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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 723/2022, I.A. 12370/2023 & I.A. 12371/2023.**
BENNETT COLEMAN AND COMPANY LIMITED

..... Plaintiff

Through: Ms. Mamta Rani Jha and Ms. Saumya
Khandelwal, Advocates.

versus

TIMESPRO CONSULTING LLP & ORS.

..... Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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05.02.2024

I.A. 12371/2023 (Application under Order VIII Rule 10 read with Section 151 of the Code of Civil Procedure, 1908)

1. This application has been filed under Order VIII Rule 10 of the Code of Civil Procedure, 1908 (“**CPC**”), by the plaintiff seeking pronouncement of a judgment and decree in the suit in terms of para 36 clause (a-f) of the plaint.

2. It is stated in the said application that pursuant to order dated 04th November, 2022, when this Court passed *ex parte ad interim* injunction, *inter alia*, restraining the defendants and all those acting on their behalf from using the mark ‘TIMESPRO CONSULTING’ as a trademark, trade name, domain name, email, social media identifier or in any other manner which was identical or deceptively similar to the plaintiff's trademarks TIMES, TIMESPRO, TIMES PROPERTY & TIMES formative mark in relation to business purposes



which were identical or similar to those of the plaintiff, as well as other reliefs and directions.

3. Plaintiff complied with Order XXXIX Rule 3 of the CPC and duly served the defendants through e-mail, registered post, and accordingly placed on record an affidavit of service dated 07th November 2022.

4. Defendants appeared through counsel before this Court, however, they did not file their written statement within the statutory period of 120 days. Accordingly, the *ex parte ad interim* injunction granted on 4th November 2022 was made absolute by this Court on 04th May 2023.

5. Defendants have failed to appear on multiple dates thereafter. These facts are noted in order of the Joint Registrar dated 10th January 2024, including noting that counsel for the defendant was also served and has acknowledged the receipt of the notice, but has refused to file any replies.

6. Accordingly, their opportunity to file replies stood closed.

7. Plaintiff's counsel *inter alia* also adverts to the fact that trademark 'TIMESPRO' along with device 'TIMESPRO' are registered since 2013, with user in the mark 'TIMES' since 1838.

8. Plaintiff's counsel submits that plaintiff has applied for and obtained registration for the trademark TIMESPRO in India in respect of various goods and services. The details of such registrations are provided hereinbelow:



LIST OF PLAINTIFF'S REGISTRATIONS
FOR THE TRADE MARK "TIMESPRO"

Trade mark	Registration No. and Date	Status	Class & Description of Goods & Services /
	2463049 18/01/2013	Registered and valid up to 18/01/2033	[Class: 9] Educational computer software; computer, electronic or video games and computer software programs thereof; computer software(recorded); computer-aided graphics, multi-media applications, audio or video images, all the aforesaid are either recorded or downloadable via internet or wireless devices; electric & electronic teaching apparatus, instruments & tools; electronically or electrically operated visual displays & apparatus thereof; pre-recorded & blank audio & video cassettes & discs.
TIMES PRO	2463054 18/01/2013	Registered and valid up to 18/01/2033	[Class: 9] electric & electronic teaching apparatus, instruments & tools; electronically or electrically operated visual displays & apparatus thereof; pre-recorded & blank audio & video cassettes & discs; educational computer



			software; computer, electronic or video games and computer software programs thereof; computer software(recorded); computer-aided graphics, multi-media applications, audio or video images, all the aforesaid are either recorded or downloadable via internet or wireless devices
	2463050 18/01/2013	Registered and valid up to 18/01/2033	[Class : 16] Books & publications of all kinds; periodicals; instructional & teaching materials (other than apparatus); educational guides, notes & compilations; note books, exercise books, school slates, writing pads, printed time tables, black boards, drawing boards, protective book covers, drawing chalks, inking pads; mathematical instruments & cases; atlases, maps, charts, graphic reproduction; painting canvas; stationery; paper & paper articles; computer print outs, printed operating instructions.
TIMES PRO	2463055 18/01/2013	Registered and valid up to 18/01/2023	[Class : 16] Books & publications of all kinds; periodicals; instructional & teaching materials (other than apparatus); educational guides, notes & compilations; note books, exercise books, school slates, writing pads, printed time tables, black boards, drawing boards, protective book covers, drawing chalks, inking pads; mathematical instruments & cases; atlases, maps, charts,



			graphic reproduction; painting canvas; stationery; paper & paper articles; computer print outs, printed operating instructions.
	2463051 18/01/2013	Registered and valid up to 18/01/2033	[Class : 35] Personnel recruitment & management; human resource development & management; administering study abroad programs for students; recruitment of students for higher education institutions; consulting services in the field of education administration; public relations; business and marketing research and studies; commercial, industrial & business development planning, management assistance and consultancy thereof; promoting education, career advancement, and leadership for elite managers and executives in corporations and professional service firms.
TIMES PRO	2463056 18/01/2013	Registered and valid up to 18/01/2033	[Class : 35] Personnel recruitment & management; human resource development & management; administering study abroad programs for students; recruitment of students for higher education institutions; consulting services in the field of education administration; public relations; business and marketing research and studies; commercial, industrial & business development planning, management assistance and



			consultancy thereof; promoting education, career advancement, and leadership for elite managers and executives in corporations and professional service firms.
	2463052 18/01/2013	Registered and valid up to 18/01/2033	[Class : 41] Educational services; establishing & running educational & technical institutions & academies; conducting classes & training online & in mobile wireless form; conducting distance education & interactive seminars & symposiums; vocational guidance (education or training advice); publication of books & texts, publication of electronic books & journals & providing the same online & in mobile wireless form; library services; organization of educational, cultural, entertainment competitions & shows
TIMES PRO	2463057 18/01/2013	Registered and valid up to 18/01/2033	[Class : 41] Educational services; establishing & running educational & technical institutions & academies; conducting classes & training online & in mobile wireless form; conducting distance education & interactive seminars & symposiums; vocational guidance (education or training advice); publication of books & texts, publication of electronic books & journals & providing the same online & in mobile wireless form; library services;



			organization of educational, cultural, entertainment competitions & shows.
	2463053 18/01/2013	Registered and valid up to 18/01/2033	[Class : 42] Creation, hosting & maintenance of websites; drafting, designing & creation of computer hardware and software, computer aided tools and teaching and training aids; research & development in the field of computer hardware and software, computer aided tools and teaching and training aids; computer programming; installation, maintenance, analysis, recovery, management, updating & consultancy of computer software; scientific & technological services & research & design relating thereto.
TIMES PRO	2463058 18/01/2013	Registered and valid up to 18/01/2033	[Class : 42] Creation, hosting & maintenance of websites; drafting, designing & creation of computer hardware and software, computer aided tools and teaching and training aids; research & development in the field of computer hardware and software, computer aided tools and teaching and training aids; computer programming; installation, maintenance, analysis, recovery, management, updating & consultancy of computer software; scientific & technological services & research & design relating thereto.

9. Plaintiff's counsel further submits that the extent of goodwill and reputation that the trademark TIMESPRO has acquired is evident from the volume of annual revenue and promotional expenses pertaining to such business as set out herein below:



STATEMENT OF ANNUAL REVENUE AND
PROMOTIONAL EXPENSES FOR THE MARK TIMESPRO

Financial Year	Revenue (in Lakhs)	Promotion expenses (in Lakhs)
2016 - 2017	3090.35	1446.36
2017 - 2018	3866.98	1035.62
2018 - 2019	7334.88	876.21
2019 - 2020	34,231.28	1021.01
2020 - 2021	13,229.22	374.58
2021 - 2022 (unaudited)	17,762.06	1691.97

10. Furthermore, plaintiff's counsel submits that plaintiff has successfully initiated several legal proceedings from time to time to protect its intellectual property against several parties who attempted to misappropriate the goodwill and reputation vested in trademark TIMES by adopting and using the trade mark TIMES by itself or in conjunction with other words or logos for a variety of goods, business or services. The details of some of the orders passed by this Court are given below:

Case Title / No.	Forum	Trade Mark in Dispute	Grant of Injunction
Bennett, Coleman & Co. Vs. Times AD & Anr. CS (OS) No. 1660 of 1994	Delhi High Court	TIMES vs. TIMES AD	<u>Para no. 6</u> ".....From the evidence and pleadings and the documents filed on record, I hold that defendants using the word "TIMES" with suffix "AD" amounts to infringement of the Plaintiff's trade mark registration no. 83800 on account of



			phonetic, visual similarity as well as similarity of idea conveyed by impugned mark of the Plaintiff TIMES OF INDIA of which "TIMES" is the key, essential and distinguishing feature.
Bennett, Coleman & Co. Vs. Sarathy Sadabropan CS (OS) No. 436 of 2005	Delhi High Court	timemaitri.com	<u>Para no. 1</u> The Hon'ble Court of Delhi vide order dated 06.04.2005 was pleased to injunct the Defendants therein, from using the domain name TIMEMAITRI.COM being similar to the Plaintiff's domain name TIMESMAITRI.COM and trade mark/trade name TIMES/TIMES MATRIMONIAL. The matter was subsequently decreed vide order dated 31.01.2006 in favour of the Plaintiff and against the Defendants after the Defendants compromised the matter by surrendering the impugned domain name.
Times Internet Ltd. Vs. Raman Gulati & Ors. CS (OS) No. 2360 of 2008	Delhi High Court	indiatimestrad e.com	<u>Para no. 4</u> The Hon'ble High Court of Delhi, vide its order dated 11.11.2008 was pleased to injunct the Defendants therein, from using the domain name indiatimestrade.com being similar to the Plaintiff's domain name/trade mark indiatimes.com.



Bennett, Coleman & Co. Vs. Himanshu Tripathi CS (OS) No. 1823 of 2009	Delhi High Court	www.educationtimesindia.com	<u>Para no. 9</u> The Hon'ble High Court of Delhi, vide its order dated 23.09.2009, was pleased to injunct the Defendants therein from using the domain name www.educationtimesindia.com being similar to the Plaintiff's trade mark domain name www.educationtimes.com or the trade mark TIMES. The matter was subsequently decreed vide order dated 20.01.2010 in favour of the Plaintiff and against the Defendants therein.
Times Business Solutions Ltd.& Anr. Vs. Sishir Kumar & Ors. CS (OS.) of 910 of 2010	Delhi High Court	www.hometimesjobs.com	<u>Para no. 5</u> The Hon'ble High Court of Delhi, vide its order dated 11.05.2010 was pleased to grant <i>ex-parte</i> ad interim injunction against the Defendants therein from using the domain name www.hometimesjobs.com being similar to the Plaintiff's domain name/trade mark www.timesjobs.com or the trade mark TIMES. The matter was subsequently decreed vide order dated 01.12.2011 in favour of the Plaintiff and against the Defendants therein.



Bennett, Coleman & Co. Vs. Sanjay Kumar & Ors. CS (OS.) 1010 of 2010	Delhi High Court	TIMES RESEARCH/ www.timesresearch.com	<u>Para no. 5</u> The Hon'ble High Court, vide its order dated 19.05.2010, was pleased to grant ex parte ad interim injunction against the Defendants therein, from using the mark/domain name TIMES RESEARCH/ www.timesresearch.com or the trade mark TIMES. The matter was subsequently decreed vide order dated 29.07.2010 in favour of the Plaintiff and against the Defendants therein.
Bennett, Coleman & Co. Vs. Yatinder Kaushik & Ors. CS (COMM.) 827/2017	Delhi High Court	TIMES SPARK	<u>Para no. 6</u> The Hon'ble High Court of Delhi, vide its order dated 06.12.2017, was pleased to grant ex parte ad interim injunction against the Defendants therein, from using the mark/domain name TIMES/TIMES SPARK/  TIMES SPARK CLASSROOM or the logo in any other mark similar to TIMES or TIMES SPARK. The matter was subsequently decreed vide order dated 22.01.2018 in favour of the Plaintiff and against the Defendants therein.
Bennett, Coleman & Co. & Anr.	Delhi High Court	INDIATIME SHOPPING	<u>Para no. 13</u>



Vs. Indiatime Shopping & Anr. CS (COMM.) 849 of 2017			The Hon'ble High Court, vide its order dated 14.12.2017, was pleased to grant an ex parte ad interim injunction against the Defendant No. 1 therein from using the mark/website/domain name INDIATIME SHOPPING being deceptively similar to the Plaintiff TIMES formative marks including the trade mark/device mark/domain name/website/app INDIATIMES and INDIATIMES SHOPPING. The matter was subsequently decreed vide order dated 16.10.2018 in favour of the Plaintiff further directing Defendant No. 2 to transfer the impugned domain name in favour of the Plaintiff.
Bennett, Coleman & Co. & Anr. Vs. Mr. Ajay Kumar & Ors. CS (COMM.) 21 of 2019	Delhi High Court	THE TIMES OF INDIA, THE ECONOMIC TIMES and the logo 	<u>Para no. 12</u> The Hon'ble High Court of Delhi, vide its order dated 16.01.2019, was pleased to grant ex parte ad interim injunction against the Defendants therein, from using the Plaintiff's trade mark THE TIMES OF INDIA, THE ECONOMIC TIMES and . The matter was subsequently decreed vide order dated 29.03.2019 in favour of the Plaintiff and against the Defendants therein.

11. In view of the facts and circumstances, and since the averments in the plaint stand un rebutted, the plaintiff would be entitled for the decree as prayed for in the said application.



12. Accordingly, decree sheet be drawn up in terms of the following:

(a) Defendants, its franchisees and all persons claiming right through them are permanently enjoined from using mark/ trade name/ domain name, email and on social media platforms, including but not limited to:

(i) [https://www.facebook.com/TimesproConsultingLLP](https://www.facebook.com/TimesproConsultingLLP;);

(ii) www.instagram.com/timesproconsulting_llp;

(iii) <https://twitter.com/timesproconsult>;

(iv) <https://www.linkedin.com/company/timespro-consulting-llp/>;

(v) https://www.youtube.com/channel/UCcuTV19_7TREni9LKp-g3WsQ,

in any manner or any other trade mark/trade name/domain name which is identical or similar to the plaintiff's trademarks TIMES, TIMESPRO, TIMES PROPERTY and TIMES formative marks in relation to any business/services/goods/domain name, email and social media platforms or in any manner whatsoever amounting to infringement of plaintiff's registered trademarks;

(b) Defendants, its partners, assignees in business, licensees, franchisees and all persons claiming right through them are permanently enjoined from using 'TIMESPRO CONSULTING' as trade mark/ trade name/ domain name, email and on social media platforms, including but not limited



to:

- (i) <https://www.facebook.com/TimesproConsultingLLP>;
- (ii) www.instagram.com/timesproconsulting_llp;
- (iii) <https://twitter.com/timesproconsult>;
- (iv) <https://www.linkedin.com/company/timespro-consulting-llp>;
- (v) https://www.youtube.com/channel/UCcuTV9_7TREni9LKp-g3WsQ

in any manner or any other trade mark/trade name/domain name which is identical/similar to the plaintiff's trademarks TIMES, TIMESPRO, TIMES PROPERTY and TIMES formative marks in relation to any business/services/goods/domain name, email and social media platforms or in any manner whatsoever amounting to passing off of the defendant's business/services as those of the plaintiff;

- (c) Decree of mandatory injunction is also passed, directing the defendants to surrender in favour of the plaintiff, the domain name *timesproconsulting.com* and email address timesproconsulting@gmail.com and/or any other domain name/email containing the mark which is identical or deceptively similar to plaintiff's TIMES, TIMESPRO, TIMES PROPERTY or TIMES formative marks; or in the alternative to deactivate the aforementioned domain name(s) and email address(es).



13. The suit is decreed in the above terms.

14. In view of the facts and circumstances as noted above, counsel for the plaintiff has also prayed for legal costs in their favour.

15. Accordingly, defendants are directed to pay costs of Rs. 1,50,000/-, to be deposited in favour of the plaintiff by the defendants within a period of six weeks.

16. This application stands disposed of accordingly along with the suit. Pending applications, if any, are disposed of as infructuous.

17. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 5, 2024/RK/rj

Click here to check corrigendum, if any