

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO. 8001 OF 2024
IN
COMMERCIAL IP (L) NO. 7983 OF 2023**

Tiger Aspect Kids & Family Limited)
A company registered under the laws)
of United Kingdom, having its registered office at)
Shepherds Building Central, Charecroft Way,)
London, United Kingdom - W14 0EE) ...
Plaintiff

Versus

Mr. Bean Trampoline Park / Mr. Been)
Trampoline Park)
Sole Proprietary concern of Mr. Rupesh Dighe)
And the manager being Mr. Abhijeet Kadu)
Patil / Mr. Abhijeet Babu Kadu)
Having its address at near Lonavala Toll Naka,)
Varsoli - 402209, Old – Pune Mumbai Highway,)
Lonavala and also at Near Koraidavi,)
Kurwande, Pune, Maharashtra- 410402)
... Defendant

...

Mr. Hiren Kamod a/w. Mr. Rahul Dhote, Ms. Anushree Rauta,

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Mr. Shwetank Tripathi, Mr. Prem Khullar, Mr. Vidit Desai, Mr. Umang Sheth i/b ANM Global, for the Plaintiffs.

CORAM: BHARATI DANGRE, J.

DATED: 27th March 2024

P.C:-

1 The Plaintiff has filed the present Commercial IP Suit, seeking perpetual order and injunction against the Defendant, who is alleged to have caused infringement of its registered trade marks, copy right and for action on passing off, and praying for a restrain order, restraining the Defendants from using its impugned mark and or any mark or label identical with and/or deceptively similar to that of the plaintiff's.

During the pendency of the Suit, by way of an interim application, the Plaintiffs are seeking interim reliefs in form of temporary injunction and restrain order, preventing infringement of its rights.

2 Heard learned counsel Mr. Hiren Kamod for the Plaintiff/Applicant.

The Plaintiff is a part of the renowned Banijay Group of companies headquartered in Paris, France (hereinafter referred to as "Banijay Group"). It claims to be one of the leading global media and entertainment companies, that has over 130 production companies under its wing in across 21 countries.

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The Banijay Group has a wide multi-genre content catalogue comprising of over 180,000 hours of original standout premium content and it also represent some of the biggest global brands and / or franchisees in the media and entertainment industry including leading global shows like Survivor, Big Brother, Peaky Blinders, MasterChef, Rogue Heroes, Marie Antoinette, Mr Bean, Domina, Love Triangle, Hunted, Black Mirror, Blow Up!, Starstruck, Deal or No Deal, etc. and holds all rights pertaining to the title / mark / artistic work / characters in this regard.

It is the case of the Plaintiff that, since its inception, it has rapidly expanded and emerged as one of the world's most reputed names in the media and entertainment industry and the high-quality content and/or shows/web-series produced and launched by it, have garnered tremendous popularity, goodwill and reputation, which is now associated with the Plaintiff and its business activities alone.

The Plaintiff plead that operate through dedicated websites under the domain names www.tigeraspect.co.uk (registered since 1996) and www.banijaykidsandfamily.com (registered since 2022), wherein the details of its businesses are widely accessible to the general public and it operates a separate website under the domain name www.banijay.com (registered since 2008), wherein the details of its businesses are provided.

3 According to the Plaintiff, on 2nd July 2020, the
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Banijay Group completed its acquisition of the Endemol Shine Group and after the said acquisition, it acquired the entire UK Kids and Family television production business from its predecessor viz. Tiger Aspect Productions Limited (“TAPL”). It is the case of the Plaintiff that, vide an Asset Purchase Agreement dated 3rd June 2021, it acquired all rights, title and interest as also the merchandising rights in the said Works, the said Trade Mark, Mr. Bean Artwork / Device / Character, including the copyright, goodwill and reputation therein from TAPL.

As far as the trade marks registered in India are concerned, the Plaintiff has entered into a trade mark assignment deed dated 5 March 2024 with TAPL, essentially confirming the assignment vide the above mentioned Asset Purchase Agreement dated 3rd June 2021 and filed an appropriate application, on 6 March 2024, for recordal of assignment in its favour, which is pending.

4 The Plaintiff claim to own all rights in the popular comedy series named ‘MR. BEAN’ which was first broadcasted in January 1990.

5 In the year 2002, following the huge success of the Show, the Plaintiff’s predecessors produced and released an animated series named “Mr. Bean” (hereinafter referred to as “said Animated Series”) which premiered on January 05, 2002 and subsequently four more animated series were telecasted

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including a special episode. The said Animated Series features an animated character of the protagonist having a unique and



original artwork viz. (hereinafter referred to as “said Mr. Bean Artwork / Device / Character”) based on the appearance, attributes and mannerisms of the Mr. Bean, played by the leading actor Mr. Rowan Atkinson in the Show and the Movies.

The Artwork / Device / Character of Mr. Bean was created by a third party entity named Richard Purdum Productions which assigned all rights to the Plaintiff’s predecessor TAPL vide an agreement dated 31 May 2001, for a valuable consideration. Therefore it is the claim of the Plaintiff that, the Artwork / Device / Character of Mr. Bean is an original artistic work within the meaning provided to the expression under the Copyright Act, 1957 and the Plaintiff is the owner of the copyright subsisting therein. By virtue of being the producer of the Show, the Movies and the Animated Series and appropriate agreements, the Plaintiff owns all rights in respect of the above and also include the rights to the trade marks “MR BEAN”, and Mr. Bean Artwork / Device / Character and merchandising rights therein.

The Plaintiff submit that the trade mark ‘Mr. Bean’ was

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coined, conceived and adopted for the first time in the year 1990 and the mark 'Mr. Bean' is a fictitious name and the same is inherently distinctive and to acquire statutory protection in and over the mark 'Mr. Bean' and other formative marks consisting of the trade mark 'Mr. Bean' the Plaintiff's predecessor has applied for and obtained trade mark registration in respect of the same, in various jurisdictions including in India under the provisions of the Trade Marks Act, 1999.

It is further stated that the Plaintiff owns various international trade mark registrations i.e total 57 registrations for the mark 'MR. BEAN'.

6 The Plaintiff has been broadcasting and using the said Works and the merchandise featuring the said Trade Mark and Mr. Bean Artwork / Device / Character on various channels and OTT/online platforms such as Amazon, YouTube, etc., which can be openly accessed across the globe including in India. Below is the list of Plaintiff's said Works being released since 1990 and can be openly accessed on various channels and OTT platforms globally, including in India.

Sr. No.	Work	Year
1.	Mr Bean Live Action Series Series 1: 15 x commercial half hours	1990
2.	Film: Bean	1997
3.	Bean documentary comprising:	1997

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	The Story of Mr Bean (1 x 52 minutes) aka the UK version The Bean File (1 x 30 minutes) aka the US version	
4.	Mr Bean Animated Series Series 1: 52 x 11 minutes	2002- 2004
5.	Film: Mr. Bean's Holiday	2007
6.	Various Live Action compilation programmes, anniversary editions etc, including: The Best of [Mr] Bean (1 x 60 minutes)	2009
7.	Mr Bean Animated Series Series 2: 52 x 11 minutes	2015
8.	Mr Bean Animated Series Series 3: 26 x 11 minutes	2019

7 The Plaintiff as a result of owing huge popularity and as a part of its business activity, by itself or through its group entities is actively granting licenses including merchandising license in relation to manufacturing / marketing various products / merchandise such as toys, games, t-shirts, personalized gifts and DVDs bearing the Mark Mr. Bean Artwork / Device / Character. The Plaintiff owns and operates a dedicated website under the domain name www.mrbean.com registered since 2004, wherein various products / merchandise bearing the said Trade Mark, the said Mr. Bean Artwork / Device / Character are available for sale across the world. In

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addition, the licensed products bearing the Trade Mark Mr. Bean are extensively sold on various e-commerce portals such as www.ebay.com; www.amazon.com; etc.

The Plaintiff also claim that it has acquired statutory and common law rights to use Trade Mark, Mr. Bean in respect of the show, movies and animated series, merchandise, and like, cognate, allied and complimentary goods and services.

8 On account of its reputation and good will, the Plaintiffs have always been vigilant and diligent in protecting its statutory and common law rights, in all its trade marks and artistic work, from being infringed by third parties and have diligently taken up necessary actions against the persons and entities, who tried to usurp its rights, by filing civil suits and securing injunctive reliefs against the infringers.

It is the case of the Plaintiff that, in June 2023, the Plaintiff learnt that the Defendant is operating a trampoline park bearing the trade name / trade mark “Mr. Bean Trampoline




Park”, as also using the impugned work being “ and operating a website under the impugned domain name <https://mrbeantrampolinepark.com>.

The Plaintiff hence send and cease and desist notices dated 6th June 2023 and 10th July 2023 to the Defendant and the

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Defendant failed to respond to the Plaintiff's notices, however it took down its website hosted, on the impugned domain name whereby the Plaintiff was under a bona fide belief that the considering the Plaintiff's prior statutory and common law rights, the Defendant would have stopped its infringing activities.

9 It is the case of the Plaintiff that, in December 2023, the Plaintiff came across the Defendant's trade mark application under No. 5684950 filed on 16th November 2022 for the device

mark  on a 'proposed to be used' basis against which the Plaintiff filed its Notice of Opposition.

After coming across the Defendant's impugned application, the Plaintiff once again checked the Defendant's website viz. www.mrbeantrampolinepark.com and came to know that the website was not functional. Considering the fact that the Defendant had not replied to the Plaintiff's two cease and desist notices coupled with the fact that thereafter the Defendant's website was no longer functional, the Plaintiff chose not to immediately file any proceedings against the Defendant at that stage.

Moreover, in the last week of February 2024, one of the Plaintiff's representatives came across posters / hoardings on the highway near Lonavala advertising the Defendant's park

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under the mark MR.BEEN Trampoline Park instead of MR.BEAN. It is stated that the Plaintiff's representative visited the Defendant's park, where it noticed that the whole-of the Defendant's trampoline park was only themed around the character of "MR BEAN" and associated features / elements in the movies, shows and animated series. Plaintiff also claim that the entire idea conveyed by the Defendant's trampoline park was that of misrepresenting an association or endorsement by the Plaintiff and its Artistic and cinematic Works featuring the Trade Mark and the Artwork, Device and Character of 'Mr. Bean.' Not only this, the Defendant is also operating, managing and running a café under the impugned mark "BEAN'S CAFE" and the



Impugned Work "Beans Cafe", as well as a restaurant / outlet / dish bearing impugned mark "MR. BEAN'S SPECIAL PAVBHAI & PULAV" along with the Impugned Work "



". It is also alleged that the Defendant is also selling merchandise bearing the impugned marks.

10 The Plaintiff submit that after filing the present suit, the Plaintiff conducted an another investigation into the Defendant's activities on the internet whereby it discovered that the Defendant has started operating another website hosted on

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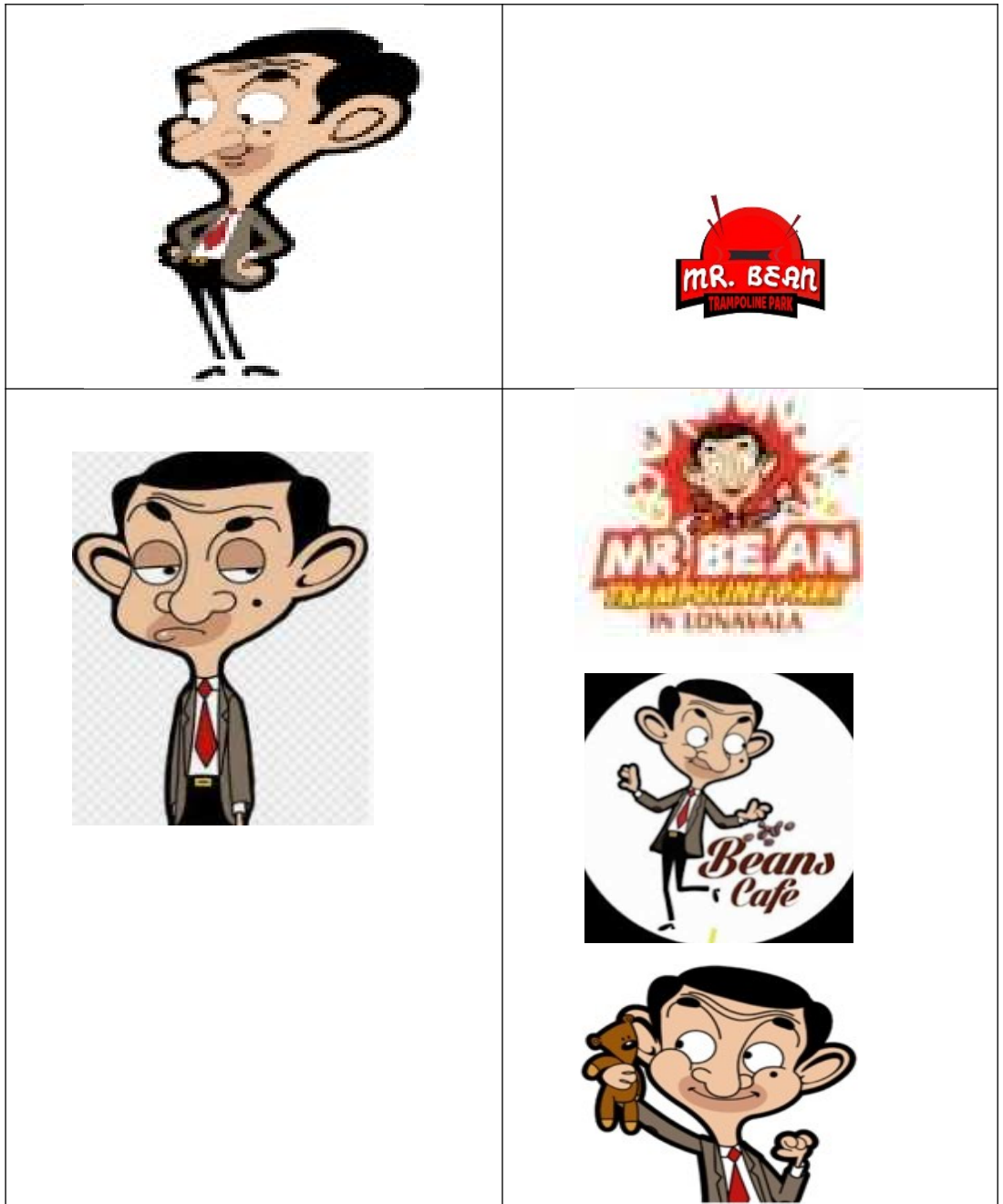
the infringing domain name www.mrbeentrampolinepark.com, which is again deceptively similar to the Plaintiff’s mark ‘MR. BEAN’. It appears that after receiving the Plaintiff’s cease and desist notices, the Defendant has changed the name of its park from to “MR. BEAN TRAMPOLINE PARK” to “MR. BEEN TRAMPOLINE PARK”.

In the backdrop, the Plaintiff pleads that, by use of the Impugned Marks, each of which are identical and deceptively similar to the Plaintiff’s mark “MR. BEAN”, in respect of the Impugned Goods and Services which are the same as and in any event like, similar, cognate, allied and complimentary to the goods and services for which the Plaintiff has registered the said Trade Mark and has been using the said Trade Mark, the Defendant has infringed and it continues to infringe the Plaintiff’s rights, in the mark ‘MR. BEAN’.

The comparisons are not only visually but also conceptually similar and the following chart, makes it evident;

PLAINTIFF’S REGISTERED TRADE MARK / ARTISTIC WORK	DEFENDANT’S IMPUGNED TRADE MARK / ARTISTIC WORK
MR. BEAN	MR. BEAN TRAMPOLINE PARK MR. BEEN TRAMPOLINE PARK BEAN’S CAFÉ

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11 The Plaintiff state that the similarity in the rival works cannot be and is not a matter of coincidence. It is the case of the Plaintiff that, Defendant’s impugned artistic

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works and , are identical with and a reproduction of the Plaintiff's Mr. Bean

Artwork, Device and Character , . It is the case of the Plaintiff that by reproducing the Impugned Works in a material form and showcasing the same to the public, the Defendant has infringed and is continuing to infringe the Plaintiff's copyright subsisting in the above mentioned Artwork and Character.

12 The Plaintiff claim to have acquired wide and enviable reputation and goodwill in respect of its trade mark, artwork, Device and Character along with the rights in merchandising and movies, show and animated series of "MR. BEAN". The Plaintiff pleads that as the Defendant's Impugned Marks are identical / closely and deceptively similar to the Plaintiffs' well-known Trade Mark and the Artwork / Device / Character, confusion and deception in the minds of consumers is inevitable. Alternatively, they might be put in a state of wonderment as to the origin of the Defendant and its business activities.

13 On the comparison, indicated above, I must note that this is

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a perfect case of false endorsement where the impression given to the consumers is that the trampoline park of the Defendant is authorized or is an official theme park of the Plaintiff, which is not the case.

Further, the Defendant continue to use the Impugned Marks despite being put to notice and its dishonest intwntion is writ at large. The Plaintiff has made out a strong prima facie case, and the balance of convenience is also in favour and against the Defendant.

The Plaintiff has prayed for ad-interim relief without notice to the Defendant, and I find the request justified one. According to Mr. Kamod that if the Defendant gets notice of the Plaintiff's application for *ad-interim* reliefs, the Defendant is likely to remove the merchandise bearing the Impugned Marks and it may not produce the books of account, at a later stage when a decree for damages or an order for rendition of accounts is passed and it may not be possible to ascertain the correct amount of illegal and mesne profits made by the Defendant, as a result of the use of the Impugned Marks. The Defendant is also likely to alter, amend or destroy its books of accounts and records showing profits earned by use of the Impugned Marks.

The fraudulent and dishonest act of the Defendant definitely has to be dealt with the deterrent action and hence, I deem it appropriate to pass exparte ad-interim order, so as to prevent the Defendant from dealing in any manner with a

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product deceptively similar to the Plaintiff's trademark and Artwork.

If the relief as prayed for is not granted in favour of the Plaintiff, grave and irreparable harm and loss will be caused to it, which cannot be compensated in terms of money. Further, if the Defendant is not restrained by a temporary injunction, it will continue with its nefarious activities resulting in uncalculated losses, which may not be capable of being compensated in terms of money.

14 Since the Plaintiff has made out a prima facie case in its favour, and the balance of convenience also tilt in its favour, it is entitled for the following relief by way of ex-parte ad-interim relief in terms of prayer clause (a) to (c) of the Interim Application:

- (a) That the Defendant by itself, its directors, proprietors, partners, manager/s, servants, agents, stockists, dealers, distributors and all persons acting on its behalf, be restrained by a perpetual order and injunction from this Hon'ble Court from infringing the Plaintiff's said registered Trade Mark bearing registration Nos. 2677168 and 2103820, by the use of the Impugned Marks, or any of them, or any other trade mark / device / work which is identical with and/or deceptively similar to the Plaintiff's said Trade Mark in any manner whatsoever;

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- (b) That the Defendant by itself, its directors, proprietors, manager/s, partners, servants, agents, stockists, dealers, distributors and all persons acting on its behalf, be restrained by a perpetual order and injunction from this Hon'ble Court from infringing the Plaintiffs' copyright in the Plaintiffs' said Mr. Bean Artwork / Device / Character of Mr. Bean as shown at Exhibit – "C-1" to the Plaint by reproducing in any material form or communicating to the public the Impugned Work 1, Impugned Work 3 and Impugned Work 4 as shown at EXHIBIT – "L" and EXHIBIT – "P1" to the Plaint, or any of them, and / or a substantial part thereof, and / or any other label / trade dress / packaging / artistic work which is a reproduction of the Plaintiff's said Mr. Bean Artwork / Device / Character and / or substantial parts thereof or in any other manner whatsoever;
- (c) That the Defendant by itself, its directors, proprietors, manager/s, partners, servants, agents, stockists, dealers, distributors and all persons acting on its behalf, be restrained by a perpetual order and injunction from manufacturing, selling, advertising, distributing, marketing, exhibiting for sale or otherwise conducting any business and / or commercial activities using the Impugned Marks or any of them and/or any mark containing the words 'Mr. Bean' / 'Mr. Been' and / or any other trade

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mark / artwork / character deceptively similar to the Plaintiff's well-known registered said Trade Mark and the said Mr. Bean Artwork / Device / Character, or any of them, so as to pass off its Impugned Goods and Services and/or commercial activities as that of the Plaintiff or in any other manner whatsoever;

The Plaintiffs are at liberty to renew its application for further reliefs, after giving notice to the Defendants and shall be at liberty to apply for variation of order within seven days' notice to the Defendants. Liberty is also conferred upon the Defendant to apply for variation of this order with 48 hours' notice, being given to the Advocate for the Plaintiff.

15 List this Application for further orders on 14/06/2024.

The ex-parte ad-interim reliefs granted hereinabove shall continue to operate till then.

The Plaintiff shall comply with Order 39, Rule 3 within two working days of uploading of this order.

16 The above order shall be served upon the Defendants/Respondents, by the Plaintiff.

(SMT. BHARATI DANGRE, J.)

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