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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 351/2023 & I.A. 10470/2023**
SPORTA TECHNOLOGIES PVT. LTD. AND ANR Plaintiffs

Through: Mr. Rohan Krishna Seth, Advocate.

versus

JOHN DOE AND OTHERS Defendants

Through: Mr. Mrinal Ojha, Mr. Debarshi Dutta,
Mr. Anand Raja and Ms. Tanya
Chaudhry, Advocates for D-2.
Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar Mishra,
Mr. Alexander Mathai Paikaday, Mr.
Lakshay Gunawat and Mr. Krishnan
V., Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
07.05.2024

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1. The instant suit has been filed seeking permanent injunction restraining Defendant No. 1, or any other person acting on their behalf, from using the Plaintiff's registered trademark "DREAM11", or any other deceptively similar mark, in any manner which amounts to infringement and/or passing off of the Plaintiff's trademark.
2. Defendant No. 1, is/are the person(s), who owns and operates the domain name "dream111.net"¹ and the corresponding website

¹ "Impugned domain"



“www.dream11.net”². The identity(ies) of Defendant No. 1 is not known and cannot be ascertained by the Plaintiff, as such, they have been impleaded as John Doe(s)³.

FACTUAL BACKGROUND

3. Plaintiff No. 1, i.e., Sporta Technologies Pvt. Ltd., is a private listed company, which provides a platform for online fantasy sport leagues to online players. Plaintiff No. 1 is a wholly owned subsidiary of Plaintiff No. 2, i.e., Dream Sports Inc., a company incorporated under the laws of Delaware, United States of America⁴. The Plaintiffs are a well-known fantasy sports platform launched in 2012, and are the official fantasy sports partners of various sporting events across the world.

4. In their plaint, the Plaintiffs have explained the concept of online fantasy sport league as follows:

4.1. It is an online multi-player gaming platform wherein participants draft virtual teams consisting of real-life players of a professional sport. These virtual teams earn points based on the real-life performance of the players in their respective sport.

4.2. Each online player has to create a team with a maximum budget of 100 credits and thereafter, the team earns points based on real-life matches and performance of the professional players which form a part of their virtual team.

4.3. The Plaintiff’s platform offers contests wherein, upon payment of an entry fees, such virtual teams can compete with one another and the top

² “Impugned website”

³ Hereinafter, any reference to “Defendant No. 1” refers to unknown person(s), who have been impleaded as John Doe(s).

⁴ Plaintiff No. 1 and 2 are collectively referred to as “Plaintiffs”

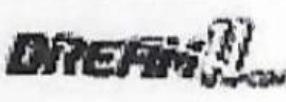


teams of each contest are then rewarded monetarily. Thereafter, players can liquidate their monetary wins by making a withdrawal request, where the money will then be credited to the player's bank account linked with the online "DREAM11" account.

5. Plaintiff No. 1 is the registered proprietor of the trademarks

“”, “”, “”,

“” and “” in Classes 9, 16, 35, 41 and 42. Whereas, Plaintiff No. 2 is the registered proprietor of the word mark “DREAM11” in Classes 9, 16, 18, 28, 35, 38, 42 and 45, and the

device marks “” and “” in Classes 38 and 41 respectively⁵. Apart from the above, Plaintiff No. 2 is also the registrant of the domain “dream11.com”.

6. Due to the long and continuous use of the Plaintiffs' trademarks, the Plaintiffs have garnered significant goodwill and reputation among online fantasy sports platforms. Plaintiffs have incurred significant marketing and advertisement expenses and have appointed a number of well-known professional Indian and international cricketers to promote their services. The popularity of the Plaintiffs is evidenced by the fact that the Plaintiffs have acquired a long-term Official Fantasy Sports provider deal with the International Cricket Council⁶ for all their tournaments. Further, Plaintiffs' have also averred that their mobile and online platform have over 15 crore

⁵ All of the marks delineated hereinabove are collectively referred to as “Plaintiff's trademarks”

⁶ “ICC”



users playing fantasy sports such as cricket, football, hockey, kabaddi, baseball, handball and basketball, with over 1000 contests being organised on a daily basis.

7. The Plaintiff's grievance in the present suit, arises from Defendant No. 1's use of the mark "DREAM111" for registration of the impugned



domain name, as well as, use of the logo "Dream11" on the impugned website. Plaintiffs have submitted that in April 2023, they first came across the impugned website, which as per the WHOIS records, was registered on 26th January, 2022, however, the details of the registrant of the impugned domain name is not available in the said records. Defendant No. 2, i.e., GoDaddy.com LLC, is the Domain Name Registrar⁷ of the impugned domain. Further, upon perusal of the impugned website, it is noted that the same is a single-page website requiring login details of the alleged user, however, there is no option for registering a user on the said portal. Further, it was noted that the website does not have any option for viewing its contents, without logging in. A screenshot of the impugned website is as follows:

⁷ "DNR"



8. In light of the above, the Plaintiffs contend that the impugned website is engaged in the activity of “typo-squatting” and “credential harvesting”, which are forms of cyber-crimes, wherein a false website is established and is made to appear deceptively similar to the original website, so that unwary internet users mistake the two and input their sensitive information into the fake website, which is then ‘harvested’ or stolen by hackers. It is contended that Defendant No. 1 has procured registration of a domain name, which is deceptively similar to that of the Plaintiffs, in order to procure the login credentials of the Plaintiffs’ users.

9. In terms of impleading multiple Defendants in the instant suit, the Plaintiffs submit that the only contesting defendant in the instant suit is Defendant No. 1, whereas, Defendants No. 2, 3 and 4 have only impleaded as Defendants to ensure compliance of the Court’s directions in terms of any injunction that may be granted.

PROCEDURAL HISTORY

10. This court, on 26th May, 2023, on a *prima facie* assessment of the facts narrated in the plaint and the accompanying documents, granted an *ad-interim ex-parte* injunction in favour of the Plaintiffs. The said order also



briefly takes note of the facts of the case and the controversy. The relevant portion of the order, is reproduced hereinbelow:

“16. Ms. Majumdar explains that the impugned website is a single-page



website which displays the logo and requires login details of its users, however, there is no option of registering/ creating an account on the said website. Thus, it is intended to obtain login credentials of unsuspecting users for their accounts with Plaintiffs’ Dream11 website/platform. She states that the present is a classic case of typo-squatting/ URL hijacking, wherein the owners of malicious websites trick unwary users into visiting the same by misspelling URLs of legitimate websites. This results in credential/ password harvesting as the users end up submitting their sensitive details, which is then used for committing data theft or fraud. Due to the impugned activities, Plaintiffs are suffering loss of reputation and image as prospective consumers would be dissuaded from using their platform.



17. Heard. The impugned marks “Dream111” and subsume the Plaintiff’s DREAM11 marks, with the only difference being addition of ‘1’ at the end. There is merit in Ms. Majumdar’s submission that members of the public would mistake the impugned website to be Plaintiffs’ and enter their login details in the designated boxes. Prima facie, the use of impugned marks and operation of impugned website amounts to infringement of Plaintiffs’ registered DREAM11 marks. Plaintiffs have made out a prima facie case in their favour and in case an ex-parte ad-interim injunction is not granted, they will suffer an irreparable loss; balance of convenience also lies in favour of Plaintiffs and against the Defendants.

18. Accordingly, till the next date of hearing, following directions are issued:

18.1. Defendant No.1 and all others acting for and on their behalf are



restrained for using the marks “Dream111”, “” or any deceptively similar variant of Plaintiff’s “DREAM11” trademarks, in any manner, including, as a trademark, trade name, domain name or as part of their email addresses.



18.2. Defendant No. 2 is directed to suspend access to the impugned website “www.dream111.net” of Defendant No. 1 and disclose the contact details of the registrant of the said domain name. KYC details of the said registrants shall also be filed in a sealed cover. Further, Defendant No. 2 shall maintain status quo with respect to the ownership of impugned website, during the pendency of the present suit.

18.3. Defendants No. 3 and 4 are directed to issue appropriate notifications calling upon various internet service providers to block access to the impugned website of Defendant No. 1 “www.dream111.net”.

11. In compliance with the aforementioned directions, Defendant No. 2 shared the contact details of Defendant No. 1 and accordingly the Plaintiffs impleaded one KK Bet as Defendant No. 1 and incorporated the said details in the amended memo of parties, which was filed on 22nd June, 2023. The details of Defendant No. 1, as provided in the amended memo of parties, are as follows:

“KK Bet,
Owner of
www.dream111.net
Haridwar, Rishikesh,
Madhya Pradesh – 249201
Email: kalkkra@gmail.com
Contact: +91 9039268675”

12. As noted in the order dated 30th October, 2023, the contact details of Defendant No. 1, as provided by DNR, are inadequate to serve Defendant No. 1, as the address mentioned therein – i.e., “Haridwar, Rishikesh, Madhya Pradesh – 249201”, is clearly incomplete and fake. In such circumstances, the Court, observed that the aforementioned contact details on the face of it are inadequate to attempt any service on Defendant No. 1 through ordinary mode and speed post, and permitted the Plaintiffs to effect service of summons and notices on the email address and mobile number given by the DNR. The Registry was also directed to serve summons on the said



email address and mobile number. Further, the DNR was directed to lock and suspend the impugned domain name, making the interim injunction order absolute, during the pendency of the instant suit.

13. In compliance of the Court's abovementioned directions, the Plaintiff filed an affidavit of service dated 7th December, 2023, detailing the service effected on Defendant No. 1 on the email address as provided by the DNR. However, despite such service of summons, the Defendant No. 1 has not appeared or filed a written statement, to defend its claim, within the time allowable.

14. Accordingly, the defence of Defendant No. 1 is now closed and they are preceded *ex-parte*.

ANALYSIS

15. Mr. Rohan Krishna Seth, counsel for the Plaintiffs, on instructions states, that in view of the peculiar facts and circumstances of the instant case, Plaintiffs are willing to relinquish their claim for damages and rendition of accounts, and seek relief of permanent injunction as well as appropriate directions to be issued to the DNR, i.e., Defendant No. 2, to transfer the domain name in question, to the Plaintiffs.

16. Considering the fact that despite being duly served summons and notice, on the email address as provided by the DNR, Defendant No. 1 has not contested the present proceedings, the Court presumes that Defendant No. 1 has no cogent defence to the allegations made against them in the suit. In the aforesaid circumstances, the Court deems it fit to proceed to adjudicate the present matter summarily against Defendant No. 1 under Order VIII Rule 10 and Order XIII-A Rule 3 of the Code of Civil



Procedure⁸, as applicable to commercial disputes, read with Rule 27 of the Delhi High Court Intellectual Property Division Rules, 2022.

17. The Plaintiff have established their statutory rights over their trademark “DREAM11” by way of the Legal Proceeding Certificates for said trademark registrations. Further, on comparing the Defendant’s mark “Dream111”⁹ with the Plaintiffs’ trademarks, it is evident that the impugned mark is structurally, visually and phonetically almost identical to the Plaintiffs’ trademark. The impugned marks “Dream111” and



“” subsume the Plaintiff’s “DREAM11” marks, with the only difference being addition of ‘1’ at the end. Moreover, the domain name “dream111.net” is also confusingly similar to the Plaintiff’s “dream11.com”. Thus, the impugned mark is deceptively similar to the Plaintiff’s registered trademarks.

18. Furthermore, Defendant No. 1’s use of the impugned domain name, which is confusingly and deceptively similar to the Plaintiff’s, evidences the intent to establish a close association with the Plaintiff. Thus, the impugned domain name and its corresponding impugned website amounts to infringement of the Plaintiff’s trademarks and passing off of its services.

19. It is also pertinent to note that, considering the fact that the impugned website is a single page website instructing users to first input their login credentials, in order to access any service on the impugned website, there is a strong potential that unwary user might mistakenly believe the impugned website to be associated with the Plaintiff’s platform, and inadvertently

⁸ “CPC”

⁹ “Impugned mark”



input login credentials associated with their accounts on the Plaintiff's "DREAM11" platform.

20. In light of the above, there is not only a possibility of breach of privacy of the users, in terms of sensitive information such as email address and password, but pertinently, since user accounts on the Plaintiff's platform are also linked with the user's respective bank accounts, this *malafide* misrepresentation on the impugned website can possibly lead to extremely serious data privacy breaches and theft. Moreover, Defendant No. 1's use of a fake address to register the impugned domain name with the DNR, is further evidence to the fact that Defendant No. 1's use of the impugned mark is in bad faith and is intended to take undue advantage of consumers.

21. In light of the above, the suit is decreed in favour of the Plaintiffs and against the Defendant No. 1 in terms of prayer 36 (a) & (b).

22. As regards prayer 36(c) is concerned, Defendant No. 2 has no objection to transfer the domain name "dream111.net" to the Plaintiffs. Further, as has been observed, Defendant No. 1 has not contested the present proceeding. Therefore, it is considered appropriate to direct Defendant No. 2 to transfer the said domain name to Plaintiffs subject to the completion of necessary formalities.

23. With the above directions, the present suit is disposed of with the pending applications.

24. Decree sheet be drawn up.

SANJEEV NARULA, J

MAY 7, 2024/as