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

% ***Date of decision:* 23.10.2017**

+ **CS(COMM) 353/2016 & IA 17900/2014**

VERIZON TRADEMARK SERVICES LLC & ORS..... Plaintiffs

Through Mr.Pravin Anand, Ms.Vrinda
Gambhir and Mr.Siddhant Chamola,
Advs.

versus

VIJAY PATEL & ORS

..... Defendants

Through None

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.(ORAL)

1. Plaintiffs have filed the present suit seeking a decree of permanent injunction to restrain the defendants from manufacturing, selling etc. the

products of the defendants under the trademark/name 'VEZION' and  logo or otherwise deceptively similar to the marks of the plaintiffs, including as a part of a domain name or company name, leading to infringement of the plaintiffs' registered VERIZON trademark; and also an order is sought to restrain the defendants from dealing with the goods with the said trademark leading to passing off of the defendants' goods as that of the plaintiffs; and an order is also sought to transfer of the impugned domain name www.vezion.in . Other connected reliefs are also sought.

2. As per plaint, Plaintiff No. 1 is a Limited Liability Company organized and existing under the laws of Delaware, USA, with its principal

place of business at 1320, North Court House Road, 9th Floor, Arlington, Virginia - 22201, USA. Plaintiff No. 1 is an intellectual property holding company and the proprietor of several trademark registrations consisting of or incorporating the trademark VERIZON. Col. J. K. Sharma is the Constituted Attorney of the Plaintiffs (Plaintiff No.1, Plaintiff No.2, Plaintiff No.3, Plaintiff No.4 and Plaintiff No.5 are collectively referred to as the "Plaintiffs") and is authorised to sign and verify the pleadings and institute the present suit on their behalf.

3. Plaintiff No.1 of the Verizon Group of companies has granted an exclusive license to Plaintiff No.2 for the use of the VERIZON Trademarks in connection with various products and services, including communications and entertainment products and services. Plaintiff No.2 by virtue of clause 1 (A) of the exclusive licence agreement entered with Plaintiff No.1 has the exclusive right to sub licence and permit exploitation by sub licensees of the Trade mark VERIZON. Plaintiff No.2 has thus further granted exclusive sub licenses by virtue of the aforesaid clause to Plaintiffs No.3, 4 and 5. The Plaintiffs have also set up group companies in India, being Plaintiff No.3, Plaintiff No.4 and Plaintiff No. 5, having offices in several Indian cities including New Delhi, Mumbai, Chennai, Bangalore and Hyderabad.

4. In the year 2000, the Plaintiffs adopted the trademark and trade name VERIZON in relation to its operations internationally. It is stated that the Plaintiffs' trade mark VERIZON is inherently distinctive and was coined by the Plaintiffs as a name for its group of companies from the Latin word Veritas which connotes certainty and reliability, and "horizon" which signifies forward-looking and visionary which reverberates the genesis of the Plaintiffs' company name.

5. Ever since the adoption of the VERIZON trademark, use of the  logo by the plaintiffs, the Plaintiffs are said to have extensively, continuously and successfully used the trademark and trade name VERIZON in an uninterrupted manner so as to acquire a strong secondary significance in the trademark and trade name VERIZON. Further, it is submitted that the use of the trademark and trade name VERIZON as a trading style further cements the association of the mark and name VERIZON with the Plaintiffs.

6. The Plaintiffs' trademark and trade name VERIZON is said to have developed a formidable reputation worldwide based on the high quality products and services provided by them to a wide range of customers around the world, as hereinabove elaborated. The Plaintiffs have been said to be recording large sales of its products and services all over the world, including in India. The revenues generated by the Plaintiffs are tabulated below:

Year	Revenues (m Billions US\$)
2001	67.2
2002	67.3
2003	67.8
2004	71.3
2005	75.0
2006	88.2
2007	93.5
2008	97.4

2009	107.8
2010	106.6
2011	110.9
2012	115.8

Extracts of the plaintiffs' annual reports for the few years are filed in the present proceedings.

7. The Plaintiffs are said to have widely promoted their products and services under the VERIZON Trademarks and trade names across the world, including in India on a regular basis through newspapers and magazines having international reach and circulation. The Plaintiffs' claim to have spent billions of US dollars on advertising and promoting their products and services under the VENZON trademarks and trade names. The advertising spends of the Plaintiffs for the past few years for their VERIZON Trademarks and trade names around the world are stated as under:

Year	Advertisement expenses (worldwide)
2007	\$2.46 Billion
2008	\$2.75 Billion
2009	\$3.02 Billion
2010	\$2.45 Billion
2011	\$2.52 Billion
2012	\$2.38 Billion

8. The Plaintiffs' products and services are said to be available in over 150 countries around the world, including in India. It is submitted that the

Plaintiffs commenced their activities in India in the year 2001 through Plaintiff No. 3. The commencement of the Plaintiffs' operation in India was said to have been extensively covered in the print and visual media and several National dailies, in their print and internet editions, carried articles announcing the entry of the Plaintiffs in India.

9. It is claimed that in India, the plaintiffs are the proprietors of the various trademark registrations as detailed in para 19 of the plaint. It is also stated that the plaintiffs are the proprietors of the several domain names as stated in para 21 of the plaint.

10. It is stated that defendants are said to have engaged in importing and selling mobile phones handsets and using the logo which is deceptively similar to the plaintiffs' logo as stated in para 23 of the plaint. The plaintiffs are said to have become aware of the impugned activities of the defendants in January, 2014. It is urged that the defendants are carrying out the activities with *mala fide* intention and erroneously adopted a nearly identical and deceptively similar trademark as that of the plaintiffs. Similarly, it is also

sought to register the impugned trademark  logo under class 09. It is also the case of the plaintiffs that they have been using their trademark logo

 continuously and extensively since 2000 and have common law rights therein by virtue of their long, continuous and extensive use of the said trademarks. Hence, the present suit was filed.

11. The matter was compromised between the plaintiffs and defendant Nos.1 to 3. On 25.04.2016, this court allowed I.A. No.4109/2016 and passed a decree in terms of the compromise application against defendants No.1 to

3. The said suit survives against defendant Nos.4 and 5. The plaintiffs were allowed to lead *ex-parte* evidence for the same. The plaintiffs have led the evidence of PW1 Sh.Pankaj Ahuja. In his evidence by way of affidavit, Sh.Pankaj Ahuja has placed on record 23 documents which have been marked as Ex. PW1/1 to Ex.PW1/23.

12. Keeping in view the above un-rebutted evidence placed on record by the plaintiffs it is clear that the plaintiff has statutory other legal right on the

trade mark  and . The defendant 4 & 5 by their acts are infringing the rights of the plaintiff. The plaintiff have also proved loss and damages suffered by them.

13. Hence a decree is passed in favour of the plaintiffs and defendant Nos.4 and 5 restraining the said defendant Nos.4 and 5 in terms of the prayer para 35(i), (ii), (iii) and (iv). The plaintiffs are also entitled to damages of Rs.5 lacs and cost of the suit.

14. The suit is disposed of as above. All the pending IAs., if any, are also disposed of.

JAYANT NATH, J.

OCTOBER 23, 2017/v