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

+ CS(OS) 2227/2015 & IAs No.15215/2015 (u/O 39 R-1&2 CPC) &
3100/2016 (u/o 6 R-17 CPC)

HUGO BOSS TRADE MARK MANAGEMENT
GMBH & CO.KG

..... Plaintiff

Through: Ms. Kripa Pandit, Adv.

Versus

RAJNISH JAIN & ANR

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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05.08.2016

1. The plaintiff has instituted the present suit for permanent injunction to restrain the three defendants namely Mr. Rajnish Jain, Mr. Sanjeev Jain and Mr. Aman Tejas from using the trademark 'REDBOSS / RED BOSS' or any other trademark similar or deceptively similar to the plaintiff's registered trademark BOSS and BOSS formative marks and for ancillary reliefs.

2. The suit was entertained and vide *ex-parte* ad-interim order dated 30th July, 2015 the defendants restrained from manufacturing, marketing, advertising, promoting, selling or offering for sale T-shirts, shirts, footwear, headgear, any kind of apparels/garments or any other products using the offending mark 'REDBOSS/RED BOSS' or any other trademark similar to plaintiff's trademark. The said order has continued in force.

3. Of the three defendants, defendants No.1&2 entered appearance. None appeared for the defendant No.3, despite service. However, none of the defendants filed written statement and vide order dated 27th April, 2016, CS(OS) 2227/2015

defendants were proceeded against *ex-parte*.

4. However the plaintiff filed IA No.3100/2016 for amendment of the plaint and vide the same order dated 27th April, 2016, notice of the said application was again ordered to be issued to the defendants.

5. All the three defendants have again been served with the notice of the said application but again do not appear.

6. The counsel for the plaintiff states that the amendment is qua the change in the constituted attorney of the plaintiff.

7. For the reasons stated, the application for amendment is allowed and the amended plaint is taken on record.

8. The plaintiff, on the basis of the pleadings and the documents filed has made out a case for grant of the relief of permanent injunction.

9. For the reasons stated by me in ***Indian Performing Rights Society Vs. Gauhati Town Club*** (2013) 134 DRJ 732 (Del), need to relegate the plaintiff to lead *ex-parte* evidence is not felt.

10. The defendants having not contested the suit, it is not deemed appropriate to award any damages to the plaintiff.

11. Accordingly, the suit is decreed in favour of the plaintiff and against the defendants jointly and severally for the reliefs of permanent injunction as claimed in prayer paragraph A(i) to (iii) of the plaint, leaving the parties to bear their own costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

AUGUST 05, 2016/bs..