



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 10TH DAY OF NOVEMBER, 2021

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

C.S.No. 668 of 2019

M/s Brilliant Learning Solutions Pvt Ltd,
Represented by its Director Mrs.Vasanti Neelakantan,
Having registered office at No.24, Gilchrist Avenue
Chetpet, Chennai – 600 031.

...Plaintiff

Vs.

Brilliant Tutorials Educational Institute Pvt Ltd,
Represented by its Director,
H.No.3122, LIG Avas Vikas – 3 Panki Kalyanapur,
Kanpur, Uttar Pradesh – 208 017.

...Defendant

C.S.No. 668 of 2019

Civil Suit praying that this Hon'ble Court be pleased to pass a judgment and Decree in favour of the plaintiff:

(a) granting a perpetual injunction restraining the Defendant, their men, agents, servants, employees, representatives and any other person claiming under the Defendant from infringing the registered Trade Mark No. 479276 & 479277B and/or any other colorable imitations of the same either by way of Hardcopy or Softcopy (offline & online) in their website.

(b) granting a perpetual injunction restraining the Defendant, their



men, agents, servants, employees, representatives and any other person claiming under the Defendant from passing off their services as that of the Plaintiff.

(c) granting a perpetual injunction restraining the Defendant, their men, agents, servants, employees, representatives and any other person claiming under the Defendant from infringing the copyright of “Brilliant Tutorials” and “B Logo” or any other colorable imitation of the same.

(d) granting a preliminary decree be passed in favour of the Plaintiff directing the Defendant to render account of profits made by use of the registered Trade Mark No. 479276 & 479277B and/or any other colorable imitation of the same and a final decree be passed in favour of the Plaintiff for the amount of profits thus found to have been made by the Defendant after the latter have rendered accounts.

(e) directing the Defendant to pay the Plaintiff a sum of Rs.5,00,000/- as damages.

This suit coming on this day before this court for hearing in the presence of Mr.J. Jeya Sabare Eswaran, Advocate for the plaintiff herein and the defendant herein, not appearing in person or by advocate and the said defendant herein, having been set exparte, and upon reading the plaint filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein and this court having observed that the plaintiff



That Brilliant Tutorials Educational Institute Pvt Ltd, Represented by its Director, the defendant herein, their men, agents, servants employees, representatives and any other person claiming under the defendant herein, be and are hereby restrained by an order of perpetual injunction from (a) infringing the registered Trade Mark No. 479276 & 479277B and/or any other colorable imitations of the same either by way of Hardcopy or Softcopy (offline & online) in their website (b) passing off their services as that of the Plaintiff. (c) infringing the copyright of “Brilliant Tutorials” and “B Logo” or any other colorable imitation of the same.

2) That the defendant herein, do pay to the plaintiff herein, a sum of Rs.3,50,000/- (Rupees Three Lakhs Fifty Thouand only) as costs.

WITNESS, THE HON'BLE MR.JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT OF MADRAS AFORESAID, THIS THE
10TH DAY OF NOVMEBER 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.



NS

26.11.2021

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C.S.No. 668 of 2019

DECREE

DATED 10/11/2021

THE HON'BLE MR.JUSTICE

N.ANAND VENKATESH

FOR APPROVAL: 29/12/2021

APPROVED ON: 06/01/2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

C.S.No. 668 of 2019

M/s Brilliant Learning Solutions Pvt Ltd,
Represented by its Director Mrs.Vasanti Neelakantan,
Having registered office at No.24, Gilchrist Avenue
Chetpet, Chennai – 600 031.

...Plaintiff

Vs.

Brilliant Tutorials Educational Institute Pvt Ltd,
Represented by its Director,
H.No.3122, LIG Avas Vikas – 3 Panki Kalyanapur,
Kanpur, Uttar Pradesh – 208 017.

...Defendant

Prayer: Complaint filed and numbered as Civil Suit under Order 4 Rule 1 of the Madras High Court Original Side Rules, read with Order 34 Rule 7 of the Code of Civil Procedure, praying for judgment and decree:

(a) granting a perpetual injunction restraining the Defendant, their men, agents, servants, employees, representatives and any other person claiming under the Defendant from infringing the registered Trade Mark No. 479276 & 479277B and/or any other colorable imitations of the same either by way of Hardcopy or Softcopy (offline & online) in their website.

(b) granting a perpetual injunction restraining the Defendant, their men, agents, servants, employees, representatives and any other person claiming under the Defendant from passing off their services as that of the



Plaintiff.

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(c) granting a perpetual injunction restraining the Defendant, their men, agents, servants, employees, representatives and any other person claiming under the Defendant from infringing the copyright of “Brilliant Tutorials” and “B Logo” or any other colorable imitation of the same.

(d) granting a preliminary decree be passed in favour of the Plaintiff directing the Defendant to render account of profits made by use of the registered Trade Mark No. 479276 & 479277B and/or any other colorable imitation of the same and a final decree be passed in favour of the Plaintiff for the amount of profits thus found to have been made by the Defendant after the latter have rendered accounts.

(e) directing the Defendant to pay the Plaintiff a sum of Rs.5,00,000/- as damages.

For plaintiff : Mr.J. Jeya Sabare Eswaran

J U D G M E N T

This Suit has been filed by the registered trade mark holder, seeking for the relief of perpetual injunction against the Defendant by restraining the Defendant from infringing the registered Trade Mark of the plaintiff and from passing of the services of the plaintiff and from using the Trade Mark “Brilliant Tutorials” and “B Logo” in the course of their business. The Plaintiff has also sought for a preliminary decree directing the



Defendant for rendering accounts.

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2. The case of the Plaintiff is that the Trade Mark “Brilliant Tutorials” and “B Logo” originally belonged to one N.Thanu and later on it was passed on to M/s Brilliant Tutorials Pvt Ltd., on 02.08.2001 by way of a Deed of Assignment. Thereafter, it was once again assigned by M/s.Brilliant Tutorials Pvt. Ltd., to M/s.Brilliant Learning Solutions Pvt. Ltd., on 14.02.2014 by way of Deed of Assignment and thereby, the Plaintiff claims to be the absolute owner of the Trade Mark rights.

3. The grievances of the Plaintiff is that the Defendant is trying to piggy back on the reputation and goodwill of the Plaintiff and illegally infringing the Trade Mark of the Plaintiff. It is stated that the Defendant is using the Trade Mark without any authorization and thereby, unlawfully enriching himself. As a result of the same, the present Suit has been filed.

4. Notice was served on the Defendant and the Defendant has also been called absent and set ex-parte, by an order dated 14.06.2021.

5. The Director of the Plaintiff Company examined herself as



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6. Heard Mr.J.Jeya Sabare Eswaran, the learned counsel appearing on behalf of the Plaintiff.

7. The issue that is required to be answered by this Court is as to whether the Plaintiff is entitled to the relief sought for by virtue of the infringement of the registered Trade Mark of the Plaintiff by the Defendant and whether the Defendant is passing off the Mark of the Plaintiff and thereby is enriching themselves unlawfully.

8. This Court has carefully considered the submissions made by the learned counsel for the Plaintiff and the averments made in the pleadings, oral and documentary evidence that are available on record.

9. This Court is convinced that the Plaintiff is the lawful owner of the registered Trade Mark and has gained the reputation by using the Trade Mark. The Defendant without any permission / authorization has infringed upon the Trade Mark of the Plaintiff and thereby, made an attempt to take undue advantage of the same to unlawfully enrich themselves. The Plaintiff has sufficiently proved their case and hence, they are entitled for the relief sought for in this Suit. The issue is answered accordingly.



10. In the result, there shall be a decree in favour of the Plaintiff

for :

(a) a perpetual injunction restraining the Defendant, their men, agents, servants, employees, representatives and any other person claiming under the

Defendant from infringing the registered Trade Mark No. 479276 & 479277B and/or any other colorable imitations of the same either by way of Hardcopy or Softcopy (offline & online) in their website.

(b) a perpetual injunction restraining the Defendant, their men, agents, servants, employees, representatives and any other person claiming under the Defendant from passing off their services as that of the Plaintiff.

(c) a perpetual injunction restraining the Defendant, their men, agents, servants, employees, representatives and any other person claiming under the Defendant from infringing the copyright of “Brilliant Tutorials” and “B Logo” or any other colorable imitation of the same.

11. This Court has also taken into consideration the hardship and the cost incurred by the Plaintiff by instituting the present suit. Accordingly, the Suit is allowed by imposing cost of a sum of Rs.3,50,000/- on the Defendant. While imposing the exemplary cost, this Court has taken in to consideration the attempt made by the Defendant to unjustly enrich

themselves on the registered Trade Mark of the Plaintiff and also the



attitude of the Defendant in not coming before this Court to justify their action.

Sd/- N.A.V.J.
10/11/2021

I. Witnesses :

Plaintiff:

P.W.1	Mrs.Vasanthi Neelakantan
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Defendant: Nil

II. Exhibits :

Plaintiff:

<i>Exhibits</i>	<i>Date</i>	<i>Particulars</i>
P1	20.07.2011	The Printout of the certificate of Incorporation of the Plaintiff company.
P2	01.10.1987	The photocopy of the Extract of Registered Trade Mark No.479276.(Ex.P2 is marked subject to proof and admissibility).
P3	01.10.1987	The photocopy of the Extract of Registered Trade Mark No.479277B.(Original is produced, compared and it is undertaken by the plaintiff that it can be produced as and when required.)
P4	14.02.2014	The photocopy of the Assignment Deed in favour of the Plaintiff.(Original is produced, compared and it is undertaken by the Plaintiff that it can be produced as and when required).
P5	06.02.2017	The photocopy of the Certificate of Incorporation of the Defendant company.
P6	--	The photocopy of the Extract from the website of the Defendant



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<i>Exhibits</i>	<i>Date</i>	<i>Particulars</i>
P7	06.12.2018	The Office copy of the Legal notice sent by the Plaintiff to the defendant.
P8	20.12.2018	The original returned envelope Endorsement marked as 'Left'.
P9	01.07.2019	The photocopy of the Email communication from coral DRAW to the Plaintiff.
P10	05.09.2019	The photocopy of the Email reply sent by Director of the Plaintiff Company.
P11	28.07.2021	The Original Legal User Certificate for Trademark No.479276.
P12	28.07.2021	The Original Legal User Certificate for Trademark No.479277B (Ex.P1,Ex.P5,Ex.P6, Ex.P9 and Ex.P10 are the printouts of screenshot of websites as extracted from my computer for which Certificate under Section 65B of Indian Evidence Act, 1872 is filed).

Defendant: Nil

Sd/- N.A.V.J.
10/11/2021

Copy to

- 1.Sub-Assistant Registrar, Original Side, High Court, Madras.
2. Record Keeper, Original Side Records Section, High Court, Madras.

Sd/ N.A.V.J.
10/11/2021

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)