courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 14/09/2026

(2018) 05 DEL CK 0455

In the Delhi High Court

Case No : CS(COMM) 458 OF 2018 & I.A. 2055 OF 2018

STAR TELEVISION PRODUCTIONS LIMITED & ORS — APPELLANT

Vs

VAISHALI SARAN & ANR — RESPONDENT

Date of Decision : 30-05-2018

Acts Referred:

Citation : (2018) 05 DEL CK 0455

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : Sneha Jain, Suhasini Raina

Final Decision : Disposed Of

Judgement

1. Present suit has been filed for permanent injunction restraining infringement of the registered trade mark, domain name, Copyright, passing-off,

unfair competition, delivery-up etc. The prayer clause in the present suit is reproduced hereinbelow:-

â??48. It is, therefore, prayed that the following reliefs may be granted to the Plaintiff:

a. An order and decree of permanent injunction restraining the Defendant No. 1, its partners or proprietors, officers, servants, agents and all persons

acting by, through or under them from using a mark which is identical or deceptively similar to the registered and well known â??HOTSTAR, marks

of Plaintiffs in any manner whatsoever including in the domains hotstar.online, hotstarmovies.co, gomovies.direct or on the websites, promos etc.,

thereby amounting to infringement of Plaintiff No. 1â??s registered trademark.

b. An order and decree for permanent injunction restraining the Defendant No 1, its partners or proprietors, officers, servants, agents and all persons,

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/star-television-productions-limited-…

acting by, through or under them from using a mark which is identical or deceptively similar to the registered and well known â??HOTSTAR,

marks of the Plaintiffs in any manner whatsoever including in the domains hotstar.online, hotstarmovies.co, gomovies.direct or on the websites,

promos etc., or any other mark identical or deceptively similar to Plaintiff No. 1â??s marks, thereby amounting to passing off.

c. A decree of permanent injunction restraining the Defendant No 1, its partners or proprietors, officers, servants, agents and all persons, acting by,

through or under them from using or any other logo/device which is identical/ deceptively similar to the Plaintiff No. 1â??s logo/device, resulting in

infringement of the copyright in artistic work in the logo;

d. A decree of permanent injunction directing the Defendant No. 1 to transfer the domain names www.hotstar.online and www.hotstarmovies.co in

favour of the Plaintiff No 3;

e. A decree of permanent injunction directing the Defendant No 2 to implement the orders as may be passed by this Honâ??ble Court including

blocking the illegal and continued use of the domain names and to transfer the domain names www.hotstar.online and www.hotstarmovies.co in

favour of the Plaintiffs;

f. A decree of permanent injunction restraining the Defendant No 1, its partners or proprietors, officers, servants, agents and all persons, in active

concert or participation with the Defendant, from advertising the domain names, using the domain names for auction purposes or for any other

purpose, from transferring, alienating or offering for sale the domain names â?? www.hotstar.onlineâ? and www.hotstarmovies.coâ? to any third

party and from creating any third party interest in the said domain names â?? www.hotstar.onlineâ?? and â??www.hotstarmovies.coâ??.

g. An order and decree for delivery up by the Defendants of all goods, materials, advertising material, blocks, dies etc. bearing the word

marks/likenesses of the Hotstar mark or any other marks deceptively similar to that of the Hotstar Marks,

h. A sum of Rs. 1,00,00,500 for a decree of damages as valued in the preceding paragraphs for the loss of business and sales, reputation and goodwill

of the Plaintiffs marks and caused by the activities of Defendant No. 1 and its associates thereof;

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/star-television-productions-limited-…

i. An order as to the costs of the proceedings;â??

2. Vide order dated 13th February, 2018, this Court granted an exparte ad interim injunction in favour of the plaintiffs and against the defendants. The

relevant portion of the order is reproduced hereinbelow:-

â??Consequently, till further orders, defendant No.1, its partners or proprietors, officers, servant, agents and all persons acting by, through or under

them are restrained from using mark which is identical or deceptively similar to the registered marks HOTSTAR, logos of the plaintiffs in any

manner whatsoever including in the domains hotstar.online, hotsarmovies.co, gomovies.direct or on the websites, promos, etc.

The defendant No.2 is also directed to block the illegal and continued use of the domain names www.hotstar.online and www.hotstarmovies.co.

Further, the defendant No.1, its partners or proprietors, officers, servants, agents and all persons, in active concert or participation with the defendant

are restrained from transferring, alienating or offering for sale the domain names www.hotstar.online and www.hotstarmovies.co to any third party

and from creating any third party interest in the said domain names www.hotstar.online and www.hotstarmovies.co.â??

3. Vide order dated 29th May, 2018, the defendants were proceeded ex parte.

4. Learned counsel for the plaintiffs states that in view of the judgment of this Court in Satya Infrastructure Ltd. &Ors. Vs. Satya Infra & Estates

Pvt. Ltd., 2013 SCC OnLine Del 508 the present suit be decreed qua the reliefs in paragraph 48(a), (b), (c), (d) and (e) of the plaint. The relevant

portion of the said judgment relied upon by learned counsel for the plaintiffs is reproduced hereinbelow:-

â??I am of the opinion that no purpose will be served in such cases by directing the plaintiffs to lead ex parte evidence in the form of affidavit by way

of examination-in-chief and which invariably is a repetition of the contents of the plaint. The plaint otherwise, as per the amended CPC, besides being

verified, is also supported by affidavits of the plaintiffs. I fail to fathom any reason for according any additional sanctity to the affidavit by way of

examination-in-chief than to the affidavit in support of the plaint or to any exhibit marks being put on the documents which have been filed by the

plaintiffs and are already on record. I have therefore heard the counsel for the plaintiffs on merits qua the relief of injunction.â??

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/star-television-productions-limited-…

5. The relevant facts of the present case as pointed out by the learned counsel of the plaintiffs are as under :-

A) The plaintiff No.1 is a company incorporated under the companies Act and is a part of the Star TV network which operates a leading media and

entertainment business in Asia. Plaintiff No.1 is also the registered proprietor of the mark â??STAR? and trademark â??HOTSTAR?. Plaintiff No.2

is an affiliate company of Star group and is one of the leading entertainment and Media Company. Plaintiff No.3 is the wholly owned subsidiary of

plaintiff No.2 and is the owner of digital platform that offers online streaming services accessible through mobile applications and through web

browsers at www.hotstar.com.

B) The plaintiff No.1 is the prior adopter and registered proprietor of â??STARâ? including STAR logo & device and other marks incorporating

â??STARâ?. Plaintiff No.1 has granted Plaintiff No.2 an exclusive license with a right to sub license, to use Hotstar marks. Plaintiff No.2 has

granted a sub-license to plaintiff No.3 to use Hotstar mark and its variants. It is further stated that the domain name www.hotstar.com and the name

Hotstar of the mobile App is the main identifier of the plaintiffs? platform.

C) The HOTSTAR platform has been subject of widespread publicity.

The viewership of the plaintiffs? HOTSTAR platform has been constantly increasing and was 658 million in the year 2017-2018.

D) That in July, 2017, the plaintiffs first became aware of the defendants? website hotstar.online. She further states that, the website incorporates

the word mark â??HOTSTAR? in its entirety. She also states that the domain name of the defendant No. 1?s website is deceptively similar to the

plaintiff No. 3?s website and the content played on Defendant No. 1?s website is pirated.

E) Learned counsel for plaintiffs states that in November 2017, it came to the plaintiffs? notice that Defendant No.1?s domain name hotstar.online

was automatically redirected to hotstarmovies.co.

F) In January 2018, traffic of hotstarmovies.co and hotstar.online was redirected to gomovies.direct. She also states that the interface available on

Defendant No.1?s current website is identical to hotstar.online and hotstarmovies.co.

G) The plaintiffs? investigation into the activities of defendant No.1 revealed that

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/star-television-productions-limited-…

the first available registrant was Vaishali Saran. She also states that

the defendants have registered several websites and from the WHOIS details of these websites, it is clear that defendant No.1 uses multiple names

and phone numbers. Learned counsel for the plaintiffs states that the plaintiffs? investigations have revealed that defendant no.1 is a cyber squatter

and is believed to have registered various other domain names such as onlinehdmovie.in, inoxwap.org., 123movies.net.in, youtubemini.mobi,

filmywapvideo.com to name a few. The connection between all these websites is evident from the home page of these websites where they list over

50 connected/related domain names.

H) She further states that ownership details of defendant no.1?s websites www.hotstar.online have been constantly altered and registrant details for

all associated websites last checked on 16th January, 2018 are privacy protected.

I) The defendant No.1 registered the domain name hotstar.online, hotstarmovies.co and gomovies.direct on 22nd December, 2016, 10th November

and 25th December, 2017 respectively. She further states that in the month of November 2017 through web archives it came to plaintiffs notice that

earlier in the month of February,2017 Defendant No.1 was using plaintiffs mark HOTSTAR and logo on the website.

J) The plaintiffs appealed to the domain name registrar Cloudflare and GoDaddy LLC on 03rd July, 2017 and 01st August, 2017 respectively for action

against the defendants? websites and the unauthorized copyright content being published therein. The plaintiffs received replies to the above

mentioned emails on 4th July, 2017 from Cloudflare and on 06th September from GoDaddy stating that they are not a hosting provider and thereby

having no control over the content of the defendant?s website.

K) The plaintiffs? addressed legal notice dated 14th July 2017 to Somya Meena, owner of hotstar.online and a reminder email dated 24th August,

2017. However, the defendants neither replied to the same nor complied with plaintiffs? request.

L) The defendants website comprising the mark HOTSTAR followed by the word â??onlineâ? shows that defendant No.1 is deliberately attempting

to ride upon the popularity, reputation goodwill in the Hotstar Marks generated by the plaintiffs and to mislead the public into believing that there is an

association between the plaintiffs and defendant No1.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/star-television-productions-limited-…

6. In support of her contentions, learned counsel for plaintiffs relies upon a judgment of the Supreme Court in Satyam Infoway Ltd. Vs. Siffynet

Solutions (P) Ltd., (2004) 6 SCC 145. The relevant portion of the same is reproduced hereinbelow:-

â??12. The original role of a domain name was no doubt to provide an address for computers on the internet. But the internet has developed from a

mere means of communication to a mode of carrying on commercial activity. With the increase of commercial activity on the internet, a domain name

is also used as a business identifier. Therefore, the domain name not only serves as an address for internet communication but also identifies the

specific internet siteâ?¦..

xxx xxx xxx

16. The use of the same or similar domain name may lead to a diversion of users which could result from such users mistakenly accessing one domain

name instead of another. This may occur in e-commerce with its rapid progress and instant (and theoretically limitless) accessibility to users and

potential customers and particularly so in areas of specific overlap. Ordinary consumers/users seeking to locate the functions available under one

domain name may be confused if they accidentally arrived at a different but similar website which offers no such services. Such users could well

conclude that the first domain-name owner had misrepresented its goods or services through its promotional activities and the first domain-owner

would thereby lose its custom. It is apparent, therefore, that a domain name may have all the characteristics of a trade mark and could found an action

for passing off.â??

7. Having heard learned counsel for the plaintiff and having perused the documents placed on record, this Court is of the opinion that the plaintiff has

proved the facts stated in the plaint.

8. In the opinion of this Court, the defendants have no real prospect of defending the claim as they neither entered appearance nor filed written

statement or denied the documents of the plaintiffs.

9. In view of the above facts, the suit is decreed in favour of the plaintiffs and against defendant no. 2 in terms of prayer clause 48(a), (b), (c),

(d) and (e) of the plaint along with the actual costs. The costs shall amongst others include the lawyers? fees.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/star-television-productions-limited-…

10. Registry is directed to prepare a decree sheet accordingly.

Consequently, the present suit and application stand disposed of.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/star-television-productions-limited-…