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

+ **CS(COMM) 631/2022**

INDIAMART INTERMESH LIMITED Plaintiff

Through: Mr. Sidharth Chopra, Mr. Nitin Sharma, Ms. Deepika, Mr. Naman Tandon and Mr. Yatinder Garg, Advocates (M: 9811289656, 7838947828).

versus

MR SAMEER SAMIM KHAN & ORS. Defendants

Through: Ms. Nazia Praveen, Advocate for Mr. Sanjeev Sagar, Standing Counsel for Union Bank of India
Ms. Hetu Arora Sethi, Advocate for Delhi Police.
Mr. Raman Lamba, IFSO, Special Cell, Delhi Police (M: 9868167493).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 13.09.2022

1. This hearing has been done through hybrid mode.

I.A. 14983/2022 (seeking exemption from advance service to the defendant no.1)

2. This is an application seeking exemption from advance service to Defendant No.1. Considering the nature of the matter, and the fact that Defendant No.1 has registered the domain name <https://india-mart.co/> and fraudulently offering jobs using the name of the Plaintiff, the exemption is granted.

3. **I.A. 14983/2022** is disposed of.

I.A. 14982/2022 (exemption)

4. This is an application seeking exemption from filing certified/cleared/typed or translated copies of documents. Exemption is allowed, subject to all just exceptions.

5. Accordingly, *I.A. 14982/2022* is disposed of.

I.A. 14981/2022 (seeking leave to file additional documents)

6. This is an application seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter, 'Commercial Courts Act'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act.

7. I.A. 14981/2022 are disposed of.

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8. Let the plaint be registered as a suit.

9. Issue summons to the Defendants through all modes upon filing of Process Fee.

10. The summons to the Defendants shall indicate that a written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement(s), the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

11. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any

documents, the same shall be sought and given within the timelines.

12. List before Court on 27th September, 2022.

I.A. 14980/2022 (stay) and I.A. 14984/2022 (direction to cyber cell)

13. The present suit for permanent injunction has been filed by the Plaintiff- Indiamart InterMesh Limited (*hereinafter 'Indiamart'*) seeking protection against the fraudulent website <https://india-mart.co/>. The suit is filed against Defendant No.1's illegal and unauthorised adoption and use of the Plaintiff's trademark/logo/devices for the purposes of deceiving and duping the general public and trade by misrepresenting himself as the Plaintiff/ Plaintiff's representative.

14. The Plaintiff, Indiamart, is a business to business (B2B) portal providing internet based marketplace / platform with free and paid listings for promotion of industry, products and services. The said platform operates as an interactive platform between buyers and sellers. The Indiamart platform, apart from having an online web-portal, also has a mobile application where businesses can advertise their products. Indiamart claims to be one of the biggest B2B directories in India with more than 3000 employees and approximately 40 offices in the country. It has a large-scale business offering for both buyers and sellers with payment gateway and payment protection programs. The listing platform of the Plaintiff claims to be having over 149 million buyers with access to 7.1 million suppliers and 83 million products listed on the platform.

15. The Plaintiff had coined and adopted the mark / name 'INDIAMART' in the year 1996 and registered the domain name www.indiamart.com way back on 8th March, 1996. The said mark is also the permanent feature of its corporate name. According to the Plaintiff, the mark 'INDIAMART' has

achieved well-known status. The said mark is also registered in a large variety of classes as a word mark, both in combination with other marks as also in device forms which are enumerated in paragraph 16 of the plaint. The Plaintiff also has various 'INDIAMART' domain names registered under several extensions such as www.indiamart.com www.indiamart.co.in, www.indiamart.ind.in and www.indiamart.net.in. The Plaintiff has also registered various Country Code Top Level Domain (CCTLD) which have been set out in paragraph 19 of the plaint. Thus, according to the Plaintiff, the mark 'INDIAMART' has become distinctive of the Plaintiff's product and services owing to the large reputation built since inception. The traffic on the 'INDIAMART' web-portal as also the advertising expenditure which have been incurred by the Plaintiff have been set out in the plaint. The turnover of the Plaintiff for the year 2020-2021 is stated to be to the tune of 665 crore rupees.

16. The Plaintiff is aggrieved by Defendant No.1's registration of the impugned domain name- <https://india-mart.co/>. The said domain name has been registered on 07th August, 2022. However, other details of the said domain name are completely protected and the details on 'WHOIS' have been masked for privacy by the domain name registrar, Defendant No.3- GoDaddy.com LLC. Defendant No.1 is also stated to be operating a website from the said domain name where it features the photographs of Plaintiff's promoters and also gives the details of the Plaintiff's address- IndiaMart Intermesh Limited 1st Floor, 29-Daryaganj, Netaji Subhash Marg, New Delhi- 110002. The mobile number given by Defendant No.1 is as follows +91-9372944497. On the said website, Defendant No.1 is luring gullible persons and offering them 'work from home' jobs under the 'Indiamart's

Data Entry Project'. For the said purpose, the Defendant No. 1 is also offering various plans which can be availed by anyone after payment of application fees of Rs. 899/- and 1199/-. The extract from Defendant No.1's website is set out below:-



INDIA MART DATA ENTRY WORK FROM HOME JOB

We are provide a data entry work from home jobs

XXX

XXX

XXX

Special Plan-A

Premium Plan-B

Plan-A ENTRIES 800, ENTRY Rs. 50/- PAYMENT Rs.40,000/-

DAYS 8 DAYS, APPLICATION FEE Rs. 899/-

Plan-B ENTRIES 1200 ENTRY Rs. 60/- PAYMENT Rs. 72,000/-

TOTAL 12 DAYS, APPLICATION FEE Rs.1199/-

17. In the month of August, 2022, the activities of Defendant No.1 came to the attention of the Plaintiff. The Plaintiff then made some enquiries and found that on some of the openly available telephone directories such as Truecaller, the details of Defendant No.1 are in fact consisting of the logo, name, and the address of the Plaintiff. The only connection to actually trace Defendant No.1 appears to be his e-mail address- indiamart.co.in@gmail.com and mobile number- +91-9372944497. The said listing is extracted below:



18. Details of the bank account for remitting money as ‘application fee’ has been given by Defendant No.1 to unknowing customers and unknowing job applicants through email. From the said information, the Defendant No.1

appears to holding a bank account in Union Bank of India with the following details:-

Bank Name: Union Bank

A/C Holder Name: Sameer Samim Khan

A/C number: 274010100021790

IFSC Code: UBIN0904741

19. Heard Id. Counsel for the Plaintiff and perused the record. It is clear to the Court that Defendant No.1 is completely passing off and indulging in fraudulent activity by showcasing himself as the Plaintiff/ Plaintiff's representative and collecting various sums of money by allegedly offering job opportunities. The website leaves no doubt in the mind of the Court that the entire business of Defendant No.1 is *mala fide*, dishonest and illegal and also contrary to law.

20. Despite advance copies being served, none appears for Defendant No.3- GoDaddy.com LLC.

21. On behalf of Defendant No.2- Goggle LLC, Id. Counsel from the office of Mr. Neel Mason, Id. Counsel, submits that they wish to seek instructions from their client.

22. Ms. Sethi, Id. Counsel, accepts notice on behalf of the Delhi Police.

23. This court is satisfied that the Plaintiff has made out a *prima facie* case for *ex parte ad interim* injunction. Balance of convenience lies in favour of the Plaintiff. If the activities of Defendant No.1 are not nipped in the bud, irreparable injury would be caused not only to the Plaintiff, but also to public at large that may be deceived by the fraudulent activities of Defendant No.1. Accordingly, Defendant No.1 shall stand restrained from

using the mark / name / domain name 'INDIAMART' or any other mark or name or domain name which is identical or confusingly / deceptively similar to the Plaintiff's mark 'INDIAMART' till the next date of hearing.

24. Considering that the only connections which are identifiable between Defendant No.1, and the website <https://india-mart.co/>, are the email addresses, indiamart.co.in@gmail.com, indiamart.hr.co.in@gmail.com, wecare@india-mart.co which are Gmail addresses as also the mobile number- +91-9372944497, the following directions are issued:-

(i) The said domain name <https://india-mart.co/> shall be immediately blocked. MeitY/DoT to issue blocking orders within 24 hours from the receipt of the present order.

(ii) The domain name <https://india-mart.co/> shall be locked and suspended by the domain name registrar- GoDaddy.com LLC. *Status quo* shall be maintained as to the ownership of the domain name. Further, the email address, wecare@india-mart.co shall also be blocked by Defendant No.3.

(iii) Defendant No.3 shall place on record within one week the following details:

(a) Details of the person who has registered the domain name and as to whether the said person has requested for 'privacy protect feature' or was the same given by GoDaddy on its own to the said Domain Name Registrant.

(b) Details of payment received by GoDaddy from Registrant- Defendant No.1 and whether any further services are being offered to the Defendant No.1 by GoDaddy.

Details of the above shall also be provided to Mr. Raman Lamba,

ACP, Cyber Crime Unit, Delhi Police so that he can undertake necessary investigation.

(iv) An affidavit shall be filed by Defendant No.2- Google LLC giving details of the person who has registered the following two email addresses:

- indiamart.co.in@gmail.com
- indiamart.hr.co.in@gmail.com

The same shall be filed in Court within one week. Further, details of the same shall also be provided to Mr. Raman Lamba, ACP, Cyber Crime Unit, Delhi Police so that he can undertake the necessary investigation. Defendant No.2 shall suspend / block / lock the said email ids until further orders.

(v) GoDaddy and Google to render all support to Mr. Raman Lamba, ACP, for the investigation of this matter.

(vi) Defendant No.4- Reliance Jio Infocomm Limited shall also file all the KYC details which are available in respect of mobile number of Defendant No.1- +91-9372944497 within a week along with copies of the relevant documents.

25. On behalf of Defendant No.5- Union Bank of India, Ms. Nazia Praveen, Id. Counsel, appears for Mr. Sanjeev Sagar, Id. Counsel, the nominated counsel for Union Bank of India. She assures the Court that the bank account, the details of which have been set out above, shall be immediately frozen without waiting for the copy of today's order. It is further directed that all the documents available with Defendant No.5 in respect of the person using the bank account mentioned above shall also be filed in Court within a week and the copies shall be provided to Mr. Lamba.

26. On the basis of all the above information and the suit papers, Mr. Lamba, to conduct an investigation and file a status report by the next date of hearing. He has assured the Court, he will also be speaking with the bank for immediate freezing of the bank account.
27. Defendant No.1 shall be served through the email addresses as also the mobile number specified above.
28. Compliance of Order XXXIX Rule 3 CPC in respect of Defendant No.1 be done within 24 hours after the freezing of the bank account specified above to the email addresses and the mobile number.
29. Reply to the application shall be filed within 4 weeks after the service of the present order along with the papebook.
30. List on 27th September, 2022.

PRATHIBA M. SINGH, J

SEPTEMBER 13, 2022
MR/SK