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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 28TH DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S.No.466 of 2010

and

O.A.Nos.527 to 529 of 2010

and

A.Nos.4133 and 4134 of 2010

1.easyGroup IP Licensing Limited
12 York Gate,
London, NW1 4QS
United Kingdom.

2.easyJet Airline Company Limited
Hangar 89, London Luton Airport,
Luton, Bedfordshire LU2 9PF
United Kingdom,

Both plaintiffs 1 and 2 represented by their
Power of Attorney Holder/ Constituted Attorney
Sudhir Thakur.

...Plaintiffs/Applicants
(in O.A.Nos.527 to 529 of 2010)

.Vs.

1.Premier Airways Limited
A 137, 2nd Street, 12th Main Road,
Anna Nagar,
Chennai – 600 040.

2.Umapathy Pinghapani,
Director,
Premier Airways Limited,
New No.13 A, North Crescent Road,



Behind Jain Temple, G.N.Chetty Road,
T.Nagar, Chennai – 17.

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... Defendants/Respondents
(in O.A.Nos.527 to 529 of 2010)

A.No.4133 of 2010

and

A.No.4134 of 2010

1.Premier Airways Limited
New No.13A, North Crescent Road,
Behind Jain Temple,
G.N.Chetty Road,
T.Nagar, Chennai – 600 017.

Now at:
AL37, 2nd Street, 12th Main Road,
Anna Nagar West,
Chennai – 600 040.

2. Mr.Umapathy Pinaghapani,
Director,
Premier Airways Limited,
New No.13 A, North Crescent Road,
Behind Jain Temple, G.N.Chetty Road,
T.Nagar, Chennai – 17.

Now at
AL37, 2nd Street,
12th Main Road,
Anna Nagar West,
Chennai – 600 040

...Applicants/Respondents/Defendants
(in A.Nos.4133 and 4134 of 2010)

-Vs-

1.easyGroup IP Licensing Limited
12 York Gate,
London, NW1 4QS
United Kingdom.



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2.easyJet Airline Company Limited
Hangar 89, London Luton Airport,
Luton, Bedfordshire LU2 9PF
United Kingdom.

...Respondents/Applicants/Plaintiffs
(in A.Nos.4133 and 4134 of 2010)

C.S.No.466 of 2010

Civil Suit praying that this Hon'ble Court be pleased to grant a judgment and decree:-

a) A permanent injunction against the defendants restraining the defendants, their Directors, Promoters, Agents, Assigns, Members, Employees, and other persons or entities claiming through them, from infringing the registered service mark/trademarks of the plaintiffs in India under trademark registration numbers 988694, 1324390, 1336313 by using the mark EASYAIR/ EASYAIR (Label) or any other trademark deceptively similar to the registered service mark/ trademark easyJet, as a trade/service mark or in any other manner whatsoever infringing the said registered trademarks of the plaintiffs;

b) A permanent injunction against the defendants restraining the defendants, their Directors, Promoters, Agents, assigns, Members, Employees, and other persons or entities claiming through them, from passing off their goods and services as the goods and services of the



plaintiffs by using the service mark/ trademark EASYAIR / EASYAIR (Label) or any other trade/ service mark that is identical or deceptively similar to the plaintiffs' trademarks easyJet or any other easy formative trademark/s;

c) A mandatory injunction directing the 1st defendant to withdraw its trademark application No.1411787 in class 39 to register the deceptively similar mark EASYAIR (Label);

d) A mandatory injunction directing the defendants jointly and severally as applicable, to transfer within 30 days of the decree of this suit, to the 1st plaintiff herein the following 23 domain name registrations;

- i. EasyAir1.com
- ii. EasyAir1.net
- iii. EasyAirCabs.com
- iv. EasyAirCabs.net
- v. EasyAirHotels.com
- vi. EasyAirHotels.net
- vii. EasyAirShopping.com
- viii. EasyAirShopping.net
- ix. EasyAirGourmet.com
- x. EasyAirGourmet.net
- xi. EasyAirCatalog.com



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- xii. EasyAirCatalog.net
- xiii. EasyAirTours.com
- xiv. EasyAirTours.net
- xv. EasyAirTravels.com
- xvi. EasyAirTravels.net
- xvii. FlyEasyAir.biz
- xviii. FlyEasyAir.com
- xix. FlyEasyAir.info
- xx. FlyEasyAir.net
- xxi. FlyEasyAir.us
- xxii. MyEasyAir.net
- xxiii. TheEasyAir.com

e) The defendants jointly and severally be ordered to pay to the plaintiffs a sum of Rs.10,50,000/- by way of damages;

f) The defendants, their Directors, Promoters, Agents, Assigns, Members, Employees, and other persons or entities claiming through them, to surrender to the plaintiffs or the plaintiffs' counsels for the destruction all printed matter, publications, advertising materials, including any infringing brochures, pamphlets, stationary, and any other materials bearing the infringing mark EASYAIR / EASYAIR (Label) or any other trademark

identical or deceptively similar to the plaintiffs' trademarks easyJet or any



other easy formative trademark;

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g) Award the costs of the suit to the plaintiffs.

O.A.No.527 of 2010

Original Application praying that this Hon'ble Court be pleased to pass an order of ad-interim injunction restraining the Respondents herein, their Directors, Promoters, Agents, Assigns, Members, Employees, and other persons or entities claiming through them, from passing off their goods and services as the goods and services of the Applicants by using the service mark/trade mark EASYAIR/EASYAIR (Label) or any other trade/service mark that is identical or deceptively similar to the 1st Applicant's trade mark easyJet or any other easy formative trade mark/s, pending, disposal of the present suit.

O.A.No.528 of 2010

Original Application praying that this Hon'ble Court be pleased to pass an order of interim injunction against the Respondents herein, restraining them, their Directors, Promoters, Agents, Assigns, Members, Employees, and other persons or entities claiming through them, from infringing the 1st Applicant's registered service mark/trademark easyJet, by using the deceptively similar mark EASYAIR/EASYAIR (Label) or any



other deceptively similar mark as a service mark or any other trade mark identical or deceptively similar to the trade marks easyJet or any other easy formative trade mark, pending disposal of the present suit.

O.A.No.529 of 2010

Original Application praying that this Hon'ble Court be pleased to pass an order of ad-interim injunction restraining the Respondents herein from in any manner using or attempting to use their following 23 domain name registrations,

- i. EasyAir1.com
- ii. EasyAir1.net
- iii. EasyAirCabs.com
- iv. EasyAirCabs.net
- v. EasyAirHotels.com
- vi. EasyAirHotels.net
- vii. EasyAirShopping.com
- viii. EasyAirShopping.net
- ix. EasyAirGourmet.com
- x. EasyAirGourmet.net
- xi. EasyAirCatalog.com



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- xii. EasyAirCatalog.net
- xiii. EasyAirTours.com
- xiv. EasyAirTours.net
- xv. EasyAirTravels.com
- xvi. EasyAirTravels.net
- xvii. FlyEasyAir.biz
- xviii. FlyEasyAir.com
- xix. FlyEasyAir.info
- xx. FlyEasyAir.net
- xxi. FlyEasyAir.us
- xxii. MyEasyAir.net and
- xxiii. TheEasyAir.com

pending disposal of the present suit.

A.No.4133 of 2010

Application praying that this Hon'ble Court be pleased to vacate the order of interim injunction granted on 29.04.2010 in O.A.No.527 of 2010 in C.S.No.466 of 2010.



A.No.4134 of 2010

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Application praying that this Hon'ble Court be pleased to vacate the order of interim injunction granted on 29.04.2010 in O.A.No.528 of 2010 in C.S.No.466 of 2010.

This Civil Suit along with these applications coming on this day before this Court for hearing in the presence of Mr.K.Premchandrar, for Mr.Bharath, advocates for the plaintiffs in C.S.No.466 of 2010 and for the applicants in O.A.Nos.527 to 529 of 2010 and for the respondents in A.Nos.4133 and 4134 of 2010 and Mr.Rahul M.Shankar for Mr.Arun C.Mohan, advocates for the defendants in C.S.No.466 of 201 and for the respondents in O.A.Nos.527 to 529 of 2010 and for the applicants in A.Nos.4133 and 4134 of 2010 and upon reading the pleadings and the memo dated 21.09.2021 filed in C.S.No.466 of 2010 and upon reading the order dated 29.06.2010 made in O.A.Nos.527 to 529 of 2010 and the order dated 27.08.2015 made in A.No.4133 and 4134 of 2010 and this Court having observed that in view of disclosures, it is clear that the cause of action in the suit does not survive and it is ordered as follows:-

That the suit in C.S.No.466 of 2010 be and is hereby dismissed as having become infructuous.



2) That these O.A.Nos.527 to 529 of 2010 do stand closed.

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3) That the plaintiffs herein shall be at liberty to seek appropriate reliefs, if there is a fresh cause of action.

4) That there shall be no costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
28th DAY OF SEPTEMBER 2021.

Sd./-

ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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31.12.2021

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C.S.No.466 of 2010
and
O.A.Nos.527 to 529 of 2010
and
A.Nos.4133 and 4134 of 2010

DECREE

DATED: 28.09.2021

THE HON'BLE MR. JUSTICE
R.SUBRAMANIAN

FOR APPROVAL: 21.01.2022

APPROVED ON: 25.01.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.466 of 2010,
O.A.Nos.527 to 529 of 2010
and
A.Nos.4133 and 4134 of 2010

1.easyGroup IP Licensing Limited
12 York Gate,
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2.easyJet Airline Company Limited
Hangar 89, London Luton Airport,
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United Kingdom,

Both plaintiffs 1 and 2 represented by their
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.Vs.

1.Premier Airways Limited
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2. Umapathy Pinghapani

Director,
Premier Airways Limited,
New No.13 A, North Crescent Road,
Behind Jain Temple, G.N.Chetty Road,
T.Nagar, Chennai – 17.

... Defendants

Plaint filed under Order IV Rule 1 of the Original Side Rules and Order VII Rule 1 of the Code of Civil Procedure read with Sections 29, 134 and 135 of the Trademarks Act, 1999 praying for a decree and judgment on the following terms :

a) A permanent injunction against the defendants restraining the defendants, their Directors, Promoters, Agents, Assigns, Members, Employees, and other persons or entities claiming through them, from infringing the registered service mark/ trademarks of the plaintiffs in India under trademark registration numbers 988694, 1324390, 1336313 by using the mark EASYAIR/ EASYAIR (Label) or any other trademark deceptively similar to the registered service mark/ trademark easyJet, as a trade/service mark or in any other manner whatsoever infringing the said registered trademarks of the plaintiffs;

b) A permanent injunction against the defendants restraining the defendants, their Directors, Promoters, Agents, assigns, Members, Employees, and other persons or entities claiming through them, from passing off their goods and services as the goods and services of the plaintiffs by using the service mark/ trademark EASYAIR / EASYAIR (Label) or any other trade/ service mark that is identical or deceptively similar to the plaintiffs' trademarks easyJet or any other easy formative



trademark/s;

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c) A mandatory injunction directing the 1st defendant to withdraw its trademark application No.1411787 in class 39 to register the deceptively similar mark EASYAIR (Label);

d) A mandatory injunction directing the defendants jointly and severally as applicable, to transfer within 30 days of the decree of this suit, to the 1st plaintiff herein the following 23 domain name registrations;

- i. EasyAir1.com
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- v. EasyAirHotels.com
- vi. EasyAirHotels.net
- vii. EasyAirShopping.com
- viii. EasyAirShopping.net
- ix. EasyAirGourmet.com
- x. EasyAirGourmet.net
- xi. EasyAirCatalog.com
- xii. EasyAirCatalog.net
- xiii. EasyAirTours.com
- xiv. EasyAirTours.net
- xv. EasyAirTravels.com
- xvi. EasyAirTravels.net
- xvii. FlyEasyAir.biz
- xviii. FlyEasyAif.com
- xix. FlyEasyAir.info



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- xx. FlyEasyAir.net
- xxi. FlyEasyAir.us
- xxii. MyEasyAir.net
- xxiii. TheEasyAir.com

e) The defendants jointly and severally be ordered to pay to the plaintiffs a sum of Rs.10,50,000/- by way of damages;

f) The defendants, their Directors, Promoters, Agents, Assigns, Members, Employees, and other persons or entities claiming through them, to surrender to the plaintiffs or the plaintiffs' counsels for the destruction all printed matter, publications, advertising materials, including any infringing brochures, pamphlets, stationary, and any other materials bearing the infringing mark EASYAIR / EASYAIR (Label) or any other trademark identical or deceptively similar to the plaintiffs' trademarks easyJet or any other easy formative trademark;

g) Award the costs of the suit to the plaintiffs.

For Plaintiffs : Mr.K.Premchandrar
for Mr.Bharath

For Defendants : Mr.Rahul M.Shankar
for Mr.Arun C.Mohan

J U D G M E N T

The learned counsel for the plaintiffs has filed a memo stating that the

1st defendant has been struck off from the Register of Companies maintained



by the Registrar of Companies. He would also add that the 1st defendant Company is no longer active and the 2nd defendant who is the Director of the 1st defendant Company also, according to him, does not have any authority to pursue and defend the matter and he is also facing criminal charges.

2. In view of the disclosures, it is clear that the cause of action in the suit does not survive. Therefore, the suit is dismissed as having become infructuous. No costs. Consequently, the connected applications are closed. It is always open to the plaintiffs to seek appropriate reliefs, if there is a fresh cause of action.

Sd/.R.S.M.J
28.09.2021

List of the witnesses examined on the side of the plaintiffs: Nil

List of Exhibits marked on the side of the plaintiffs : Nil

List of the witnesses examined on the side of the defendants: Nil

List of Exhibits marked on the side of the defendants: Nil

Sd/.R.S.M.J
28.09.2021

//Certified to be a true copy//

Dated this the th day of 2022.

COURT OFFICER