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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **CS(COMM) 21/2019****BENNETT, COLEMAN & COMPANY
LIMITED & ANR.**

..... Plaintiffs

Through Ms. Mamta R. Jha with Mr. Vipul
Tiwari and Ms. Shipra Philip,
Advocates

versus

MR. AJAY KUMAR & ORS. Defendants

Through None

**CORAM:
HON'BLE MR. JUSTICE MANMOHAN****ORDER**% **16.01.2019****I.A.594/2019**

Keeping in view the averments in the application, plaintiffs are exempted from filing the original/clear/typed/translated copies of documents at this stage.

Plaintiffs are also permitted to file additional documents within thirty days.

Needless to say, this order is without prejudice to the rights and contentions of the parties.

Accordingly, present application stands disposed of.

CS(COMM) 21/2019

Let the plaint be registered as a suit.

Issue summons in the suit to the defendants by all modes including e-mail, registered post as well as dasti, returnable for 27th February, 2019 before the Joint Registrar for completion of service and pleadings.

The summons to the defendants shall indicate that a written statement to the plaint be positively filed within four weeks of the receipt of the summons. Liberty is given to the plaintiff to file a replication within two weeks of the receipt of the advance copy of the written statement.

The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document which is not in their power and possession, its detail and source shall be mentioned in the list of reliance which shall be also filed with the pleadings.

Admission/denial of documents shall be filed on affidavit by the parties in accordance with the Delhi High Court Rules.

List the matter before Court on 29th March, 2019.

I.A. 593/2019

Issue notice to the defendants by all modes including e-mail, registered post as well as dasti, returnable for 27th February, 2019 before the Joint Registrar.

It is pertinent to mention that the present suit has been filed for permanent injunction restraining infringement of trade mark, copyright, passing off, unfair competition, rendition of accounts of profit/damages etc.

In the plaint, it is stated that the plaintiffs belong to the 'Times Group' which comprises of various independent companies involved in a variety of businesses such as media and entertainment etc. It is stated in the plaint that the plaintiff no. 1 commenced publication of its newspaper in India in 1838

under the trademark/trade name/house mark TIMES initially through its publication under the name THE BOMBAY TIMES and Journal of Commerce which evolved into the TIMES OF INDIA in 1861. It is stated that the plaintiff no. 1 also devised and created the logo



which is being used with other trademarks of the plaintiffs since 3rd November, 1888.

It is stated in the plaint that in 1961 to offer news pertaining to business, finance, stocks/share market, economy and banking and provide analysis on mutual funds, gold, FOREX and real estate etc. the plaintiff no. 1 commenced the publication and circulation of daily newspaper under the trademark THE ECONOMIC TIMES.

It is stated in the plaint that the plaintiff no. 1 is the registered proprietor of the mark THE TIMES OF INDIA and their variants under various classes of the Trade Marks Act, 1999 including Classes 9 and 16 since 1943. It is also stated that the plaintiff no. 1 is the registered proprietor of the mark THE ECONOMIC TIMES. It is further stated that the plaintiff no. 1 is the registered proprietor of the trademark / logo



, which comprises various elements including two elephants, a crest in the middle and a banner with words “Let Truth Prevail”.

It is stated in the plaint that the news articles published in the plaintiff

no. 1's newspaper are published with indication/credit to the specific name source, for instance PTI, Reuters or else TIMES NEWS network or name of the journalist, therefore, the contents of the news articles published in the newspaper as well as website constitute an original literary work within the meaning of Section 2(o) of the Copyright Act, 1957.

It is averred in the plaint that the plaintiff no. 1 has started the circulation of its newspaper THE TIMES OF INDIA and THE ECONOMIC TIMES in electronic form through its website www.epaper.timesofindia.com.

It is stated in the plaint that the circulation of the newspaper THE TIMES OF INDIA in India for the year 2017 to 2018 was approximately 39,42,00,000 and for THE ECONOMIC TIMES it was 6,13,000.

Learned counsel for the plaintiffs states that in the first week of January, 2019 the plaintiffs came to know that the defendant nos. 1 and 2 through their website www.sscias.com makes available for download electronic copy of the 'Delhi Edition' of the newspapers THE TIMES OF INDIA and the ECONOMIC TIMES before 6 a.m. and also displays plaintiff no. 1's logo on their website without any authorisation from the plaintiffs.

Learned counsel for the plaintiffs states that the defendants are dishonestly making available for download the plaintiffs' newspapers on their website to earn illegal commercial benefits by allowing such advertisers to place their advertisements on the impugned website, thereby earning unlawful revenues by way of all such advertisements.

She states that such unlawful act on the part of the defendant nos. 1 and 2 are detrimental to the plaintiffs' business and their proprietary rights

since it prevents the circulation/ distribution of the newspapers to consumers through the plaintiffs or through any other channel authorised by the plaintiffs, thereby causing huge monetary loss to the plaintiffs. Such activities, according to her, are bound to lead to fall of the sale of physical copies of newspapers as well as the number of online visits on the plaintiffs' websites, namely www.epaper.timesofindia.com, www.timesofindia.com and www.economicstimes.com by the readers and online visitors as well as reduction in the opportunity of advertisements.

Keeping in view the aforesaid, this Court is of the opinion that a *prima facie* case of infringement and passing off, is made out in favour of the plaintiffs and balance of convenience is also in its favour. Further, irreparable harm or injury would be caused to the plaintiffs if an interim injunction order is not passed.

Consequently, till further orders, the defendant nos. 1 and 2, their directors, partners/proprietors as the case may be, assigns in business, licensees and franchisees and any other person or entity claiming rights through them are restrained from using, making available for download, advertising or promoting or using in any manner the plaintiff no. 1's newspaper under the trademarks THE TIMES OF INDIA, THE



ECONOMIC TIMES and the logo on their website www.sscias.com or through any platform/device, or dealing in any manner, directly or indirectly whatsoever, for any other goods or services under any other mark identical/deceptively similar to the plaintiffs' trade

marks THE TIMES OF INDIA, THE ECONOMIC TIMES and the logo



, or that may be a colourable imitation or substantial reproduction of the plaintiff no.1's copyrighted work. Further, defendant nos. 3 and 4/Go Daddy being the Registrar is directed to lock the ownership of the domain name www.sscias.com.

Let the provisions of Order 39 Rule 3 CPC be complied within a period of one week.

Order dasti under the signature of Court Master.

MANMOHAN, J

JANUARY 16, 2019

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