

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

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*Date of Judgment: 30.01.2015*

**CS(OS) 214/2011**

**EICHER MOTORS LIMITED**

.....Plaintiff

Through: Mr.Sudeep Chaterjee and Ms.Pritika  
Sharma, Advocate.

Versus

**SANJIV KUMAR KHATOI & ANR.**

.....Defendants

Through: None.

**CORAM:**

**HON'BLE MS. JUSTICE INDERMEET KAUR**

**INDERMEET KAUR, J.** (oral)

1 The present suit has been filed by the plaintiff Eicher Motors against the two defendants for infringement of their trademark ENFIELD, ROYAL ENFIELD and BULLET and infringement of copyright in the logos and their website, passing off and damages.

2 The plaintiff is a leading automobile manufacturer and selling various types of two-wheelers including bikes, automobile parts and components through its unit Royal Enfield. The plaintiff has the registered trademark ENFIELD, ROYAL ENFIELD and BULLET as

also logos and the website of the plaintiff as also has the unique style of writing the aforementioned word ENFIELD and BULLET which are well-known marks of the plaintiff, constitute an artistic work and are protected under the Indian Copyright Act. Its business relates back to the year 1955. The history of ROYAL ENFIELD has been detailed in the plaint establishing its business reputation not only nationally but also internationally. The website of the plaintiff [royalenfield.com](http://royalenfield.com) is extremely distinctive and has a particular look and feel. The basic background of the website is in black. It has various images of the bikes manufactured by the plaintiff and the several distinctive features of the website of the plaintiff include the history of the company, details of the various models and use of other distinctive expressions.

3 Defendant no.1 has registered the domain name [www.royalfieldmotorcycle.co.cc](http://www.royalfieldmotorcycle.co.cc) . The exact details of defendant no.1 are not currently available with the plaintiff. Defendant no.2 has the domain name ([www.co.cc](http://www.co.cc)) owned by a company who offers free sub domain redirection services and with whom the impugned website [www.royalenfieldmotorcycle.co.cc](http://www.royalenfieldmotorcycle.co.cc) is registered. Defendant no.1 on this website has used almost all the features of the plaintiff's bike i.e.

Enfield, Royal Enfield and Bullet as also the original features from the plaintiff's website on his website. The images have also been occupied. The defendant's website is completely interactive. Various other advertisements have also been put up on this website. It would appear that the defendant no.1's website is affiliated or sponsored by the plaintiff, which is not the real position.

4 Accordingly a prayer for permanent injunction has been made restraining the defendants from using the trademark of the plaintiff and passing off any other acts of unfair competition and from using domain name royalenfieldmotorcycle.co.cc and the website therein.

5 In the course of the proceedings, ex parte injunction had been granted in favour of the plaintiff and against the defendants on 01.02.2011 restraining them from using, transferring, alienating or offering for sale or creating any third party interest in the domain name and from using images, distinctive expressions and features of the plaintiff's website so as to result in infringement of trademark, passing off, infringement of copyright of the plaintiff. This was confirmed on 01.8.2011. Since none had appeared for the defendants, they were proceeded ex parte.

6 Documentary evidence including distinctive features of the plaintiff's website i.e. contents, images, and logos have been proved on record as Ex.PW-1/5. The trademark registration certificates in favour of the plaintiff of ENFIELD, ROYAL ENFIELD and BULLET have collectively been proved as Ex.PW-1/6 and Ex.PW-1/7. The invoices showing the sales of the company and the advertisements at national and international level have been proved as Ex.PW-1/8 and Ex.PW-1/10. On oath it has been reiterated that the defendant website is an interactive website and the use of the mark ENFIELD, ROYAL ENFIELD and BULLET on the said website and part of its domain name has resulted in infringement of the registered trademark of the plaintiff. It has been reiterated that the defendant no.1's website cannot be distinct from the plaintiff's website. Damages have also been prayed for.

7 The plaintiff has proved its case. He is entitled to the decree as prayed for. Accordingly, a decree of permanent injunction is passed in favour of the plaintiff restraining defendant no.1, his family members, agents, assignees from using the domain name [www.royalenfieldmotorcycle.co.cc](http://www.royalenfieldmotorcycle.co.cc) or any other name containing the plaintiff's registered trademark ENFIELD, ROYAL ENFIELD and

BULLET and distinctive logo, styles and artistic works and the look and feel of the plaintiff's website which in any manner may amount to infringement of plaintiff's trademark and infringement of his copyright.

8 Plaintiff has also prayed for damages. Submission is that the plaintiff having a worldwide reputation and goodwill has suffered a loss in reputation by the defendant's infringement upon his domain name and his website.

9 In 2006 (33) PTC 683 (Del) Asian Paints (India) Ltd. Vs. Balaji Paints and Chemicals and Ors. where the defendant was ex parte; in a claim for damages a Bench of this Court had granted Rs.3 lacs as damages to the plaintiff including costs of the suit. This Court is inclined to follow the ratio of the said judgment which while granting damages in this context had noted as under:

*“The result of the actions of defendants is that plaintiffs, instead of putting its energy for expansion of its business and sale of products, has to use its resources to be spread over a number of litigations to bring to book the offending traders in the market.”*

10 Plaintiff is accordingly entitled to damages quantified at Rs.1 lac. The aim is to deter the wrong doer from indulging in such unlawful

activity. Cost of the suit also be granted in favour of the plaintiff. Suit is decreed and disposed of in the above terms.

11 Decree sheet be drawn up.

12 File be consigned to record room.

**INDERMEET KAUR, J**

**JANUARY, 30, 2014**

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