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

\+ CS(COMM) 369/2024 with I.A. 10297/2024, I.A. 10299/2024

M2P SOLUTIONS PRIVATE LIMITED .....Plaintiff
Through: Mr. Kaustubh Rai, Advocate.

versus

ASHOK KUMAR & ORS. .....Defendants
Through: Ms. Radhika Bishwajit Dubey, CGSC with Ms. Gurleen Kaur Waraich and Mr. Vivek Sharma, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

O R D E R

% **06.02.2025**

1. Since 5th February, 2025 was declared a Court holiday, the matters listed on 5th February, 2025 are being taken up today i.e. 6th February, 2025.

2. The plaintiff has filed the present suit seeking permanent injunction on account of infringement of their registered trademarks by the defendants no.1 and 2, who are unknown persons operating an infringing website '*https://www.m2p-capital.com*'.

CASE OF PLAINTIFF

3. The case set up by the plaintiff is as under:

3.1. The plaintiff is an Application Programming Interface (API) infrastructure company offering services that enables businesses to adopt financial services, however, the plaintiff is not in the business of providing loans. The plaintiff is the registered proprietor of the word and device marks

"M2P FINTECH" and " ", in Classes 9, 36 and 42.

3.2. The plaintiff also owns and operates a website '*https://m2pfintech.com*', which has been registered since 11th September, 2020, and where the plaintiff's trademarks are prominently displayed. The plaintiff also claims protection for the colour scheme, icon and tab placements found on the said website under the Copyrights Act, 1957. Owing to the long, continuous and extensive use of the plaintiff's trademarks as well as trade name, as well as the excellent quality of goods and services offered by them, the plaintiff's trademarks have garnered significant reputation and goodwill, which is exclusively attributed to the plaintiff.

3.3. The plaintiff's grievance in the present suit emerges from the operation of an infringing website hosted on the domain '*https://www.m2p-capital.com*', operated by the defendants no.1 & 2, wherein they offer loans to the general public and defraud them, specifically targeting people with lower credit scores, under the guise that the loans are actually offered by the plaintiff. The identities of the defendants no.1 and 2, who are the owners and operators of the infringing website, are not known to the plaintiff, however, the domain name is registered in the name of the defendant no.3 – Aceville Pte. Ltd. The defendants no.4 and 5 are the Ministry of Electronics and Information Technology and Department of Telecommunications, Ministry of Communications and Information Technology, respectively.

3.4. Sometime in April 2024, the plaintiff received information regarding the existence of the infringing website when consumers complained of being defrauded of their hard-earned money by certain individuals posing to be representatives of the plaintiff. These miscreants would offer loans to the victims on the social messaging platform 'WhatsApp' and direct them to register on the infringing website and provide their personal information, including bank account/debit card details. Once such details were uploaded on the infringing website, the victims' monies would be siphoned off from their bank accounts.

3.5. Upon investigation, it was discovered that the infringing website is prominently using the plaintiff's trademarks and has substantially copied the colour scheme, icon placement and tabs of the plaintiff's website in an attempt to come as close as possible to the same. The comparison of the plaintiff's website and the infringing website are as follows:

Plaintiff's website	*Infringing website*
https://m2pfintech.com	*https://www.m2p-capital.com*
Screenshots taken through a mobile phone	
	

Screenshots taken through a computer	
	

3.6. The impugned website has also copied the various distinctive elements of the plaintiff's website, which is evident from the following comparison:

Plaintiff's website	*Infringing website*
Registered mark is prominently displayed in the center of homepage of both websites	
	
The infringing website exactly replicates the language used under the logo in the Plaintiff's Website, as under: *"Fintech happens here* *We empower fintechs, banks, and business with customs APIs for a wide range of financial services."* Further, identical font has been used in the infringing website.	

	
The colour scheme of the log-in portion on the top right is substantially similar for both the websites.	
	

3.7. Further, the text, layout and design of the plaintiff's website has been generated through a computer program and is both an "artistic work" and a "literary work" as defined under Section 2(c) and 2(o) of the Copyright Act, respectively. Accordingly, by virtue of Section 13 of the Copyright Act, the copyright of the contents of plaintiff's website, including its source code, vests with the plaintiff. Pertinently, the infringing website has a source code which is identical to the plaintiff's website.

3.8. Through its investigation, the plaintiff became aware that the infringing website first started its operations sometime in March 2024, and upon running a trace-route of the same, the country of origin of the infringing website can be traced to Hong Kong.

3.9. The plaintiff has neither developed the infringing website, nor has it authorized any entity or person, to use its marks for any investment ventures. Further, due to the deceitful and *malafide* defrauding activities of the infringing website, the plaintiff's goodwill and reputation in its trademarks are being tarnished, as victims are associating the infringing website as being that of the plaintiff's and are complaining that the plaintiff has cheated them out of money under the garb of offering loans.

3.10. The intent behind the infringing website is to deceitfully adopt and use of the plaintiff’s well-known and reputed trademarks and pass off the same as originating from the plaintiff in order to derive illicit gains from unsuspecting consumers. Such purposeful misrepresentation is causing irreparable harm and injury to the plaintiff, and is irreversibly tarnishing the goodwill and reputation of the plaintiff and its trademarks.

4. Finding a *prima facie* case in favour of the plaintiff, this Court *vide* order dated 7th May, 2024, passed the following *ad interim* directions: -

4.1. Defendants no.1 and 2 and any other person acting for and on their behalf, were restrained from infringing on the registered trademarks of the Plaintiff, being “M2P FINTECH” and “M2P” and from operating the domain name ‘*https://www.m2p-capital.com*’, as well as websites to which the said domain names resolve.

4.2. Defendant no.3 was directed to provide details of registration of the afore-noted domain name, including contact information, payment details and any other information in its power and possession which would aid in disclosure of identity of the registrants of the websites available at ‘*https://www.m2p-capital.com*’.

4.3. Defendants no.4 and 5 were directed to issue appropriate directions to the telecom service providers and internet service providers to block, lock and suspend access to the infringing websites, hosted on the domain ‘*https://www.m2p-capital.com*’.

5. Despite service, none entered appearance on behalf of the defendant no. 3, which is the Domain Name Registrar of the impugned domain name.

6. Submissions on behalf of the defendants no.4 and 5 that they have

complied with the directions passed by this Court on 7th May, 2024 were recorded by the Joint Registrar in the order dated 8th August, 2024.

7. Ms. Radhika Bishwajit Dubey, CGSC appearing on behalf of the defendants no.4 and 5 submits that they have no objection if a decree in terms of prayer clause (d) of the plaint is passed in favour of the plaintiff.

8. Counsel for the plaintiff does not press for the remaining reliefs prayed for in the plaint.

9. In view thereof, a decree in terms of prayer clause (d) of the plaint is passed in favour of the plaintiff and against the defendants no.4 and 5.

10. Decree sheet be drawn up.

11. All pending applications stand disposed of.

AMIT BANSAL, J

FEBRUARY 6, 2025

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