
(2022) 11 DEL CK 0170

In the Delhi High Court

Case No : Civil Suit (COMM) No. 711 Of 2021, I.A. No. 17526, 17527 Of 2021

Livanova India Private Limited

APPELLANT

Vs

Godaddy.Com, Inc. & Ors

RESPONDENT

Date of Decision : 24-11-2022

Acts Referred:

Citation : (2022) 11 DEL CK 0170

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Manish Jah, Dheeraj Nair, Angad Baxi, Shweta Sahu, Prashant Choudhary, Manish Mohan, Akshat

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.
2. The present suit has been filed by the Plaintiff-LivaNova India Pvt. Ltd. (hereinafter Plaintiff) against the two DNRs, Defendant No.1- GoDaddy LLC & Defendant No. 2-Domains by Proxy LLC, as also Defendant No. 3- Vodafone Idea Limited, Defendant No. 4- Department of Telecommunications (DOT), Defendant No. 5- Ministry of Electronics and Information Technology (MEITY), Defendant No. 6- Deputy Commissioner of Police, Delhi (Cyber Crime) and against Defendants 7 to 9- Ashok Kumar (unknown defendants).
3. The case of the Plaintiff is that it is a company registered in the United Kingdom engaging in the business of Medical Technologies and Services. It has a portfolio of several devices and operates in more than 100 countries. The Plaintiff's website <https://www.livanova.com> prominently portrays its businesses and displays various products of the Plaintiff. The said website has copyrighted content of the Plaintiff along with various marks, logos and designs including the flagship mark 'LivaNova'.

4. The grievance in this case is that certain unknown Defendants had registered and adopted two domain names www.tylengene.com and www.tylliva.com. These two websites were engaged in inducing people to part with valuable consideration by creating content which was identical to the content of the Plaintiff's website. According to the Plaintiff, photographs, designations and descriptions of senior officials of the Plaintiff were completely copied by the Defendants in the said websites. Since the registrars of the said domain names and the persons who are operating these websites was not within the knowledge of the Plaintiff, the present John Doe suit was filed seeking details from the DNRs, Internet Service Providers (ISPs) and seeking blocking orders from the concerned Ministries.

5. Vide order dated 24th December, 2021 an injunction was granted in terms of prayers (i) and (ii) of the interim injunction application which reads as under: -

"i. Pass an order of ex-parte ad-interim injunction restraining the Defendant Nos. 7 and 8, their owners, partners, proprietors, officers, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, from using the website www.tylengene.com and/or any of Applicant's copyrighted material or any deceptive variant which is identical and/or similar to the Applicant's copyright in respect of domain name or by any other manner thereby amounting to passing off of Applicant's goodwill and reputation by claiming any association with the Applicant;

ii. Pass an order of ex-parte ad-interim injunction restraining the Defendant Nos. 9 to use the website www.tylliva.com (and such other websites / entities which are discovered during the course of the proceedings to have been engaging in infringing Applicant's copyright, passing off and violating Applicant's rights), their owners, partners, proprietors, officers, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, from using Applicant's copyrighted material or any deceptive variant which is identical and/or similar to the Applicant's copyright in respect of domain name or by any other manner thereby amounting to passing off of Applicant's goodwill and reputation by claiming any association with the Applicant;"

6. Pursuant to the injunction order, which was granted, it is submitted by Id. Counsel for the Plaintiff that both the websites were blocked and the contents of the website have also been removed from the said websites. GoDaddy has also suspended both the domain names and hence, as on date, the content on the two websites is no longer available online.

7. Ms. Shweta Sahu, Id. Counsel appearing for GoDaddy submits that even prior to the initiation of the suit, the two domain names were suspended. However, she submits that the said domain names have now expired and can now be registered by anyone.

8. The grievance of the Plaintiff in the present suit was not against the two domain names i.e. www.tylengene.com and www.tylliva.com but with the contents which were uploaded on the said websites. Since the content is no longer available and the persons who put up the said websites are unknown to the Plaintiff, it is submitted by Id. Counsel for the Plaintiff that the suit may be decreed in favour of the Plaintiff in terms of the ex parte interim injunction order already granted. Apart from the above, it is submitted that GoDaddy has already furnished the details of the registrants and the ISP, Vodafone Idea had agreed on 3rd November, 2022 before the Joint Registrar to give the KYC details of the unknown Defendants. Accordingly, the interim order dated 24th December, 2021 is made absolute and a decree is passed in favour of the Plaintiff against the Defendant Nos. 7, 8 and 9 in terms of paragraphs 54(i) and 54(ii) of the plaint.

9. The Defendant No. 3 Vodafone may now provide the KYC details of the persons who have registered or are operating the mobile number used to register the domain name in terms of the order dated 3rd November, 2022 passed by the Joint Registrar to the Plaintiff's counsel within two weeks.

10. The details provided by the DNR and the ISP, Vodafone may be used by the Plaintiff to pursue criminal complaints or other remedies against the operators of the websites. All remedies in accordance with law are left open.

11. With these directions, the suit is decreed. Decree sheet be drawn.

12. No further reliefs are pressed by the Plaintiffs. All the pending applications are also disposed of.