



2023:DHC:7666



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

+ CS(COMM) 631/2022 & I.A. 14980/2022, I.A. 14984/2022

INDIAMART INTERMESH LIMITED Plaintiff
Through: Ms. Deepika Pokharia, Mr.
Nitin Sharma and Mr. Naman Tandon,
Adv.

versus

MR SAMEER SAMIM KHAN & ORS. Defendants
Through: Ms. Hetu Arora Sethi, ASC for
GNCTD with Mr. Arjun Basra, Adv. for
IFSO Spl. Cell, Delhi Police
Ms.Shweta Sahu, Adv. for D-3

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

% **10.10.2023**

1. The plaintiff is in the business of running an electronic business-to-business (B2B) portal under the webpage www.indiamart.com and associated copyrighted applications. Goods and services can be advertised and sold by anyone who so chooses, over the web portal of the plaintiff.

2. It is claimed that the plaintiff is India's first B2B directory which commenced operations in 1996. As on date, it is asserted that the plaintiff has over 149 million buyers, who have access to 7.1 million suppliers for over 83 million products. The plaintiff's copyrighted App is stated to have 10 million downloads as on 30


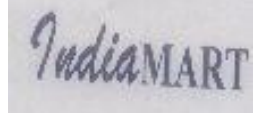


December 2021 on the Google Play Store. The plaintiff has been awarded the 'Video Content in a Business Website-Special Mention' at Video Media Awards and Summit, 2019; 'Best Online Classified Website' at Drivers of Digital Summit & Awards, 2018; 'Best Business App Award' at GMASA, 2017; Manthan Award, 2013 under the 'E-business and Financial Inclusion' category for its path-breaking and low-cost solution to SMEs called buy-leads, launched in 2012; 'Special Contribution Award' at WASME-Super SME Awards, 2016 and 'Best Online Classified Website Award' at Drivers of Digital Awards, 2016, etc.

3. The mark “INDIAMART” was coined by the plaintiff in 1996, and the domain name “indiamart.com” was registered on 8 March 1996. The plaintiff is also the holder of the following registrations under the Trade Marks Act, 1999, which are valid and subsisting as on date:

S. No.	Mark	Type	Class	Registration No.
1	INDIAMART	WORD MARK (CAPITAL)	6	1693946
2	INDIAMART	WORD MARK (CAPITAL)	9	1693949
3	INDIAMART	WORD MARK (CAPITAL)	11	1693951
4	INDIAMART	WORD MARK (CAPITAL)	13	1693953
5	INDIAMART	WORD MARK (CAPITAL)	15	1693955
6	INDIAMART	WORD MARK (CAPITAL)	21	1693961
7	INDIAMART	WORD MARK (CAPITAL)	25	1693965
8	INDIAMART	WORD MARK	26	1693966



		(CAPITAL)		
9	INDIAMART	WORDMARK (CAPITAL)	27	1693967
10	INDIAMART	WORDMARK (CAPITAL)	28	1693968
11	INDIAMART	WORDMARK (CAPITAL)	29	1693969
12	INDIAMART	WORDMARK (CAPITAL)	30	1693970
13	INDIAMART	WORDMARK (CAPITAL)	31	1693971
14	INDIAMART	WORDMARK (CAPITAL)	32	1693972
15	INDIAMART	WORDMARK (CAPITAL)	33	1693973
16	INDIAMART	WORDMARK (CAPITAL)	34	1693974
17	INDIAMART	WORDMARK (CAPITAL)	35	1693975
18	INDIAMART	WORDMARK (CAPITAL)	36	1693976
19	INDIAMART	WORDMARK (CAPITAL)	37	1693977
20	INDIAMART	WORDMARK (CAPITAL)	39	1693979
21	INDIAMART	WORDMARK (CAPITAL)	40	1693980
22	INDIAMART	WORDMARK (CAPITAL)	41	1693981
23	INDIAMART	WORDMARK (CAPITAL)	42	1486285
24		DEVICE MARK	35	1693921
25	Indiamart	WORDMARK (SMALL)	35	2997209
26	Indiamart	WORDMARK (SMALL)	42	2997207
27		DEVICEMARK	42	1693922
28		DEVICEMARK I (Italics)	9	1150935
29	INDIAMART	DEVICEMARK I	35	1267627



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		(Italics)		
30	INDIAMART	DEVICEMARK I (Italics)	42	1267628
31		DEVICEMARK II (indiamart with LABEL)	35	1693923
32		DEVICEMARK II (indiamart with LABEL)	42	1693924
33		DEVICEMARK III (indiamart with LOGO)	35	1693925
34		DEVICEMARK III (indiamart with LOGO)	35	1693927
35		DEVICEMARK III (LOGO)	35	1693929
36		DEVICEMARK III (indiamart with LOGO)	35	1693931
37		DEVICEMARK III (indiamart with LOGO)	35	1693933
38		DEVICEMARK III (indiamart.com with LOGO)	35	1693935
39		DEVICEMARK III (indiamart.com with LOGO)	35	1693937
40		DEVICEMARK III (indiamart with LOGO)	42	1693932
41		DEVICEMARK III (indiamart.com with LOGO)	42	1693934



42		DEVICEMARK III (indiamart.com with LOGO)	42	1693936
43		DEVICEMARK III (indiamart.com with LOGO)	42	1693938
44		DEVICEMARK III (indiamart with LOGO)	42	1693928
45		DEVICEMARK III (indiamart with LOGO)	42	1693926
46		DEVICEMARK III (LOGO)	42	1693930
47		DEVICEMARK IV (indiamart.com)	35	1693939
48		DEVICEMARK IV (indiamart.com)	42	1693940
49		DEVICEMARK V (indiamart with label)	42	2130079
50		DEVICEMARK V (indiamart with label)	35	2130078
51	IIL	WORDMARK	35	1538724
52		DEVICEMARK (INDIAMART LEADERS OF TOMORROW)	35	2210045
53	INDIAMART LEADERS OF TOMORROW	WORDMARK (INDIAMART LEADERS OF TOMORROW)	35	2185079



54	 indiamart.com Source > Supply > Grow	DEVICEMARK V (indiamart.com with label)	42	2130075
55	INDIAMART LEADING SUPPLIER	WORDMARK	35	3801250
56	INDIAMART TRUSTSEAL	WORDMARK	35	2003607
57	INDIAMART BUYLEAD	WORDMARK	35	3992333
58	INDIAMART BUY LEAD	WORDMARK	35	3995431
59	INDIAMART FEATURED PREMIUM LISTING	WORDMARK	35	3848928
60	INDIAMART INDUSTRY LEADERSHIP PACKAGE	WORDMARK	35	3848935
61	INDIAMART PRIME	WORDMARK	35	3848979
62	INDIAMART CITY PREMIUM LISTING	WORDMARK	35	3848559


4. The plaintiff is also the registrant of the following domain names which include “INDIAMART” as a part thereof:

S. No.	Domain names
1.	indiamart.com
2.	indiamart.co.in
3.	indiamart.ind.in
4.	indiamart.net.in
5.	indiamart.org.in
6.	paywithindiamart.co.in
7.	paywithindiamart.net
8.	paywithindiamart.com
9.	paywithindiamart.in
10.	indiamart.co.nz
11.	indiamart.co.uk
12.	indiamart.sg



13.	indiamart.jp
14.	indiamartpay.com
15.	indiamart.org.cn
16.	indiamart.com.cn
17.	indiamart.net.cn
18.	indiamart.ph
19.	newindiamart.com
20.	indiamart.com.tw
21.	indiamart.tv
22.	indiamart.net
23.	b2bindiamart.com
24.	myindiamart.com
25.	indiamartpay.in
26.	indiamartpay.co.in
27.	indiamart.at
28.	indiamartb2b.com

5. The sales revenue of the plaintiff has multiplied from 2019 to 2022 and, in 2021-22, till December 2022, was in the region of ₹ 550 crores. Over ₹ 1.63 crore was invested by the plaintiff towards advertising its services in 2020-2021 alone.

6. The plaintiff also claims that its “INDIAMART”,  **indiamart**,



indiamart.com marks constitute “original artistic works” within the meaning of Section 2(c) of the Copyright Act, 1957.

7. The plaintiff is aggrieved by the illegal appropriation, by the defendant, of “INDIAMART” as well as the distinctive



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logos **indiamart**, **indiamart**, **indiamart**, **indiamart** Source > Supply > Grow, **indiamart.com**, **indiamart.com**, as part of its domain names, as is apparent from the e-mail Ids indiamart.co.in@gmail.com, indiamart.hr.co.in@gmail.com and india-mart.co and wecare@indiamart.co.

8. Defendant 2-GoDaddy.com LLC is the domain name registrar (DNR) for the said domain names. A screenshot from the defendant's website is also thus provided, to emphasise the poaching, by the defendant, of the plaintiff's trade mark and logo:



9. Ms. Pokharia, learned Counsel for the plaintiff, submits that the two gentlemen, whose photographs are reflected in the afore-extracted screenshot are in fact the promoters of the plaintiff. It is submitted that the use, by the defendant, of "INDIAMART" amounts to clear infringement of the plaintiff's registered trade mark and passing off, by the Defendant 1, of its services as those provided by



the plaintiff.

10. Predicated on these submissions, the plaintiff has instituted the present suit, seeking a decree of permanent injunction, restraining Defendant 1 and all others acting on his behalf, from using the trade mark “INDIAMART” or any deceptive variation thereof, which is identical or confusingly similar to the plaintiff’s registered trade mark “INDIAMART” as well as from using the artistic works vested in the



comprising the colour combination, get-up, layout, arrangement of matter, in any manner, thereby amounting to the infringement of the copyright of the Plaintiff residing in the artistic work. Additionally, the plaintiff prays that the Defendant 2 be directed to immediately take down/suspend or block the domain names <https://indiamart.co/> and wecare@india-mart.co and to disclose the identity of the persons in whose name the domain names have been registered.

11. Defendant 1 has not filed any response to the present suit and has remained continuously absent. Accordingly, he was set *ex-parte* by order dated 12 September 2023.

12. As of today, the only surviving substantive defendants are Defendants 1 to 4, who are



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- | | | |
|----------------------------------|---|-------------|
| (i) Mr. Sameer Samim Khan | - | Defendant 1 |
| (ii) GoDaddy.com LLC | - | Defendant 2 |
| (iii) Reliance Jio Infocomm Ltd. | - | Defendant 3 |
| (iv) Union Bank of India | - | Defendant 4 |

13. In my considered opinion, no contentious issue arises which would require evidence to be led. The case is clear as crystal. Defendant 1 has clearly been using the plaintiff's registered "INDIAMART" trade mark and has also copied the plaintiff's logo to provide its services.

14. Matters have progressed to the extent where Defendant 1 has in fact also put up the picture of the plaintiff's promoters on its website, apparently to mislead consumers into believing an association between the plaintiff and Defendant 1.

15. Apparently, aware of the fact that Defendant 1 has no substantive defence to offer, no written statement has been filed by Defendant 1 till date.


16. Accordingly, the suit shall stand decreed in the following terms:

- (i) Defendant 1, his associates, partners, agents, franchisees, representatives, servants, licensees and all other acting for and on his behalf are permanently enjoined from using the trademark INDIAMART or any other mark which is deceptively or confusingly similar to Plaintiff's trademark



INDIAMART.

(ii) Defendant 1 and others acting on its behalf is further

restrained from using impugned logos , ,

, , , , comprising the colour combination, get-up, layout, arrangement of matter which are infringing of plaintiff's copyright in the artistic work.

(iii) Defendant 2-GoDaddy.com LLC is directed, forthwith, to transfer the domain names <https://indiamart.co/> and wecare@india-mart.co to the plaintiff for which purpose Ms. Pokharia undertakes to provide the account details of the plaintiff to learned Counsel for Defendant 2, during the course of the day.

(iv) *Status quo* shall be maintained with respect to the Mobile No. 9372944497 and Bank Account No. 274010100021790, which shall continue to remain frozen.

17. Insofar as the aspect of damages and costs are concerned, Ms. Pokharia prays for punitive damages in the circumstances of the case.

18. Mr. Arjun Basra, who appears on behalf of Cyber Cell, submits that Defendant 1 was operating multiple accounts in which amounts in the region of about ₹ 1.5 crores have been defalcated by Defendant 1



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from various innocent persons.

19. Ms. Pokharia submits that, as per the status report from Cyber Cell, an amount of ₹ 10 lakhs stands deposited in account number 274010100021790 of the Union Bank of India registered in the name of Defendant 1. This, however, seems only to be the tip of the iceberg.

20. As Defendant 1 has not chosen to contest the present matter or enter appearance, I am inclined to grant punitive damages in favour of the plaintiff and against Defendant 1, especially in view of the manner in which Defendant 1 has resorted to a nefarious scheme to dupe innocent persons, in the process infringing the plaintiff's registered trade mark and representing itself as associated with the plaintiff.

21. Accordingly, the plaintiff is also entitled to a decree for ₹ 10 lakhs against Defendant 1, payable within a period of four weeks from today. Ordered accordingly.

22. The suit stands decreed in the aforesaid terms.

23. Let a decree sheet be drawn up accordingly.

C. HARI SHANKAR, J.

OCTOBER 10, 2023/dsn

Click here to check corrigendum, if any