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

+ **CS(COMM) 499/2020**

FACEBOOK, INCPlaintiff
Through : Mr. Pravin Anand with Mr. Siddhant
Chamola and Mr. Souradeep
Mukhopadhyay, Advs.

versus

MR. NOUFEL MALOLDefendant
Through : None.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **12.11.2020**

[Court hearing convened *via* video-conferencing on account of COVID-19]

I.A. No. 10529/2020


1. Allowed. The plaintiff is permitted to file additional documents.
- 1.1 The additional documents will be filed within 30 days from today.

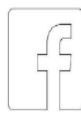


I.A. No. 10530/2020

2. Allowed, subject to the plaintiff curing the deficiencies referred to in the captioned application within two weeks from today.

CS (COMM) 499/2020 & I.A. No. 10528/2020

3. The plaintiff avers that it has the exclusive statutory and common law rights in various registered word marks and device marks, such as

FACEBOOK, , and , which

contain inherently distinctive 'f' logos, such as , , and .

3.1 It is claimed by the plaintiff that the defendant, who is the proprietor of a concern going by the name M/s Facebake, is engaging in the business of selling confectionaries such as cakes, biscuits, cookies etcetera and articles

like watches, under the mark “FACEBAKE”



3.2 The plaintiff claims that the defendant is also operating a website i.e. www.facebake.in.

3.3 Mr. Pravin Anand, who appears for the plaintiff, says that the defendant is degrading the plaintiff’s well-known trademark and is causing confusion in the minds of the public at large as to the source of its products. In support of his submissions, Mr. Anand has drawn my attention to pages 18 and 21 of the plaintiff’s documents’ folder.

3.4 Insofar as the aspect of jurisdiction is concerned, Mr. Anand says that the defendant operates an interactive website and, therefore, goods sold by the defendant can be delivered within the territorial jurisdiction of this Court as well.

3.5 For this purpose, Mr. Anand has referred me to page 47 of the plaintiff’s document folder. Mr. Anand has also relied upon the investigator’s affidavit which is appended on page 28 of the plaintiff’s document folder.

4. Having heard Mr. Anand, I am of the view that the plaintiff has, at least at this stage, established a *prima facie* case in its favour.

4.1 Given the fact that the plaintiff's trademark "FACEBOOK" is known world-over, the balance of convenience also appears to be in favour of the plaintiff.

4.2 I am also of the view that if interim relief is not granted, the plaintiff's legal rights and business interests will get impacted.

5. Accordingly, issue summons in the suit and notice in the captioned application to the defendant *via* all means including email.

6. In the meanwhile, the defendant, his agents and employees are restrained from using the mark "FACEBAKE" or any other mark, which is deceptively similar to the plaintiff's trademark.

6.1 The injunction will also operate *vis-a-vis* the logo(s) represented by



the letter 'f' i.e. .

6.2 Furthermore, the defendant is also restrained from operating his website i.e. www.facebake.in.

7. The plaintiff will comply with the provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 within five days from the receipt of a copy of this order.

8. List the matter on 21.01.2021.

RAJIV SHAKDHER, J

NOVEMBER 12, 2020

CS(COMM) 499/2020

Click here to check corrigendum, if any

3/3