

(2014) 09 DEL CK 0396
In the Delhi High Court
Case No : CS (OS) 674/2008

Tata Sons Limited and Others

APPELLANT

Vs

Shashi Prakash Singh and Others

RESPONDENT

Date of Decision : 11-09-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 5 Rule 20

Evidence Act, 1872 — Section 65B

Trade Marks Act, 1999 — Section 2(1) (h), 2(1) (zg), 2(z) (b), 29(1), 29(2)

Citation : (2015) 62 PTC 558

Hon'ble Judges : G.S. Sistani, J

Bench : Single Bench

Advocate : Achutan Kumar, Karan Kumar Kamra, Advocates for the Appellant

Judgement

G.S. Sistani, J.—Plaintiffs have filed the present suit for permanent injunction restraining infringement of Trade mark, Passing Off, Damages, Rendition of accounts and Delivery Up.

2. Summons in the suit were issued on 11.04.2008. Since the defendant no. 1 could not be served through ordinary service despite repeated efforts, the plaintiffs filed I.A No. 10187/2011 under Order v. Rule 20 CPC for substituted service. The said application was allowed on 08.09.2011 and the defendant no. 1 was directed to be served by way of publication. On 28.02.2012 court noticed that the defendant no. 1 was served in the newspaper "Hindustan Times" dated 10.11.2011 was also placed on record. Since none appeared on behalf of the defendant no. 1 despite service through publication, vide order dated 13.04.2012 the defendant no. 1 was proceeded ex parte.

3. Counsel for the plaintiffs submits that defendant no. 2 is a proforma party and that service of defendant no. 2 is not required. Plaintiffs were also directed to file ex parte evidence by way of affidavit which was taken to be complete on 02.07.2014.

4. Plaintiffs have filed affidavit by way of evidence of Mr. V. Gurumoorthi (PW1), the Constituted Attorney of the Plaintiff No. 1 Company. Copy of power of attorney and a copy of board resolution in favor of PW1 have been exhibited as Ex. PW 1/1 and Ex. PW1/2. PW1 has deposed that the plaintiff no. 1, Tata Sons Limited is a company duly incorporated under the Indian Companies Act, 1913 having its registered office at Bombay House, 24 Homi Mody Street, Mumbai 400 001 and also conducts business at Jeevan Bharti Building, 10th Floor, Tower 1, 124 Connaught Circus, New Delhi 110 001. A copy of the certificate of incorporation of the plaintiff company has been exhibited as Ex. PW 1/3.

5. PW1 has also deposed that the plaintiff no 1, Tata Sons Ltd. was established in the year 1917 as a body corporate and is the principal investment holding company of the TATA Group", which is India's oldest, largest and best-known conglomerate, with a turnover of over \$83.3 billion (around Rs. 3,796.75 billion) in 2010-11, with 58 per cent of this coming from business outside India. PW1 has further deposed that the plaintiff no.1 is one of India's most trusted business houses and the name/trademark TATA, derived from the surname of the founder Jamsetji Nusserwanji Tata is a household name synonymous with excellence in almost every field of business activity.

6. PW1 has next deposed that the enterprises promoted by TATA have laid the foundation in the industrial core sectors, pioneering the iron & steel, textiles, power, chemicals, hotels and automobile industries in India and keeping pace with the changing global scenario, TATA branched out into computers and computer software, electronics, telecommunications, financial services, mutual funds, tea and publishing. PW1 has also deposed that for the year 2006, Forbes, an American publishing and media company, has ranked TATA Group at the 20th position among the world's most reputed companies and as the largest Indian group in terms of revenues and market capitalization and the TATA Group is the only Indian group or company to be listed among top 20 companies of the world in terms of corporate reputation.

7. PW1 has further deposed that the TATA Group has been ranked 6th in the list of World's 50 Most Innovative Companies by Business Week, for the year 2008 and TATA brand has also been ranked 57th among top 100 brands worldwide, listed by Brand Finance, an independent company focused on the management and valuation of brands. Few of the documents pertaining to the "well known" status, reputation and goodwill enjoyed by the plaintiff company like photocopies of extracts from newspaper articles, magazine write-ups pertaining to the House of TATA and pamphlets issued by the Trade Marks Registry showing TATA as a well-known trademark have been marked as Mark C and Mark D respectively. Also copy of the original compendium on the financial highlights of the plaintiff company and its group companies has been exhibited as Ex.1/10.

8. Mr. v. Gurumoorthi, PW1 has further deposed that since 1917, the plaintiff no. 1 has been continuously and consistently using the trademark and trade name TATA, which is a rare patronymic name possessing the distinctiveness of an

invented word, for its own business activities and those of companies promoted by it and the use of the trademark and name TATA by the plaintiff's predecessors in business dates back to 1868. PW1 has next deposed that on account of the highly distinctive nature and the pioneering activities of the founder, the name TATA acquired an excellent reputation from the very beginning and down the decades, the name has consistently been associated with, and exclusively denotes the conglomeration of companies forming the TATA Group, colloquially also referred to as the "House of TATA", known for high quality of products manufactured and or services rendered under the trademark/ name TATA.

9. PW1 has also deposed that the House of TATA consists of over 100 companies of which over 50 companies use TATA as a key and essential part of their corporate name and in addition, there are numerous overseas companies, philanthropic bodies and autonomous public institutions promoted by the House of TATA.

10. PW1 has also deposed that the plaintiffs are the proprietors of the trademark TATA by virtue of priority in adoption, long, continuous and extensive use and the plaintiffs and its group companies have exclusively used TATA as a trademark so that it is uniformly perceived as indicative of the source of the plaintiffs and the companies promoted by the House of TATA.

11. PW1 has further deposed that the plaintiffs being the proprietors of the TATA trademarks enjoy exclusive rights in the said trademarks and are entitled to take action against unauthorized use thereof by third parties for any goods or services. PW1 has also deposed that the plaintiffs have successfully and vigorously enforced their trademark rights in the TATA trademarks in relation to various goods and services, even those that are different and unrelated from its existing field of operations. Copies of the Orders passed by various Courts of India and abroad as well as various other tribunals, forums etc. protecting the well-known trademark "TATA" of the plaintiffs have been exhibited as Ex.PW1/12 to Ex. PW1/18.

12. PW1 has also deposed that in addition to the common law rights that have accrued to the plaintiffs by virtue of the aforesaid facts, it is also the registered proprietor of several TATA-formative trademarks in relation to various goods across various classes of the Fourth Schedule of the Trade Marks Rules, 2002. Further it has been deposed by PW1 that the plaintiffs owns trade mark registrations for the word TATA in over 50 countries besides India and by virtue of the said registrations, the plaintiffs have the exclusive right to use the trademark TATA in relation to the goods covered there under and to obtain relief in respect of the infringement of the registered trademarks.

13. PW1 has next deposed that the plaintiff no. 1 is the proprietor of several trademarks comprising or containing the mark TATA in Class 12 and certificates for use in legal proceedings for the following trademark registrations of the plaintiff no. 1 in Class 12 are exhibited as:

- (i) Trademark registration no. 299110 - Ex PW 1/19.
- (ii) Trademark registration no. 585377 - Ex PW 1/20.
- (iii) Trademark registration no. 569378 - Ex PW 1/21.
- (iv) Trademark registration no. 300234 - Ex PW 1/22.
- (v) Trademark registration no.585376 - Ex PW 1/23.
- (vi) Trademark registration no. 1191273 - Ex PW 1/24.
- (vii) Trademark registration no. 569382 - Ex PW 1/25.

Further the photocopies of registration certificates of various registrations owned by the plaintiff no. 1 as regards the mark TATA in Class 12 have been marked as Mark J (Colly.) and a list of some of the trademark registrations in favour of the plaintiff no. 1 and its Sister Concerns in India comprising the word TATA in various classes has been marked as Mark K.

14. PW1 has also deposed that in the year 2011, taking into consideration various orders passed by Courts / Tribunals etc., the Trade Mark Office (Controller General of Patents, Designs and Trade Marks) has acknowledged and assigned the plaintiff's trade mark TATA, the status of a "well known" trade mark. A printout from the website of the Trade Mark Office illustrating this fact has been exhibited as Ex PW 1/26.

15. PW1 has further deposed that the plaintiff no. 2 is the proprietor of several marks comprising of or containing the word NANO in Class 12 and various other marks containing the mark TATA which is owned by the plaintiff no. 1. The use of the mark TATA by the plaintiff no. 2 is pursuant to a written authority from the plaintiff no. 1 which has been marked as Mark L.

16. Mr. V. Gurumoorthi, PW1 has further deposed that the defendant no. 1 had registered the domain name www.tatananoindia.com and is the registrant of the impugned domain name www.tatananoindia.com. The defendant no. 2 is the sponsoring registrar and after registering the domain name www.tatananoindia.com, the defendant no. 1 approached the plaintiff no. 2 and offered to sell the domain name. PW1 has next deposed that the defendant no. 1 in his email dated 14.1.2008 stated that he has registered the domain name especially for the plaintiff's new car - TATA NANO and wished to sell the same to the plaintiffs. A copy of the "who is" search result of the domain name www.tatananoindia.com showing the defendant no. 1 as the registrant has been exhibited as Ex. PW 1/27 and printouts of the emails received from the Defendant No. 1 have been exhibited as Ex. PW 1/28.

17. PW1 has also deposed that the impugned domain name of the defendant no. 1 is inherently deceptive, causes confusion and constitutes misrepresentation to unwary customers and members of trade that such activities and the services rendered have been endorsed by the plaintiffs. PW1 has further deposed that the

defendant no. 1 is trying to free ride on the immense goodwill and reputation of the plaintiffs' trademarks TATA / TATA NANO.

18. PW1 has next deposed that the adoption of the domain name identical to the plaintiff's trademark TATA / TATA NANO is a clear and dishonest attempt on part of the defendant no. 1 to derive unfair advantage by creating the impression that its services emanate from the plaintiffs or have some nexus or connection with the plaintiffs.

19. PW1 has also deposed that having regard to the fact that the trademark TATA / TATA NANO is a "well known" mark and that the TATA companies are engaged in a wide spectrum of activities using the trademark TATA, the use of an identical trademark/name by the defendant would create confusion and deception in the minds of the public who will be misled into registering for the defendant's services enabling unjust enrichment of the defendant at the plaintiff's and the consumers' expense.

20. PW1 has further deposed that the use of the mark TATA / TATA NANO by the defendant also amounts to false trade description as defined under the provisions of the Trade Marks Act, 1999, inasmuch as it induces the public to falsely believe that:

(a) the Defendants have a direct nexus or affiliation with the Plaintiff or the House of TATA; or

(b) the Defendants have been granted a license to use the trademark TATA / TATA NANO in relation to the concerned products/services; or

(c) the business of the Defendants have been endorsed by the Plaintiff.

21. Plaintiffs have also filed evidence by way of affidavit of Mr. M.K. Bipin (PW2), the Constituted Attorney of the plaintiff no. 2 Company. A copy of the Power of Attorney dated 08.06.2011 in favor plaintiff no. 2 has been exhibited as Ex. PW 2/1. PW2 has deposed that the plaintiff no. 2 has a website by the name www.tatamotors.com and that relevant print- outs from the said website have been exhibited as Ex PW 2/6 (colly.).

22. PW2 has also deposed that the plaintiff no. 2 is India's largest automobile company, with consolidated revenues of INR 1,65,654 crores (USD 32.5 billion) in 2011-12 and is the world's fourth largest truck and bus manufacturer. PW2 has further deposed that plaintiff no. 2 is the leader in commercial vehicles in each segment, and among the top three in passenger vehicles with winning products in the compact, midsize car and utility vehicle segments.

23. PW2 has next deposed that established in 1945, the plaintiff no. 2's presence cuts across the length and breadth of India with over 7.5 million TATA vehicles plying on Indian roads and that the plaintiff no. 2 is the first company from India's engineering sector to be listed in the New York Stock Exchange (September 2004) and has also emerged as an international automobile

company.

24. Mr. M.K Bipin, PW2 has further deposed that through subsidiaries and associate companies, the plaintiff no. 2 has operations in the UK, South Korea, Thailand, Spain and South Africa and the plaintiff no. 2 is also expanding its international footprint, established through exports since 1961. Further, the company's commercial and passenger vehicles are already being marketed in several countries in Europe, Africa, the Middle East, South East Asia, South Asia etc.

25. PW2 has also deposed that plaintiff no. 2 is focused on environment- friendly technologies in emissions and alternative fuels and has developed electric and hybrid vehicles both for personal and public transportation. PW2 has next deposed that in January 2008, the plaintiff no. 2 unveiled its People's Car, the TATA NANO, which was subsequently launched in India in March 2009, a development, which signifies a first for the global automobile industry, the NANO brings the comfort and safety of a car within the reach of thousands of families.

26. PW2 has also deposed that the plaintiffs also have an official web-site for the car TATA NANO available at www.tatanano.com and the domain name has been registered in favour of the plaintiff no. 1 and a copy of the "who is" search result pertaining to the said domain name has been exhibited as Ex PW 2/7. Also printouts of the relevant pages from the web-site www.tatanano.com and various articles and write-ups that very clearly illustrate the immense goodwill and reputation associated with the plaintiffs' car sold under the trade mark TATA NANO have been exhibited as Ex PW 2/8(colly) and Ex PW 2/9.

27. PW2 has further deposed that the plaintiff no. 2 and the other TATA companies are the proprietors of several trademark registrations containing the word NANO in Class 12. Original Certificates for use in legal proceedings as regards some of the registrations have been exhibited as Ex. PW2/10 to Ex. PW2/16.

28. Mr. M.K Bipin, PW2 has also deposed that the defendant no. 1's domain name www.tatananoindia.com incorporates the plaintiff no. 2's trademark TATA NANO which has been extensively used by the plaintiffs much prior to that of the defendant and such use by the defendant no. 1 amounts to infringement of the plaintiffs' registered trademarks as well as amounts to passing off the defendant's goods/services as that of the plaintiffs' and the defendant no. 1's malafides are further evident from the fact that after registering the impugned domain name www.tatananoindia.com in his name, the defendant no. 1 contacted the plaintiff no. 2 offering to sell the domain name.

29. PW2 has next deposed that by using the impugned domain name, the defendant no. 1 is defrauding the general public and is likely to continue to mislead, deceive or confuse the public and members of trade by making them believe that the defendant no. 1 have the approval or license of the plaintiffs to carry on business under the said domain name / trademarks and trading style or

that their activities are in some manner or the other connected with or derived from the business of the plaintiffs, so as to pass off and earn huge and illegal profits.

30. Plaintiffs have also filed evidence by way of affidavit of Mr. Subroto Panda (PW3), the Manager IT of the Legal representatives of the plaintiffs i.e. Anand and Anand Advocates. PW3 has deposed that his duties entail administering the Electronic resources of the legal representatives of the plaintiffs, including ensuring the integrity and storing of past and present Electronic Communication and information downloaded from the World Wide Web (Internet) as well as maintaining email archives.

31. PW3 has further deposed that the requirements of Section 65B of the Indian Evidence Act, 1872 with respect to documents downloaded have been complied with.

32. I have heard counsel for the plaintiffs and carefully perused the plaint along with the documents which have been placed on record and affidavit by way of evidence filed by the plaintiffs. The evidence of plaintiffs has gone unrebutted and unchallenged. Plaintiffs have proved that they are the owner of trade mark "TATA" and own trade mark registrations for the word "TATA" in over 50 countries besides India. Plaintiffs have also proved that the plaintiffs are the registered proprietors of several TATA formative trade marks in relation to various goods across various classes of the fourth schedule of the Trade Mark Rules 2002. Trade Mark registration certificates of the trade mark "TATA" in class 12 of goods in favour of the plaintiffs have been marked as Mark J and a list of the trade mark registrations in favour of Plaintiff No. 1 and its sister concerns in India comprising the term TATA in various classes has been marked as Mark K. Plaintiffs have also proved that plaintiff no. 2 is the proprietor of several trade mark comprising or containing the term NANO in class 12 and original certificates for use in legal proceedings have been exhibited as Ex.PW2/10 to Ex.PW2/16. Plaintiffs have relied upon various orders passed in their favour proving that the rights of the plaintiff company in the trademark TATA and TATA NANO have been recognized by courts/tribunals not only in India but abroad as well. Plaintiffs have also relied upon extracts from newspaper and magazine write ups which have been marked as Mark C and Mark D respectively and copy of the original compendium on the financial highlights of the plaintiff company and its group companies which has been exhibited as Ex. 1/10 showing TATA as a well known trade mark.

33. Section 2(1) (zg) of the trade Marks Act, 1999 defines "well known trade mark", in relation to any goods or services as a mark which has become so to the substantial segment of the public which uses such goods or receives such services that the use of such mark in relation to other goods or services would be likely to be taken as indicating a connection in the course of trade or rendering of services between those goods or services and a person using the mark in relation to the first mentioned goods or services.

34. In the case of Tata Sons Ltd. Vs. Manoj Dodia and Others, , following observations were made by another bench of this court with respect to the factors that ought to be looked into while considering what constitutes a "well known mark":

13. Trademarks Act, 1999 does not specify the factors which the Court needs to consider while determining whether a mark is a well known mark or not, though it does contain factors which the Registrar has to consider whether a trademark is a well known mark or not. In determining whether a trademark is a well known mark or not, the Court needs to consider a number of factors including (i) the extent of knowledge of the mark to, and its recognition by the relevant public; (ii) the duration of the use of the mark; (iii) the extent of the products and services in relation to which the mark is being used; (iv) the method, frequency, extent and duration of advertising and promotion of the mark; (v) the geographical extent of the trading area in which the mark is used; (vi) the state of registration of the mark; (vii) the volume of business of the goods or services sold under that mark; (viii) the nature and extent of the use of same or similar mark by other parties; (ix) the extent to which the rights claimed in the mark have been successfully enforced, particularly before the Courts of law and trademark registry and (x) actual or potential number of persons consuming goods or availing services being sold under that brand." In my view the mark of the plaintiff satisfies all the necessary ingredients for falling in the category of a well known mark.

35. In the case of TATA Sons Ltd. v. A.K Chaudhary & Anr, CS(OS) 842/2002 decided on 6.04.2009, this court was of the view that the trademark TATA is a well known trademark within the meaning of Section 2(z) (b) of the Trade Marks Act, 1999, on account of its distinctiveness and residual goodwill and reputation and cannot be appropriated by any party in India in relation to any merchandise goods/services/trade name.

36. On the basis of documents placed on record, the plaintiffs have been able to establish that the plaintiff no. 1 is the registered owner of trade mark "TATA" and by virtue of the registrations it holds, the plaintiff no.1 has the exclusive right to use the trade mark TATA. Plaintiffs have also been able to establish that plaintiff no. 2 is part of a group of companies popularly referred to as the TATA Group of Companies and in January 2008, the plaintiff no. 2 unveiled the TATA NANO car and the plaintiffs also have an official web-site for the car TATA NANO available at www.tatanano.com. Further, plaintiffs have been able to establish that the plaintiffs have been continuously and consistently using the trade mark and trade name TATA, which is a rare patronymic name possessing the distinctiveness of an invented word, for its own business activities and those of companies promoted by it and that the trade mark TATA is uniformly perceived as indicative of the source of the plaintiffs. Plaintiffs have also been able to establish that as a result of the continuous and extensive use of the trade mark TATA by the plaintiffs coupled with vast promotion and publicity, the trade mark TATA enjoys an

unparalleled reputation and goodwill and has acquired the status of a "well-known" trade mark.

37. In a recent judgment delivered by another bench of this court, *Mind Gym Ltd. v. Mind gym Kids Library Pvt. Ltd.* CS(OS) 1029/2013, decided on 21.03.2014, plaintiffs who were carrying on business under the trade mark "MIND GYM" sought permanent injunction against the defendants restraining them from infringement and/or passing off the plaintiff's rights by using the trademark "MINDGYM" as part of latter's corporate name/trademark. Following observations were made by the court:

9..

(ii) In the case of *Evergreen Sweet House Vs. Ever Green and Others*, , it was observed as under:

15. A mark, is said to be deceptively similar to another (Section 2(1) (h), Trademarks Act, 1999) if it so nearly resembles that other mark as to be likely to deceive or cause confusion. Section 29(1) deals with a situation where the defendant uses a mark, which is identical or deceptively similar to that of the plaintiff, in respect of the same goods or services, and in such manner that it is likely that such use is taken as being an use as a trademark. This amounts to infringement. To fall within Section 29(1), the defendant's use of the mark must be so that it is likely that the public assumes that the said mark is used as a trademark. Section 29(2) deals with three situations; one where the defendants mark is identical to that of the plaintiff and in respect of similar goods. Two, where the marks are similar and in respect of goods which are identical or similar. Three, the marks as well as the goods are identical. Infringement does not take place if only one of the three ingredients are satisfied; the plaintiff has to prove that use by the defendant is likely to cause confusion on the part of the public or is likely to have an association with the registered mark.

38. The Apex Court in the case of *Laxmikant V. Patel Vs. Chetanbhat Shah and Another*, , has laid down the test of confusion/deception in order to prove the case of passing off. Relevant para of the aforesaid judgment reads as under:

A person may sell his goods or deliver his services such as in case of a profession under a trading name or style. With the lapse of time such business or services associated with a person acquire a reputation or goodwill which becomes a property which is protected by courts. A competitor initiating sale of goods or services in the same name or by imitating that name results in injury to the business of one who has the property in that name. The law does not permit any one to carry on his business in such a way as would persuade the customers or clients in believing that he goods or services belonging to someone else are his or are associated therewith. It does not matter whether the latter person does so fraudulently or otherwise. The reasons are two. Firstly, honesty and fair play are, and ought to be, the basic policies in the world of business. Secondly, when a person adopts or intends to adopt a name in connection with his business or

services which already belongs to someone else it results in confusion and has propensity of diverting the customers and clients of someone else to himself and thereby resulting in injury.

39. Having regard to the evidence on record, I am of the view that the trade mark TATA is a well known mark enjoying an expansive reputation and immense goodwill without boundaries of classification and that the TATA companies are engaged in a wide spectrum of activities using the trade mark TATA and the said trademark has come about to be exclusively recognized as the source indicator of the goods and business of the plaintiffs using the trademark TATA. The impugned domain name TATANANOINDIA.COM adopted by the defendant no. 1 wholly contains the plaintiff's trademark TATA and NANO and such use of the domain name that is phonetically and visually identical to the plaintiff's no. 1 registered trademark TATA amounts to infringement of the plaintiff's statutory rights in the trademark. Also the use of the impugned domain name identical to the plaintiff's trademarks TATA and NANO is dishonest and malafide attempt by the defendant no.1 to derive unfair advantage by causing confusion and deception in the minds of the public and creating the impression that its services emanate from the plaintiff's or have some connection, nexus, association, affiliation with or endorsement from the plaintiff's. The act of the defendant no.1 is a blatant attempt on its part to ride on the hard earned goodwill and reputation of the plaintiff that has been acquired by the latter over a period of years. Therefore, defendant no.1 is guilty of passing off its services as those of the plaintiffs, thus illegally exploiting the latter's goodwill and diluting their well reputed trade mark.

40. In view of the above, the plaintiffs are entitled to a decree of permanent injunction against the defendant no.1 from the use, including by advertising, directly or indirectly, selling or offering their services under the domain name TATANANOINDIA.COM, or any other deceptively similar mark, name, domain name or device of which the word TATA forms a part or which resembles the distinctive logo of plaintiffs" and from doing any other thing as may be likely to cause confusion or deception and leading to infringement of plaintiffs" trademark TATA, in terms of prayer (a) and (b) in paragraph 26 of the plaint.

41. As seen in the order dated 13.04.2012, counsel for the plaintiffs submitted that defendant no.2 is a proforma party and is only an enforcing agency. Also, as and when any order is passed by this court defendant no.2 will enforce the same.

42. The plaintiffs have also claimed damages on account of unauthorized use of the impugned domain name by the defendants along with delivery up of all the blocks, dies, stationery, packing material or any other printed matter bearing the impugned mark/name. Plaintiffs have also claimed rendition of accounts of profits earned by defendant no.1 on account of the use of impugned domain name. However, plaintiffs have limited their claim to punitive damages.

43. In Microsoft Corporation Vs. Deepak Raval , this Court observed that in our country the Courts are becoming sensitive to the growing menace of piracy and

have started granting punitive damages even in cases where due to absence of Defendant, the exact figures of sale made by them under the infringing copyright and/or trademark, exact damages are not available. The justification given by the Court for award of compulsory damages was to make up for the loss suffered by the plaintiff and deter a wrong doer and like-minded from indulging in such unlawful activities.

44. In *Larsen and Toubro Limited Vs. Chagan Bhai Patel*, , this Court has observed that it would be encouraging the violators of intellectual property, if the Defendants notwithstanding having not contested the suit are not burdened with punitive damages.

45. In case of *Time Incorporated Vs. Lokesh Srivastava and Another*, , the court has recognized third type of damages as punitive damages apart from compensatory and nominal damages. The court has held that:

The award of compensatory damages are aimed at deterring a wrong doer and the like minded from indulging in such unlawful activities.

This Court has no hesitation in saying that the time has come when the Courts dealing actions infringement of trademark, copy rights, patents etc. should not only grant compensatory damages but award punitive damages also with a view to discourage and dishearten law breakers who indulge in violations with impunity out of lust for money so that they realize that in case they are caught, they would be liable not only to reimburse the aggrieved party but would be liable to pay punitive damages also, which may spell financial disaster for them.

46. For the reasons stated above, the plaintiffs have made out a case for grant of decree as prayed in the plaint. Accordingly, the order dated 11.09.2014 is confirmed and the suit is decreed in favour of the plaintiffs and against the defendant no. 1. Plaintiffs are also entitled to damages to the tune of Rs.2.00 lacs. Defendant no.2 is directed to transfer the impugned domain name TATANANOINDIA.COM to plaintiff no.1.

47. Decree sheet be drawn up.

I.A.4504/2008.

48. Application stands disposed of in view of the order passed in the suit.