable Court shall be moved on the day of 2019 at 9 O'clock in the forenoon or soon thereafter when it shall be possible to hear Counsel on behalf of the Applicants in an application for Orders:-

1. **THAT** this application be certified as urgent and be disposed of on a priority basis.
2. **THAT** this Honourable Court be pleased to stay the proceedings herein pending the hearing and determination of this application.
3. **THAT** this Honourable Court be pleased to terminate the Criminal proceedings herein against **RAJEEV MODI , PUSHINDER SINGH MANN** and **JOPHECE YOGO** , the accused persons herein who are officers of the Applicants and the 4th to 6th Respondents herein.
4. **THAT** this Honourable Court do direct the 2nd Respondent to immediately commence investigations into the conduct of the 1st Respondent **PRAVEEN GALOT** together with 2 officers of the 2nd Respondent namely **MICHAEL K. SANG** and **ERICK MURITHI** in the

making of the false report and statements precipitating the charges facing the accused persons herein.

5. **THAT** the 3rd Respondent be directed to immediately institute charges against the 1st Respondent for his conduct in making a false complaint against the 3rd, 4th and 5th Respondents in line the provisions of Sections 101,104(i),108, 112A, 113, 115,117, 121(i), 129 and 395(b) of the of the Penal Code.
6. **THAT** the 1st Respondent **PRAVIN GALOT** together with 2 officers of the 2nd Respondent namely **MICHAEL K. SANG** and **ERICK MURITHI** be immediately arrested and brought under the escort of the police to this Court take plea on the above charges.
7. **THAT** this Honourable Court be pleased to make such or further orders that it may deem fit and just to grant.
8. **THAT** the Applicants be granted leave to apply.
9. **THAT** the costs of this application be provided for in favour of the Applicants in any event.

WHICH APPLICATION is supported by the annexed Affidavit of **MOHAN GALOT** and further reasons on the following grounds:-

- i) Pravin Galot , the 1st Respondent herein is not a Director of the Applicants

- ii) Pravin Galot made a false report to the officers of the 2nd Respondent on the basis that he is a Director of the Applicants
- iii) The Applicants have no complaint against the accused persons herein being the 4th to 6th Respondents
- iv) The 1st Respondent has falsely represented himself to be a person authorised by the Applicants to lodge a complaint on their behalf and testify to facts touching on the records kept by the Registrar of Companies
- v) The 1st Respondent has colluded with some officers of the 2nd Respondent namely **MICHAEL K. SANG** and **ERICK MURITHI** who have in abuse of the authority of their office committed arbitrary acts prejudicial to the rights of the 4th to 6th Respondents and have them charged with non-existent offences contrary to Section 101 of the Penal Code together
- vi) The 1st Respondent gave malicious information to the officers of the 2nd Respondent with intention to cause the 4th to 6th Respondents to be apprehended and charged before this Court knowing that the same was false
- vii) The 1st Respondent has fabricated evidence that he is a Director of the Applicants
- viii) The 1st Respondent has with intention of deceiving this Court knowingly fabricated and made use of fabricated evidence

- ix) The 1st Respondent has with the collusion of 2 officers of the 2nd Respondent namely **MICHAEL K. SANG** and **ERICK MURITHI** practiced fraud and duped the 3rd Respondent thereby culminating in the charging of the 4th to 6th Respondents with imaginary offences before this Court
- x) The 1st Respondent has conspired with some Counsels under the Attorney General's office to defeat justice by procuring the removal and disappearance of the official file from the Company Registry , for **GALOT INDUSTRIES LIMITED** the 1st Applicant herein with intent to prevent it from being used in evidence
- xi) The 1st Respondent has conspired with the officers of the 2nd Respondent and who have committed acts of intentional disrespect to this Court and the proceedings herein and duped the 3rd Respondent to again charge the 4th Respondents in Nrb Criminal Case No. 95 of 2019 with the same offence herein during the pendency of these proceedings
- xii) The 1st Respondent has conspired with the officers of the 2nd Respondent to dupe the 3rd Respondent to prefer the Criminal charges against the 4th to 6th Respondents to cause injury to the reputation of the Applicant, the 4th to 6th Respondents and more particularly **MOHAN GALOT** the Founder, Governing Director, Principal Shareholder and Chairman of the Applicants in his trade and profession, the lawful exercise of the business of the Applicants , so as to effect his unlawful purposes of defrauding
- xiii) These criminal proceedings are a violation of the rights of the 4th to 6th safeguarding their freedom from cruel, inhuman or degrading treatment and the rights to a fair trial , human dignity , mental torture and fair

hearing as protected and enshrined under the Constitution of Kenya ,
2010

- xiv) The 2nd and 3rd Respondents officers have demonstrated that they are not independent in discharging their duties herein and are exercising their functions under the control and direction of the 1st Respondent
- xv) The judicial authority of this Court must be exercised to protect the rights of the Applicants as well as the 4th to 6th Respondents
- xvi) This Court in exercise of its powers must protect and uphold the Constitution

DATED at Nairobi this ^{25th} day of *March* 2019

MAK'OGONYA T.T. TIEGO

P.105/2896/95 Practice No. LSK/2019/03832

TIEGO & CO.

ADVOCATES FOR THE DEFENDANT

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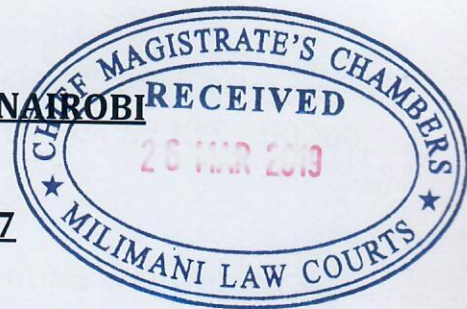
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JOPHECE YOGO6TH RESPONDENT

SUPPORTING AFFIDAVIT

I, **MOHAN GALOT** a resident of Kiambu and of care of P.O. Box 57387 - 00200, NAIROBI do hereby make oath and state as follows:

1. **THAT** I am an adult male of sound mind and disposition well versed with the facts surrounding this application hence competent to swear this Affidavit.
2. **THAT** I am the subscriber, Founder, Governing Director, Principal Shareholder and Chairman of **GALOT INDUSTRIES LIMITED, MANCHESTER OUTFITTERS LIMITED and KINGWOOLLEN MILLS LIMITED**; and hence duly authorised to swear this Affidavit on behalf of the said Companies.
3. **THAT** the contents, meaning and purport of the Charge Sheet forming the basis of the charges against **RAJEEV MODI, PUSHPINDER SINGH MANN** and **JOPHECE YOGO** respectively the 4th to 6th Respondents herein have been explained to me by my Advocate herein and which explanation I verily believe to be true (**copy whereof is annexed hereto and marked as exhibit "MG1"**).
4. **THAT** the 4th to 6th Respondents herein have been charged with the offence of perjury and swearing false statement pursuant to the complaint made by the 1st Respondent herein **PRAVIN GALOT** in collusion with 2 officers of the 2nd Respondent namely **MICHAEL K. SANG** and **ERICK MURITHI**.
5. **THAT** in collusion with the 1st Respondent, the officers of the 2nd Respondent fraudulently prepared the Charge Sheet on the basis of the false statements and report by the 1st Respondent against the 4th to 6th Respondents, in his alleged position as a Director of **MANCHESTER**

OUTFITTERS LIMITED touching on their status in the Applicant companies.

6. **THAT** I know that the 3rd Respondent has been duped to prefer the said charges against the 4th to 6th Respondents as the prosecution is solely targeted towards assisting the 1st Respondent to defraud me of my multi-billion Kenya Shillings properties and assets.
7. **THAT** I was previously variously referred to as **MOHANLAL PURSHARAM GALOT, MOHANLAL PUSHARAM GALOT** and **MOHANLAL PUSHARAM LACHMAN GALOT** and by a Deed Poll dated 22:11:1979 I changed my names to **MOHAN GALOT**; and the public was notified of the same vide Gazette Notice No. 3548 in Kenya Gazette of 2nd December 1979 (*copies whereof are annexed hereto in a bundle and marked as exhibit "MG2"*).
8. **THAT GALOT INDUSTRIES LIMITED** was incorporated on 21:06:1979 (*copy of Certificate of Incorporation is annexed hereto and marked as exhibit "MG3"*).
9. **THAT MANCHESTER OUTFITTERS LIMITED** was incorporated on 03:11:1977(*annexed hereto and marked as "MG4" is a true copy of the Certificate of Incorporation*).
10. **THAT KING WOOLLEN MILLS LIMITED** was a Company previously known as **MANCHESTER OUTFITTERS (SUITING DIVISION) LIMITED** and the said Certificate of Change of Name was issued on 10:05:1991. (*annexed hereto and marked as "MG5" is a true copy of the Certificate of Change*).
11. **THAT** being the subscriber, Founder, Governing Director, and Chairman of **GALOT INDUSTRIES LIMITED, MANCHESTER OUTFITTERS LIMITED** and **KINGWOOLLEN MILLS LIMITED**; the respective Articles of

Association of the said Companies have given me the powers as the Principal Shareholder thereof to hire and appoint anyone as Directors and Company Secretary and consequently I appointed the 4th and 5th Respondents (Accused Persons) as the Directors and the 6th Respondent as the Company Secretary of the said Companies to further assist in the effective management of their affairs.

12. **THAT** the 1st Respondent is not a Director of **GALOT INDUSTRIES LIMITED, MANCHESTER OUTFITTERS LIMITED** and **KINGWOOLLEN MILLS LIMITED**; and has been colluding with officers attached to the 2nd Respondent to defraud me of my multi billion worth Companies and investments in Kenya.

13. **THAT** I am aware that the said Companies **GALOT INDUSTRIES LIMITED, MANCHESTER OUTFITTERS LIMITED** and **KINGWOOLLEN MILLS LIMITED** filed a suit against the 1st Respondent and his allies in **NAIROBI HIGH COURT CIVIL CASE NO.430 OF 2012: GALOT LIMITED, MANCHESTER OUTFITTERS & OTHERS -VERSUS- PRAVIN GALOT & OTHERS** (*annexed hereto and marked as "MG6" is a true copy of the said pleadings*).

14. **THAT** I am also aware and was advised by the Advocate Mr. Havi who is on record for the Plaintiffs in **NAIROBI HIGH COURT CIVIL CASE NO.430 OF 2012: GALOT LIMITED, MANCHESTER OUTFITTERS & OTHERS -VERSUS- PRAVIN GALOT & OTHERS** that the proceedings were stayed by the 3 judges of the High Court empanelled by the Hon. Chief Justice (Hon Justice Fred Ochieng, Hon. Justice Eric Ogolla and Hon. Lady Justice Jackline Kamau) until the question of who are the bonafide Directors of **MANCHESTER OUTFITTERS LIMITED** is determined following the institution of **NAIROBI HIGH COURT CIVIL CASE NO.55 OF 2012**

(FORMERLY NAIROBI HIGH COURT CIVIL CASE 63 OF 2009) (annexed hereto and marked as “MG7” is a true copy of the said decision).

15. **THAT** PRAVIN GALOT, the 1st Respondent herein working in cohorts with other parties namely **HARRY BOB OTIENO MOSI** and **KAMAU ERNEST KAKA** caused the disappearance of the entire file for **GALOT INDUSTRIES LIMITED** with the Companies' registry at Sheria House to enable them manufacture fake documents to take over ownership and control of **GALOT INDUSTRIES LIMITED**. I reported the matter to the Banking Fraud Investigations Department.
16. **THAT** as a consequence, all applications for requests for shareholding and directorships for **GALOT INDUSTRIES LIMITED** were unsuccessful.
17. **THAT** the Registrar of Companies requested the 1st Respondent and I to forward the relevant documentation relating to **GALOT INDUSTRIES LIMITED** to his office for scrutiny and to aid in reconstruction of the registry file.
18. **THAT** vide a letter dated 29:01:2016, the Registrar of Companies confirmed that:

...“Following the disappearance of the original file from our Registry the Registrar requested for copies of documents held by yourselves in order to reconstruct the file.

The Registrar acknowledges receipt of copies of documents held by Mohan Galot through Company Secretary Jophece Yogo and from Pravin Galot forwarded by their lawyers Kaka Kamau & Company Advocates...

The valid directors are:

1. *Mohanlal Pusharam Galot – one management share*

2. Lalchand Pusharam Galot – one management share.”

(annexed hereto and marked as “MG8” is a true copy of the said letter).

19. **THAT** as indicated in the decision of the Registrar of Companies as contained in the aforesaid letter dated 29:01:2016 **LALCHAND PUSHARAM GALOT** and I are the current shareholders and Directors of **GALOT INDUSTRIES LIMITED**.
20. **THAT** one officer attached to the 2nd Respondent a Mr. Kibet came to my offices in April 2016 and while in the presence of my employee one Ms. Mumbi told me that the 1st Respondent herein had informed him that he is the one who engineered the removal of the registry file for **GALOT INDUSTRIES LIMITED** from the Companies registry with the assistance of one **HARRY BOB MOSE** and one **KAKA KAMAU** a former State Counsel in the Attorney General's office and that he had kept the file in Naivasha in an undisclosed location.
21. **THAT** vide a letter dated 27:04:2016 I wrote to the Director of Banking Fraud Investigations Department informing them of the contents of the aforesaid letter from the Registrar of Companies and further revealed that the 1st Respondent herein had disclosed to an Investigating Officer attached to the 2nd Respondent that he had the entire registry file for **GALOT INDUSTRIES LIMITED** which he hid within Naivasha (**annexed hereto and marked as “MG9”**).
22. **THAT** to date, **GALOT INDUSTRIES LIMITED** is yet to receive any outcome on the investigations being undertaken by the said Director of Banking Fraud Investigations Department.
23. **THAT** an eBusiness search on 27:02:2018 at the Companies Registry reveals that **KING WOOLLEN MILLS LIMITED** is registered as a private limited liability company under Registration Number CPR/2010/102777

shows that after the Receiver finalised his brief the share value of the Company has now been reduced to nil and the Company is just a mere shell with no assets and liabilities and which position has been confirmed by the Certificate of Share Valuation of the Company dated 21:11:2012 from Messrs Ashvin Ranpara & Co and details of the application details. *(copies whereof are annexed hereto and marked as "MG10" and "MG11")*.

24. **THAT** I am aware that **KING WOOLLEN MILLS LIMITED** is not trading and does not have any shares at all ! **(annexed hereto and marked as "MG12" are true copies of the relevant notices from the Official Receivers)**.
25. **THAT** given the foregoing, it is thus evident that the 1st Respondent is not a Director of **GALOT INDUSTRIES LIMITED, MANCHESTER OUTFITTERS LIMITED and KINGWOOLLEN MILLS LIMITED** and therefore lacks capacity to hold himself out as such and has no locus and or capacity to represent any of the said companies in any proceedings before this Honourable Court as such.
26. **THAT** the instant criminal proceedings were commenced at the behest of the 1st Respondent under the false representation that he is a Director of **GALOT INDUSTRIES LIMITED, MANCHESTER OUTFITTERS LIMITED and KINGWOOLLEN MILLS LIMITED**.
27. **THAT** in recommending and prosecuting the Accused persons herein, the 2nd and 3rd Respondents were acting purely under the direction and control of the 1st Respondent, **PRAVIN GALOT** and were not guided by any investigations, at all!
28. **THAT** in furtherance of their malice and manipulations by the 1st Respondent, the 2nd and 3rd Respondents again arraigned and charged the 4th to 6th Respondents before this Court again in **CRIMINAL CASE NO.95**

OF 2019: R -VERSUS- RAJEEV MODI & others with the similar offence as the instant case; with the intention to embarrass and intimidate the 4th to 6th Respondents , Respondent , myself and the Applicants (**annexed hereto and marked as “MG13” is a true copy of the said Charge Sheet**).

29. **THAT** upon the objection of his Counsel on record, the Honourable Court (Hon. Onkwani) ordered the Investigating Officer to be summoned to appear before the Honourable Court on 25:01:2019 to explain why the CRIMINAL CASE NO.95 OF 2019 was instituted

30. **THAT** on 25:01:2019 the Investigating Officer did not appear as summoned but the Prosecutor prayed for the withdrawal of the charges as there was another matter of a similar nature (being the present case); and the charges were withdrawn (**annexed hereto and marked as “MG 14” is a true copy of the said Court proceedings**).

31. **THAT** **GALOT INDUSTRIES LIMITED, MANCHESTER OUTFITTERS LIMITED** and **KINGWOOLLEN MILLS LIMITED** appointed the 1st to 3rd Accused persons as officials of the Company under my management and control as stipulated under clause 5(ii) and (iii) of the Memorandum of **GALOT INDUSTRIES LIMITED** and **MANCHESTER OUTFITTERS LIMITED** and 4(2)and (3) of **KINGWOOLLEN MILLS LIMITED** and Article 10 in the Articles of Association of all the Companies (***copies of the respective Memorandum and Articles of Association are annexed hereto and respectively marked as exhibit “MG 15-17***).

32. **THAT** thus, **PRAVIN GALOT**, the 1st Respondent herein lacks locus to be a Complainant in any matter relating to and on behalf of **GALOT INDUSTRIES LIMITED, MANCHESTER OUTFITTERS LIMITED** and **KINGWOOLLEN MILLS LIMITED** and more particularly the present proceedings.

33. **THAT GALOT INDUSTRIES LIMITED, MANCHESTER OUTFITTERS LIMITED** and **KINGWOOLLEN MILLS LIMITED** are not interested in proceeding with any criminal action commenced against the 1st to 3rd Accused persons and I hereby swear this Affidavit in support of the prayer that the instant criminal proceedings be terminated.
34. **THAT** had proper investigations been commenced, the 1st to 3rd Accused persons herein would not have been charged with any of the offences as contained in the Charge Sheet; and there are no genuine records from the Registrar of Companies declaring **PRAVIN GALOT**, the 1st Respondent as a Director and or shareholder of any of the Applicants Companies.
35. **THAT** the decision to prosecute the 4th to 6th Respondents was made in clear abuse of power by the 2nd and 3rd Respondents with the collusion of the 1st Respondent and it is in the interest of the administration of justice and need to prevent and avoid abuse of the Court process that these Criminal proceedings be terminated.
36. **THAT** the 1st to 3rd Accused persons and the Applicants' are at a risk of facing court proceedings where the Companies shall be made to incur unnecessary expenses in damages and compensation for malicious prosecution.
37. **THAT** it is also in the interests of justice that **PRAVIN GALOT** the 1st Respondent herein be investigated with the various offences as grounded in the application herein as well as regarding the loss and being in possession of the official registry file for **GALOT INDUSTRIES LIMITED** and the numerous illegal acts carried out at the Companies registry in cohorts with his allies to alter the records of the aforestated Companies; and the said unlawful actions continue to affect their management and operations.

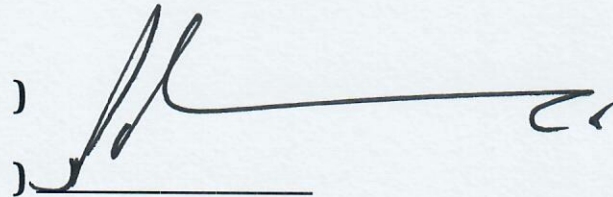
38. **THAT** I am apprehensive that unless the orders sought hereby issue immediately, the 1st to 3rd Respondents will by their above said decisions unlawfully continue with the malicious prosecution of the 4th to 6th Respondents in violation of the law and the rights and fundamental freedoms of the Accused persons.
39. **THAT** it is for the foregoing reasons that this Honourable Court should therefore stay the Criminal proceedings herein pending the hearing and determination of this application.
40. **THAT** for the above reasons, I verily believe that the 4th to 6th Respondents herein are mere pawns in the schemes by the 1st Respondent in collusion with some of the officers of the 2nd Respondent based at Muthaiga Police Station to defraud me of my property and hence an abuse of the process of this Honourable Court and the ends of justice would be best served if these Criminal proceedings are terminated.
41. **THAT** equally it is for the said reasons that that this Honourable Court should therefore direct the 2nd Respondent to immediately commence investigations into the conduct of the 1st Respondent **PRAVIN GALOT** culminating into the commencement of these proceedings.
42. **THAT** the 3rd Respondent should therefore be directed to immediately institute charges against the 1st Repondents for his conduct for making a false complaint against the 3rd, 4th and 5th Respondents contrary to the provisions of Sections 101,104(i),108, 112AA,113,115,117,121(i),122(1)(i) &(2),129 and 395(b) of the of the Penal Code
43. **THAT** the 1st Respondent should immediately be arrested and brought under the escort of the police for being contemptuous to this Court to take plea.

44. **THAT** it is just and fair that this application be allowed as prayed, to uphold and enforce the rule of law, to avoid abuse of legal process and, to obviate imminent injustice/hardship to the Accused persons and the Applicants.

45. **THAT** all I have deponed to herein are true to the best of my knowledge and belief, save where based on information sources whereof I have disclosed.

SWORN at NAIROBI)

By MOHAN GALOT)



This 25th day of March 2019)

Deponent

VELMA ACHIENG MAUMO)
BEFORE ME:)
ADMISSION No. P105/11093/14)
PRACTICE No. 2019/LSK100415)
P. O. Box 26391 - 00100,)
NAIROBI)

COMMISSIONER FOR OATHS)

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