

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**IN IT'S COMMERCIAL DIVISION**  
**NOTICE OF MOTION NO. 733 OF 2017**

**IN**

**COMMERCIAL SUIT NO. 815 OF 2017**

The Board of Control for Cricket in India ...Applicant /  
Original Plaintiff

**IN THE MATTER BETWEEN :**

The Board of Control for Cricket in India ... Plaintiff

Versus

Grace India Sports Pvt. Ltd. ... Defendant

Dr. Veerendra Tulzapurkar, Sr. Counsel along with Mr. Virag Tulzapurkar, Sr. Counsel, Mr. Ashutosh Kane, Ms. Akshata Kamath and Ms. Nadine Kolliyil instructed by W.S. Kane & Co, Advocates for the Plaintiff.

**CORAM: S.J. KATHAWALLA, J.**

**DATE: JANUARY 16, 2018**

**P.C. :**

1. The learned Senior Counsel appearing for the Plaintiff submits that an ad-interim application came to be made on behalf of the Plaintiff on 14<sup>th</sup> December 2017 before S.C. Gupte, J. and draws my attention to the order dated 14<sup>th</sup> December 2017 passed by the learned

Judge. By the said order dated 14th December, 2017, the Defendant, who was absent on that day, was given one more opportunity to show cause to the Plaintiff's ad-interim application and the Plaintiff was directed to reserve the papers and proceedings on the Defendant. The said order further records that in case the Defendant does not accept service or fails to remain present to show cause on the next occasion, the matter will be heard ex-parte and appropriate ad-interim orders will be passed. It is submitted on behalf of the Plaintiff that pursuant to the aforesaid order dated 14<sup>th</sup> December 2017, copies of the papers and proceedings as also of the aforesaid order dated 14<sup>th</sup> December 2017 came to be served on the Defendant by Courier and by Email. Affidavits of Service dated 4<sup>th</sup> January 2018 and 3<sup>rd</sup> January 2018 proving the aforesaid service by Courier and by Email respectively are tendered on behalf of the Plaintiff and the same are taken on record. It is submitted on behalf of the Plaintiff that notice of today's ad-interim application has been given by Email to the Defendant on 12<sup>th</sup> January 2018 and again on 15<sup>th</sup> January 2018. Print outs of both the said emails are tendered in Court. From the aforesaid facts, it is clear that despite service / notice, the Defendant has remained absent.

2. The Plaintiff is a Society registered under the Tamil Nadu Societies Registration Act, 1975, having its registered office at the address

mentioned in the cause title hereinabove and its head office in Mumbai at the address mentioned in the cause title of the plaint. The Plaintiff organization was formed in 1929 and is the apex governing body for cricket in India.

3. The Defendant claims to be organizing cricket talent hunts/ cricket camps and cricket tournaments, which services are identical with/ similar to those provided by the Plaintiff.

4. It is submitted that in or about 2007 the Plaintiff designed and adopted logos comprising a batsman swinging a bat as if hitting a ball, a semi-circular arc suggesting movement or path of the bat, with the expressions IPL and Indian Premier League (“IPL” being abbreviation of INDIAN PREMIER LEAGUE) with the word and the numeral TWENTY 20 in connection to a unique concept of cricket matches wherein the opposing teams play matches of 20 overs each. Yet, since each team plays only 20 overs, the batsmen indulge into hard hitting and fast batting, at times taking greater risk, but increasing the tempo of the game, increasing greater involvement of spectators. It is submitted that the abovementioned logos as a whole and in their entirety are also unique, novel, catchy and attractive. The Plaintiff is also using the trade marks IPL, Indian Premier

League, IPLT20 and IPL Twenty 20 upon and in relation to the aforesaid tournament and goods and services associated therewith.

5. It is submitted that in the year 2008 the Plaintiff hosted the unique cricket tournament “Indian Premier League Twenty 20” popularly known as “IPLT20” and/ or “IPL” with twenty overs a side. The Plaintiff’s IPLT20 and/ or IPL also received the sanction of International Cricket Council (ICC). The inaugural event of the IPLT20 and/ or IPL was held on April 18, 2008 in Bangalore. It is submitted that much prior to the said inaugural event, the Plaintiff commenced promoting and publicizing the said event, through wide and extensive advertising and publicity, both in India as well as abroad. It is submitted that by the time the said event i.e. IPLT20 and/ or IPL matches started in 2008, the trade marks Indian Premier League, IPLT20 and IPL were already popular as indicating the Plaintiff’s aforesaid cricket matches.

6. It is submitted that huge amount of money, in excess of several crores of rupees, were spent by the sponsors and franchisees and tremendous publicity and hype had been generated in respect of the Plaintiff’s Indian Premier League/ IPL matches. It is submitted that not a single medium of entertainment or news was spared to propagate the Indian Premier League/ IPL matches, the teams playing therein, the team owners,

players, all received mammoth coverage, publicity and response both in print and television as well as on electronic/internet medium. It is submitted that the aforesaid trade marks are being exclusively associated with the Plaintiff and have been exclusively connoting and denoting to the members of trade and the public the goods/ services of the Plaintiff's origin, whether in India or abroad.

7. It is submitted that the Plaintiff has earned tremendous goodwill in respect of its said unique concept of cricket matches and the Plaintiff's aforesaid trade marks have acquired the status of "well-known trade marks".

8. It is submitted that the Plaintiff has earned substantial income/ incurred substantial expenditure in relation to the Indian Premier League/ IPL tournament. Copies of the schedules forming part of the income and expenditure account for the year ending 31st March 2009 to the year 31st March 2016 are annexed to the plaint and marked as Exhibits "A-1" to "A-8".

9. It is submitted that the trade marks "Indian Premier League", "Indian Premier League Twenty 20", "IPL Twenty 20", and "IPL" have been duly registered in the name of the Plaintiff in India. A list containing the details of the Plaintiff's trade mark registrations is annexed to the plaint

and marked as Exhibit “B”. It is submitted that in addition to the aforesaid trade marks, the Plaintiff has also applied for registration of the trade mark “IPLT20” in India, details whereof can be found in Exhibit “C-5”. The Plaintiff has also secured registrations of its trade marks in other jurisdictions as detailed in Exhibits “D-1” and “D-2” to the plaint.

10. The Plaintiff is also operating a domain name/ website [www.iplt20.com](http://www.iplt20.com) in relation to its cricket tournament called Indian Premier League or IPL.

11. It is submitted that on or about 24<sup>th</sup> August, 2016, Mr. Anurag Thakur, the then President of the Plaintiff received a letter from the Defendant wherein the Defendant informed the Plaintiff about its intention/ desire to conduct a Cricket Tournament for Junior Players under the name/ trade mark Indian Junior Players League Twenty 20/ IJPL T20 in India. Copy of the said letter dated 24<sup>th</sup> August 2016 is annexed to the plaint and marked as Exhibit “F”.

12. It is submitted that on receiving the said letter, the Plaintiff made enquiries and learnt that Mr. Gautam Gambhir, who has been a part of the Indian Cricket Team for the past many years, is associated with the Defendant. It is submitted that the same was confirmed when the Plaintiff came across an article dated 15th September, 2016 in The Times of India

titled “Gambhir Unveils Indian Junior Players League” wherein it was inter-alia reported that “Star batsman Gautam Gambhir on Thursday unveiled the Indian Junior Players League Twenty 20 (IJPL T20), a talent hunt for boys aged 14 to 18 years”. The said article also contained some more information about the aforesaid talent hunt. A copy of the said article is annexed to the plaint and marked as Exhibit “G”. The Plaintiff also learnt that apart from Mr. Gautam Gambhir, the names of Mr. Paras Dogra and Mr. Rishi Dhawan, both cricketers who have been associated with the Plaintiff for the past many years, appeared on the Defendant’s website as “Mentors” of the Defendant’s cricketing tournament. Correspondence between the Plaintiff and Mr. Gautam Gambhir, Mr. Paras Dogra and Mr. Rishi Dhawan are detailed in paragraphs 15, 17, 19 and 21 of the plaint.

13. It is submitted that in or about October, 2016, the Plaintiff made further enquires when the Plaintiff came across the Defendant’s domain names [www.ijplt20.com](http://www.ijplt20.com) and [www.juniorsipl.com](http://www.juniorsipl.com). A print out of the homepage of the domain name/ website [www.ijplt20.com](http://www.ijplt20.com) is annexed to the plaint and marked as Exhibit “J”.

14. Aggrieved by the Defendant’s use of the impugned trade mark and domain names, on 11<sup>th</sup> November, 2016 the Plaintiff, through its Advocates, issued a cease and desist notice to the Defendant calling upon

the Defendant to inter-alia cease and desist from use of the impugned trade mark “IJPL” and the Defendant’s domain names [www.ijplt20.com](http://www.ijplt20.com) and [www.juniorsipl.com](http://www.juniorsipl.com) in relation to cricket related services and/or like services or in any other manner whatsoever. The Plaintiff also inter-alia called upon the Defendant to forthwith cancel the registration of the Defendant’s domain names and submit proof of such cancellations. A copy of the said cease and desist notice dated 11<sup>th</sup> November 2016 is annexed to the plaint and marked as Exhibit “K”.

15. It is submitted that after issuing the said notice, the Plaintiff genuinely and bonafidely believed that the Defendant would comply with the requisitions contained in the aforesaid notice. However, the Plaintiff was shocked to come across a newspaper article dated 1<sup>st</sup> December, 2016 published in the Dainik Bhaskar (Hindi Edition, Jaipur), stating that “Eight states will compete for an entry in Youth IPL”. A copy of the said article is annexed to the plaint and marked as Exhibit “L”.

16. It is submitted that the Plaintiff also issued a letter addressed to all State Associations affiliated to the Plaintiff, informing them about the Indian Junior Players League Twenty 20 (IJPL T20) tournament organized by the Defendant; that the said IJPL T20 tournament has not been approved by the Plaintiff; and that the respective Associations should



inform all Junior Players registered with the respective Associations that the Plaintiff has not authorized any such tournament. A copy of the said letter dated 8<sup>th</sup> December, 2016 is annexed to the plaint and marked as Exhibit “N”. In response to its letter dated 8<sup>th</sup> December, 2016, Saurashtra Cricket Association, Rajkot, one of the Associations affiliated to the Plaintiff, vide its e-mail dated 9<sup>th</sup> December, 2016 addressed inter-alia to Mr. Ratnakar Shetty, of the Plaintiff, forwarded an e-mail also dated 9<sup>th</sup> December, 2016 addressed by the Defendant from its e-mail address [info@ijplt20.com](mailto:info@ijplt20.com) inter-alia to the said Saurashtra Cricket Association, Rajkot, vide which the Defendant had invited students of the said Saurashtra Cricket Association, Rajkot to participate in the IJPL T20 tournament. In the said e-mail, the Defendant referred to Mr. Gautam Gambhir as its Brand Ambassador. The said e-mail also referred to other cricket players such as Mr. Jonty Rhodes, Mr. Keiron Pollard, Mr. Rishi Dhawan and Mr. Paras Dogra, as National cricket icons associated with its initiative. The e-mail stated that the selection will be done by Ranji Trophy players and coaches, and that the event will culminate into a National Tournament of day-night matches which will be held in Mumbai. Copies of the said letter dated 9<sup>th</sup> December, 2016 addressed by the office of Saurashtra Cricket Association, Rajkot and of the aforesaid e-mail also

dated 9<sup>th</sup> December, 2016 addressed by the Defendant inter-alia to Saurashtra Cricket Association, Rajkot are annexed to the plaint and marked as Exhibits “O-1” and “O-2”, respectively.

17. It is submitted that on or about 13<sup>th</sup> December, 2016, the Plaintiff received an email from Mr. Sampat Rai, Executive Director of the Defendant, referring to its abovementioned letter dated 24<sup>th</sup> August, 2016, wherein the Defendant sought to explain to the Plaintiff the nature and purpose of the aforesaid tournament/ cricketing talent hunt; that vide the said email the Defendant also assured the Plaintiff that the aforesaid efforts of the Defendant are bonafide and that the Defendant had no intention of misleading children in any manner whatsoever. A print out of the said email dated 13<sup>th</sup> December, 2016 is annexed to the plaint and marked as Exhibit “P”. It is submitted that on the same day, the Plaintiff responded to the Defendant’s aforesaid e-mail and inter-alia stated that as the Plaintiff is the body governing the game of cricket in India, all tournaments need prior approval of the Plaintiff; that no such approval has been given by the Plaintiff; that the Plaintiff has its own association and as such players participating in non-organized tournaments cannot be part of the Plaintiff’s talent, events and other activities; that this applies even to officials associated with the unapproved tournaments be they ex or current

cricketers who have played for the Plaintiff or who are receiving financial benefits or pension or other benefits from the Plaintiff and that the aforesaid rules are not peculiar to the Plaintiff but apply universally to every sports federation and cricket body governing the sport in any country. A print out of the said reply to the Defendant is annexed to the plaint and marked as Exhibit "Q". It is submitted that in response to the Plaintiff's said e-mail dated 13<sup>th</sup> December, 2016, vide an e-mail dated 14<sup>th</sup> December, 2016, the aforesaid Mr. Sampat Rai, Executive Director of the Defendant, sought an appointment with the Plaintiff to resolve the issue. It is submitted that no meeting was held and the Plaintiff did not give any approval for the tournament. A print out of the said email dated 14<sup>th</sup> December, 2016 to the Plaintiff is annexed to the plaint and marked as Exhibit "R".

18. It is submitted that the Plaintiff further learnt that during or at the time of the IJPL T20 cricket selection camps, the Defendant was distributing cricket kits/ apparel to the participants. The printouts of the Schedule for the Selection Camps organized by the Defendant and of the Brochure available on the Defendant's website giving details of the Defendant's tournament are annexed to the plaint and marked as Exhibits "T-1" and "T-2".

19. It is submitted that the Plaintiff thereafter did not come across any advertisement of the Defendant's cricket tournament and was therefore under the bonafide belief that the Defendant had decided to not hold the IJPL T20 tournament and had discontinued use of the impugned trade mark and domain names. It is submitted that however, sometime in the third week of August 2017, the Plaintiff learnt that the Defendant was planning to hold a cricket tournament under the trade mark IJPL T20 in Dubai which was to be played at the Dubai International Cricket Stadium from 19th September 2017 to 30th September 2017. On making further enquiries, the Plaintiff learnt that the Defendant was now using the domain name [www.ijplth.com](http://www.ijplth.com) to advertise and promote the aforesaid tournament under the trade mark IJPL T20. It is submitted that the Plaintiff observed that the Defendant was however, no longer using the impugned domain name [www.juniorsipl.com](http://www.juniorsipl.com) and/or that the impugned domain name [www.juniorsipl.com](http://www.juniorsipl.com) was no longer accessible and that though the Defendant was now using the aforesaid domain name [www.ijplth.com](http://www.ijplth.com), the domain name [www.ijplt20.com](http://www.ijplt20.com) was still active. It is submitted that in fact, on visiting the domain name [www.ijplt20.com](http://www.ijplt20.com), the Plaintiff was directed to the domain name [www.ijplth.com](http://www.ijplth.com) and on being directed to the said domain name [www.ijplth.com](http://www.ijplth.com), the Plaintiff observed that the Defendant continued

to refer to its cricket tournament as IJPL T20. It is submitted that consequently, the Plaintiff published a media advisory dated 9<sup>th</sup> September, 2017 on its website against IJPL T20 and its domain names. The Plaintiff's Acting Hony. Secretary Mr. Amitabh Choudhary further sent an email dated 10<sup>th</sup> September 2017 to all the affiliated state cricket units wherein it stated that IJPL T20 did not have its approval and to disassociate from it. A print out of the said email dated 10<sup>th</sup> September, 2017 is annexed to the plaint and marked as Exhibit "W-1". A print out of the Plaintiff's aforesaid media advisory is annexed to the plaint and marked as Exhibit "W-2".

20. It is submitted that on 11<sup>th</sup> October, 2017, the Plaintiff sent a second cease and desist notice to the Defendant to inter-alia cease and desist from using the impugned trade mark IJPL T20 as also the domain names [www.ijplt20.com](http://www.ijplt20.com) and [www.ijplth.com](http://www.ijplth.com) and/or any other trade mark/ domain name deceptively similar to the Plaintiff's said trade mark/ domain name. A copy of the second cease and desist notice dated 11<sup>th</sup> October, 2017 is annexed to the plaint and marked as Exhibit "X".

21. It is submitted that on visiting the Defendant's aforesaid website, the Plaintiff has learnt that the Defendant has now started the registration process for the IJPL T20 Season 2.

22. Ld. Sr. Counsel appearing on behalf of the Plaintiff submits that the Defendant's impugned trade mark IJPL/ IJPL T20 and the impugned domain names www.ijplt20.com, www.juniorsipl.com and www.ijplth.com are visually, structurally, phonetically, aurally, closely and deceptively similar to the Plaintiff's said trade mark IPL bearing Registration No. 1656216 in Classes 16, 18, 22, 25, 28, 32, 35, 37, 39, 41 and 42, and Registration No. 1760385 in Class 09, and the Plaintiff's said trade mark IPLTwenty20 bearing Registration Nos. 1760386 and 1760387, both in Class 09; that the impugned trade mark and the impugned domain names, both contain the whole of the Plaintiff's registered trade mark IPL and that the Defendant is using the impugned trade mark and impugned domain names in respect of identical/ similar services/ goods as those in respect of which the Plaintiff is using its well-known trade marks IPL/ IPLTwenty20 and in respect of which the Plaintiff has secured registration of its said IPL trade marks. It is submitted that in the circumstances, the Defendant has infringed and is continuing to infringe the Plaintiff's said trade mark IPL bearing Registration No. 1656216 in Classes 16, 18, 22, 25, 28, 32, 35, 37, 39, 41 and 42, and Registration No. 1760385 in Class 09, and the Plaintiff's said registered trade mark IPLTwenty20 bearing Registration Nos. 1760386 and 1760387, both in Class 09.

23. In so far as passing off is concerned, my attention is drawn to the publication/ article appearing in the Dainik Bhaskar, Jaipur edition dated 1<sup>st</sup> December 2016, which is annexed as Exhibit “L” to the plaint. The said article describes the Defendant’s tournament as “Youth IPL” and “Indian Junior Premier League”. Additionally, my attention is drawn to an article published in the Times of India online edition dated 18<sup>th</sup> December 2016 annexed as Exhibit “Y-1” to the plaint. In the said article, the Defendant’s tournament is once again referred to as “Indian Junior Premier League” (“IJPL”). It is submitted on behalf of the Plaintiff that the aforesaid facts demonstrate that real and actual confusion has already taken place between the rival trade marks and the rival services.

24. I have perused the aforesaid Exhibits, particularly the Plaintiff’s registered trade marks including the trade mark IPL, and the Defendant’s impugned trade mark IJPL at Exhibit “T-2”. Prima facie, the rival trade marks are deceptively similar. The Defendant’s impugned trade mark IJPL contains the whole of the Plaintiff’s registered trade mark IPL. The rival services/ activities are also the same/ similar.

25. In the circumstances, I am satisfied that the Plaintiff has made out a strong prima facie case for grant of reliefs for infringement of trade mark and passing off and unless the said reliefs are granted, the Plaintiff is

likely to suffer irreparable injury. Accordingly, pending the hearing and final disposal of the above Notice of Motion, there shall be an ad-interim order in terms of prayer clauses (a) and (b) of the above Notice of Motion which are reproduced hereunder :

*"(a) That the Defendant by itself, its directors, employees, servants, agents, dealers, distributors and all persons claiming under it be restrained by a permanent order and injunction of this Hon'ble Court from infringing the Plaintiff's said registered trade mark IPL bearing Registration No. 1656216 in Classes 16, 18, 22, 25, 28, 32, 35, 37, 39, 41 and 42 and Registration No. 1760385 in Class 09, and the Plaintiff's said registered trade mark IPLTwenty20 bearing Registration Nos. 1760386 and 1760387, both in Class 09 by the use of the impugned trade mark IJPL/IJPL T20 and the impugned domain names/ websites [www.ijplt20.com](http://www.ijplt20.com), [www.juniorsipl.com](http://www.juniorsipl.com) and [www.ijplth.com](http://www.ijplth.com) and/or any other trade mark and/or domain name/ website containing the Plaintiff's said trade mark IPL or any other trade mark identical with and/or deceptively similar to the Plaintiff's registered trade marks IPL/ IPLTwenty20 in respect of the same/similar services and/or goods as those in respect of which the Plaintiff has secured the aforesaid registrations or in any other manner whatsoever;*

*(b) That the Defendant by itself, its directors, employees, servants, agents, dealers, distributors and all persons claiming under it be restrained by a permanent order and injunction of this*



*Hon'ble Court from rendering, offering, promoting or advertising the impugned services and/or the impugned goods and/or the like services and/or goods under the impugned trade mark IJPL/ IJPL T20 in any medium, including (but not limited to) through the impugned domain names/ websites [www.ijplt20.com](http://www.ijplt20.com), [www.juniorsipl.com](http://www.juniorsipl.com) and [www.ijplth.com](http://www.ijplth.com) and/ or any other trade mark and/ or domain name/ website containing the Plaintiff's said well-known trade marks IPL/ IPL Twenty20/ IPLT20 or any other trade mark identical with and/or deceptively similar to the Plaintiff's said well-known IPL trade marks so as to pass off or enable others to pass off the impugned services, goods and/or business as and for the well-known services and/or activities of the Plaintiff or in any other manner whatsoever".*

26. The Plaintiff is directed to serve an authenticated copy of this order upon the Defendant by Speed Post A.D., Courier and also by Email.

27. List the above Notice of Motion for hearing and final disposal on 30<sup>th</sup> January, 2018.

**(S.J. KATHAWALLA, J.)**