

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.859 OF 2015
IN
SUIT NO.441 OF 2015**

AWI Licensing Company and Anr.	...	Plaintiffs
versus		
Rishi Kumar Agarwal and Ors.	...	Defendants

Mr. Ramesh H. Gajria i/by M/s. Gajria and Co., for Plaintiffs.
None for Defendants.

CORAM: S.J. KATHAWALLA, J.

DATE: 3rd JULY, 2015

PC.:

1. This is a trademark and copyright infringement as also passing off action moved with a leave Petition. By an order dated 6th May, 2015, leave was granted to the Plaintiffs under Clause 14 of the Letters Patent and ad-interim reliefs were granted in terms of (a), (b) and (c) of the Notice of Motion. The order was sought to be served on the Defendants. However, the same was returned with the remark 'unclaimed'. For reasons set out in the order dated 6th May, 2015, the Notice of Motion is allowed in terms of prayer clauses (a), (b) and (c), which are reproduced hereunder :

“(a) That pending the hearing and final disposal of the suit the Defendants by themselves, their servants and agents be restrained by an order and injunction of this Hon'ble Court,

from using the marks ARMSTRENGTH or any other mark or marks, identical to or deceptively similar to or containing the Plaintiff No.1's registered trade mark ARMSTRONG under Nos. 556645 in Class 27 and 1375356 in Classes 6, 19 and 27, either as a trade mark/corporate name/domain name and or in any manner whatsoever so as to infringe the same;

(b) That pending the hearing and final disposal of the suit the Defendants by themselves, their servants and agents be restrained by an order and injunction of this Hon'ble Court, from infringing or causing infringement of the original artistic work of the Plaintiff No.1 vested in the artistic work/logo ARMSTRONG by reproducing the same in any material form or publishing the same or exposing for sale or using the same or copying/reproducing or causing reproduction of the same in any packaging or literature or any colourable imitation or substantial reproduction thereof in any manner whatsoever;

(c) That pending the hearing and final disposal of the suit the Defendants by themselves, their servants and agents be restrained by an order and injunction of this Hon'ble Court, from using the mark ARMSTRENGTH or any other mark identical to or deceptively similar to Plaintiff No.1's trade mark/name ARMSTRONG as a trade mark/corporate name/domain name and/or in any manner whatsoever so as to pass off or enable others to pass off their goods or business as and for the goods or business of the Plaintiffs.”

2. The Notice of Motion is accordingly disposed of.

3. The Defendants are directed to file their Written Statements within a period of four weeks from the date of this order. Place the Suit for Directions on 6th August, 2015.

(S.J.KATHAWALLA, J.)