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C.S. (Comm. Div.) No.89 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.S. (Comm. Div.) No.89 of 2023 and

O.A.No.334 and 335 of 2023 and

A.No.2339 of 2023

RAVR INDUSTRIES PRIVATE LIMITED

Represented by its Director

Having registered office at

Plot No.37, Venkateswara Nagar

Perungudi, Neelankarai West,

Chennai - 600 096

... Plaintiff

Vs.

1. Brothers Enterprises

Represented by its Authorised Person Mr.Vishal Gupta

KH No.75/87, Nehru Enclave,

Near Corporation Bank, New Delhi - 110036

Also at,

F.No.205, Hiline Complex

Road No.13, ,Banjara Hills, Hyderabad, Telengana - 500 034

Also at,

Khasra No.115, Ground Floor, Alkpur, Delhi-110 036



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2. Usha Traders,

Represented by its authorised person Ms.Usha Devi
Gurdas Vaishno Dhaba, UG,
Old No.WZ 16A, WZ 25 PNo.26,
Gali Number, Sant Nagar, New Delhi - 110018

Also at

7/8, 7 Block, Tilak Nagar, New Delhi - 110018

3. KANCHAN alias BRIJLON INDUSTRIES alias Brijdeed Industries

Rep. by its authorised person SURENDER SINGH
421, First Floor, Pocket-9, Sector-21
Rohini, Bengumpur, North West Delhi, Delhi - 110086

Also at

E-31, Sector 4, Bawana, New Delhi - 110039

4. NAVIA INDIA

Rep. by its authorised person NAVEEN KUMAR
D2/303, Kingbury Apartment, Tdi City
Kundli, Delhi - 131028

5. AMAZON SELLER SERVICES PRIVATE LIMITED

Through its India Head
Having office at 8th Floor, Bridge Gate Way 26/1
Bridge Ward Trade Center
Dr.Rajkumar Road, Bangalore-560055
(5th defendant deleted as per order dated 09.10.2023 & 31.10.2023 in
C.S.(Comm.Div.)No.89/2023 & O.A.Nos.334 to 337/2023 and
A.Nos.2339 & 5230 of 2023)



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6. FLIPKART INTERNET PRIVATE LIMITED

Buildings Alyssa

Begonia and Clover, Embassy Tech Village,

Outer Ring Road

Devarabeesanahalli Village

Bengaluru - 560103

(6th defendant deleted as per order dated 09.10.2023 in

A.No.5230/2023 and time extended as per order dated 31.10.2023

in C.S.(Com.Div.) No.89/2023 & O.A.Nos.334 to 337/2023

and A.No.5230/2023 & A.No.2339/2023)

7. FASHNEAR TECHNOLOGIES PRIVATE LIMITED

06-105-C, 06-102, (138 WU)

Vaishnavi Signature

No.78/9, Outer Ring Road,

Bellandur, Varthur Hobli, Bengaluru-560103

(7th defendant deleted as per order dated 31.10.2023 in

C.S.(Comm.Div.) No.89/2023 & O.A.No.334 to 337/2023 &

A.No.5230/2023 and A.No.2339 /2023.

... Defendants

Prayer: The plaint is filed under Order IV Rule 1 of O.S. Rules read with Order VII Rule 1 of C.P.C. 1908, read with Sections 55(1) of the Copyrights Act, 1957, read with, Sections 134, 135, 27 & 29 of the Trademarks Act, 1999 and Sections 2(1)(c) and 7 of the Commercial Courts Act, 2015, praying to pass judgment and decree against the defendants on the following terms:



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i. Pass a decree for permanent injunction restraining the Defendants No. 1 to 4 by itself, its proprietors, partners, officers, servants, representatives, stockists, dealers, agents, licensees, franchisees, distributors, dealers and all other persons claiming under or through them or acting in concert with them or otherwise howsoever from infringing the altered, modified, morphed, transformed and converted photographic images owned by the plaintiff in any of Defendant's products made available for sale e-commerce market and in any manner whatsoever;

ii. Pass a decree for permanent injunction restraining the Defendants No. 1 to 4 by itself, its proprietors, partners, officers, servants, representatives, stockists, dealers, agents, licensees, franchisees, distributors, dealers and all other persons claiming under or through them or acting in concert with them or otherwise howsoever from infringing Plaintiff's registered Trade Marks namely HEX-COMB, DRI-WIK, SOXCO and SWAGR bearing Trade Mark Nos.4198375, 4198374, 4209201 and 4922307 respectively in any of their product made available for sale e-commerce market and in any manner whatsoever;

iii. Pass a decree of permanent injunction restraining the Defendants 5, 6 and 7 from listing the infringing products of the Defendants 1-4 on the website www.amazon.in, www.flipkart.com and www.



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[meesho.com](https://www.meesho.com) respectively;

iv. Pass a decree of permanent injunction restraining the Defendants 5, 6 and 7 from listing the infringing products brought to their attention by the Plaintiff which they may come across even in the future, in respect of Plaintiff's copyright relating to the photographic image Plaintiff's registered Trademarks namely HEX-COMB, DRI-WIK, SOXCO and SWAGR bearing Trade Mark Nos.4198375, 4198374, 4209201 and 4922307 respectively;

v. The Defendants 1 to 4 be ordered and decreed to pay to the Plaintiff a sum of Rs.50,00,000/- as damages for infringement of the Plaintiff's copyright of the photographic images;

vi. The Defendants 1 to 4 be ordered and decreed to pay to the Plaintiff a sum of Rs. 50,00,000/- as damages for infringement of the Plaintiff's Trademarks namely HEX-COMB, DRI-WIK, SOXCO and SWAGR bearing Trade Mark Nos.4198375, 4198374, 4209201 and 4922307 respectively;

vii. For an order of Rendition of Accounts of profits illegally earned by the Defendants 1 to 4 by sale of the Infringing Products and a decree for the amount so found due be passed in favour of the Plaintiff. The Plaintiff undertakes to pay further court fees once the sum is ascertained on the Defendant's rendering true and correct accounts; and



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viii. Direct the Defendant to pay costs of the suit to the Plaintiff.

For Plaintiff	: NA
Defendants 1&3	: Set ex-parte on 19.12.2023
4th Defendant	: Set ex-parte on 31.10.2023
2nd Defendant	: Set ex-parte on 12.06.2024
Defendants 5&6	: Deleted vide order dated 09.10.2023
7th Defendant	: Deleted vide order dated 31.10.2023

JUDGMENT

This Court by order dated 12.06.2024, had directed the plaintiff to file proof affidavit for chief examination on or before 19.06.2024 for recording ex-parte evidence. Though sufficient opportunity was given, the plaintiff has not filed the proof affidavit to prove its case by examining any witness.



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2. Therefore, the suit is dismissed for default. No costs.

Consequently, connected applications are closed.

20.06.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation : Yes/No

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O.A.No.334 and 335 of 2023 and
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20.06.2024