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

Date of Decision: 20th April, 2023

+ **CS(COMM) 529/2019 & I.A. 13207/2019**

BENNETT, COLEMAN AND COMPANY LIMITED & ANR.

..... Plaintiffs

Through: Ms. Mamta Jha and Ms. Pragya Jain,
Advocates.

versus

PLANET MEDIA GROUP & ORS.

..... Defendants

Through: Defendants proceeded ex-parte *vide*
order dated 02nd February, 2023.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. In the instant suit, Plaintiffs seek to protect their registered trademark "MISS INDIA" which is associated with the title of beauty pageants.

PLAINTIFFS' CASE

2. The case set out in the plaint is as under:-

2.1. Plaintiffs belong to the Times Group which comprises of companies engaged in media and entertainment including radio, television, motion pictures, newspapers, magazines, event management, outdoor advertising, etc. The Times Group has over 100 offices and offers, 45 dailies with 4.3 million copies circulated on a daily basis, 2 magazines reaching 2,468 cities

and towns, 32 radio stations, 4 news television channels, and 8 non-news channels. The Times Group is a market leader in these segments and has a combined annual turnover in excess of USD 700 million.

2.2. Plaintiff No. 2 was incorporated as 50:50 joint venture between Plaintiff No. 1 and Worldwide Channels Investments Limited, to publish magazines and newspapers in India, which includes “Top Gear”, “Good Homes”, “Femina (Hindi)”, “Grazia”, “What to Wear”, etc. Plaintiff No. 1 acquired the entire shareholding of Plaintiff No. 2, and as on day is a fully-owned subsidiary of Plaintiff No. 1. Plaintiffs are also proprietors of magazines such as “Filmfare”, “Femina”, “Hello”, etc. In addition, Plaintiffs have forayed into hosting events which range from business/ leadership summits and conferences to fashion shows and beauty pageants. Notably, Times Group organizes and hosts the “Filmfare” awards, one of the oldest awards event in the field of entertainment and cinema in India.

2.3. Plaintiff No. 1 conceived an annual beauty pageant/ event in India under the brand/trade mark “MISS INDIA” in 1964. Initially, the event was organised under the sponsorship of Femina, however, there are also other sponsors/ licensees. The pageant selection/ audition process captures national representation and is divided across 5 geographical zones in India. Upon selection, contestants are provided holistic training by a panel of experts on points of fitness, diet, fashion, lifestyle, beauty and grooming which involves substantial expenses and resources. Thereafter, winners are profiled and promoted to compete in international pageants such as Miss Universe, Miss Earth, Miss International, etc. Plaintiff No. 1 holds the exclusive franchisee to nominate contestants to the aforementioned international beauty pageants. Copies of illustrative agreements to this effect have been filed along with the

plaint, along with copies of news articles, social media posts and other material indicating the use of the Plaintiffs' mark.

2.4. Plaintiffs have extensively promoted their trade mark MISS INDIA and formative marks through extensive advertisements in various newspapers and magazines among other mediums, and have incurred significant expenses thereon. Details of annual revenues and promotional expenses of the Plaintiffs have been provided at pages 25 and 26 of the plaint.

2.5. Plaintiffs also operate the website "www.missindia.in", which redirects its users to "www.beautypageants.indiatimes.com", an online portal where updates are uploaded pertaining to MISS INDIA beauty pageant and other international beauty pageants.

2.6. On account of long, continuous and extensive use since 1964, the Plaintiffs' mark has acquired enormous goodwill and reputation in India and internationally. Plaintiffs have also obtained registrations for the trade mark "MISS INDIA" and its formative marks in various classes, including Classes 38 and 41. Details of Plaintiffs' trademarks are provided at page 29 of the plaint.

2.7. Defendants No. 1 and 2 were organizing a similar beauty pageant as that of Plaintiffs, under the mark "MISS INDIA WORLD" and "TAJ MISS INDIA/MISS INDIA TAJ" [hereinafter "*Impugned Pageant(s)/Title(s)*"]. This was also promoted on their websites "www.tajmissindia.com" and "www.planetmedia.co.in" [hereinafter "*Impugned Website(s)*"], and social media posts on Facebook, wherein the Defendants are providing information pertaining to their event and also inviting registrations from all places, including Delhi, for the titles "MISS & MRS. UP", "MISS & MRS. INDIA", "MISS AND MRS. ASIA", "MISS & MRS. WORLD", "MISS & MRS.

UNIVERSE”. Defendant No. 2 is the Director of Defendant No. 1, and promotes the impugned titles through his Facebook account. Copies of the screenshot of the relevant webpages have been filed along with the plaint.

2.8. In September 2019, Plaintiffs discovered the unlawful activities of Defendants No. 1 and 2 through a YouTube video titled “An Exclusive Interview with Miss India World 2018 Manju Thapa.” In the said interview, the winner made a mention of Defendants’ beauty pageant, MISS INDIA WORLD 2018, held in Jaipur, and named Ms. Manushi Chillar, the winner of Plaintiffs’ MISS INDIA pageant, as her inspiration. Plaintiffs have submitted a screenshot and transcript of the video, along with screenshots of other related YouTube videos, as evidence with the plaint. [hereinafter “**YouTube videos**”].

PROCEEDINGS IN THE SUIT

3. On 23rd September, 2019, an *ex parte ad interim* injunction was passed in favor of the Plaintiffs against Defendants No. 1 and 2, which included directions for blocking the impugned websites. The relevant portion is as follows: -

“Consequently, till the next date of hearing, an ad-interim ex-parte injunction is granted in favour of the plaintiffs and against defendant Nos.1 and 2 in terms of prayer 'A' and 'B' of the application. The defendant Nos.3 and 4 are directed to lock down the websites/domain name www.planetmedia.co.in and www.tajmissindia.com till further orders.”

4. Thereafter, summons sent by speed post was received back unserved while service by way of ordinary mode was awaited as on 24th October, 2019. Thereafter, in order dated 09th December, 2019, it was recorded that

Defendant No. 1 and 2 stood served with summons.

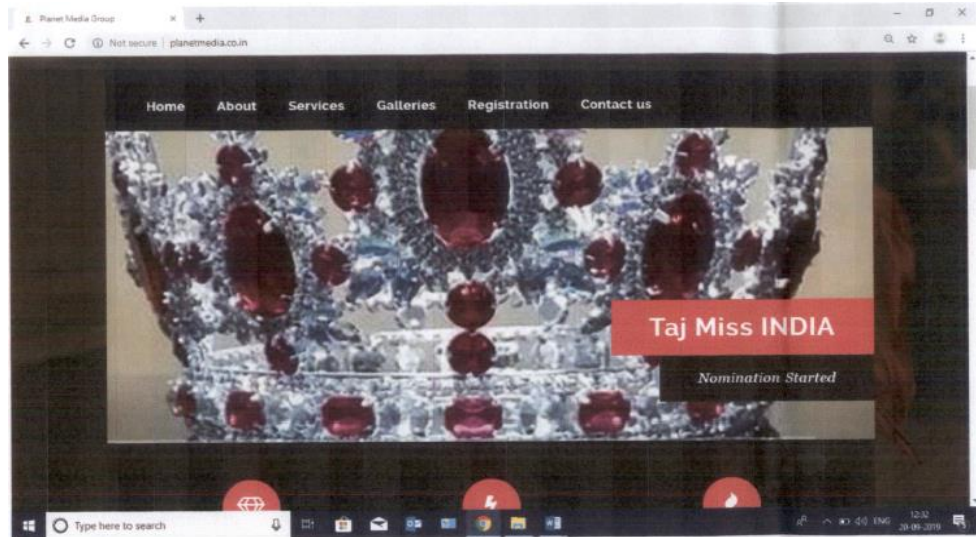
5. Subsequently, *vide* order dated 16th December, 2019, Defendant No. 3 and 4 (being GoDaddy.com LLC and GoDaddy India Domains and Hosting Services Private Limited, respectively) were deleted from the array of parties on the undertaking that the impugned website “www.tajmissindia” would be transferred to Plaintiffs within one week. Said domain name stands transferred in favour of the Plaintiffs. On 25th April, 2022, fresh notice was issued, to be served by Plaintiffs through WhatsApp and text messages. On 31st May, 2022, Plaintiffs filed an affidavit of service to that effect. Till date, Defendants have not appeared, and despite multiple opportunities, have failed to file a written statement or an affidavit of admission/ denial. Defendants were proceeded *ex-parte* in terms of order dated 02nd February, 2023.

ANALYSIS

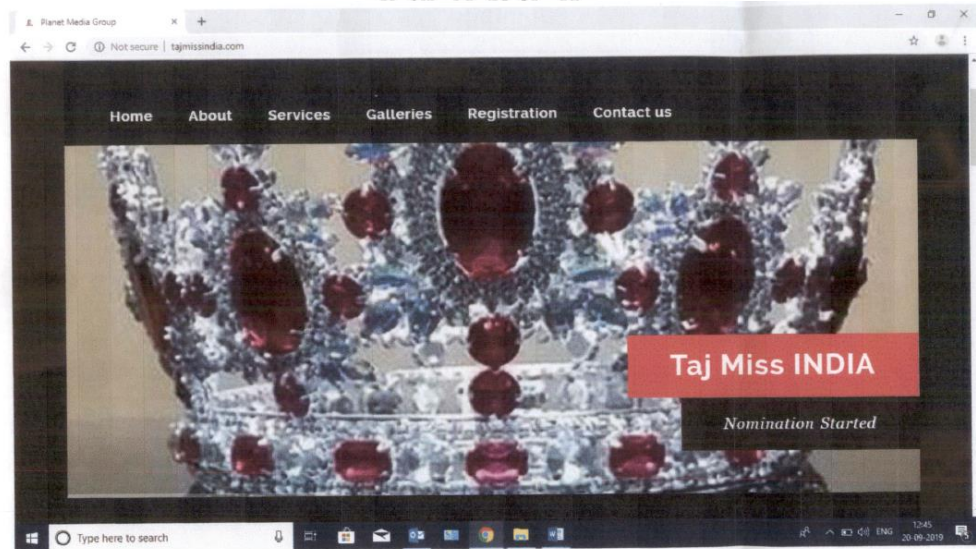
6. As per Plaintiffs’ affidavit of service, Defendants No. 1 and 2 stand served by ordinary modes as also by way of WhatsApp and text messages. They have failed to file a written statement with statutory period of 120 days and their right to do so stands closed. Defendants No. 1 and 2 have neither controverted Plaintiffs’ assertions nor produced any evidence to contradict the same. Thus, in the opinion of the Court, no purpose would be served by directing Plaintiffs to lead *ex-parte* evidence.

7. Plaintiffs are the registered proprietor of the trademark “MISS INDIA” and formative marks in Classes 38 and 41. Defendants No. 1 and 2 have unauthorizedly used the aforementioned registered mark in relation to titles of the beauty pageants being organized by them. The domain name of the impugned website, also uses Plaintiffs’ registered trademark with the prefix “taj”. The

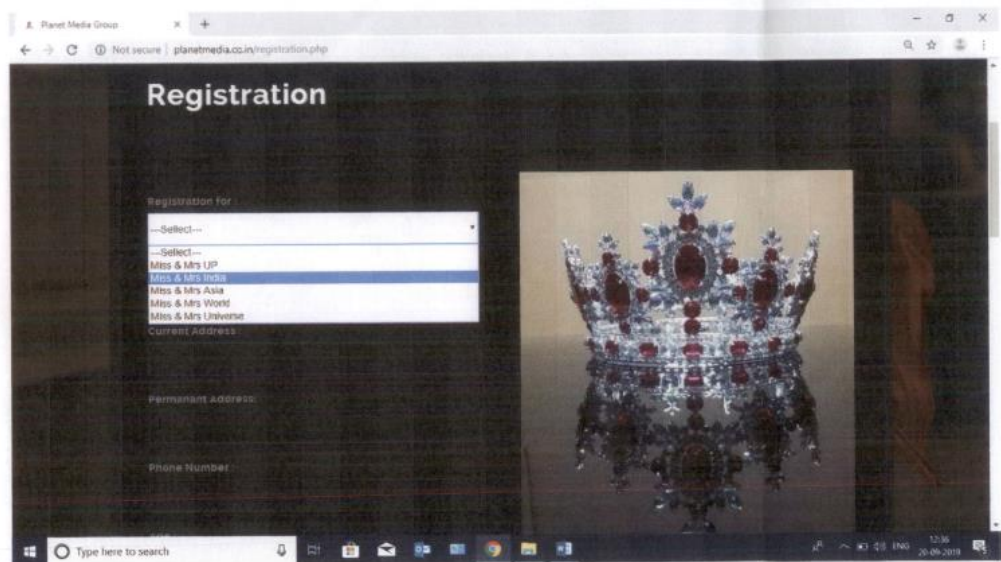
unauthorized use of Plaintiffs' trademark which amounts to infringement is evident from the screenshots of the impugned websites, YouTube videos and promotional material posted on Facebook, reproduced below:



HOME PAGE OF THE IMPUGNED WEBSITE PLANETMEDIA.CO.IN



'HOME PAGE OF THE IMPUGNED WEBSITE/DOMAIN NAME TAJMISSINDIA.COM'



ONLINE REGISTRATION FORM FOR THE IMPUGNED PAGEANT/TITLE 'MISS & MRS. INDIA'





Vikram Rao
3 February · Edited ·

Miss India TAJ
Mrs India TAJ
Grand Finale at Agra
Registration Open.
... See more

Mukesh Mishra, Syed Masoom Reza, Bridaal In and 4 others like this.

1 share 4 comments

Naaz Rao
32w

Shantipriya Bharati
32w

DrRanjana Joshi I want participate ur event
32w



<https://www.youtube.com/watch?v=AXtXRG+W9Cc>



<https://www.youtube.com/watch?v=igdKxSzbCqM>

8. Plaintiffs have been organizing beauty pageants under the said mark since 1964 and have built an indubitable goodwill and reputation by incurring significant expenditure of capital and resources. Plaintiffs have valid and subsisting registrations for the mark “MISS INDIA” and variations/formations thereof. The use of identical and deceptively similar trademark/ domain name for identical services of organizing and promoting beauty pageants by Defendants No. 1 and 2 would inevitably cause public confusion and deception, and injury to Plaintiffs’ brand, goodwill and reputation.

9. Court has perused the documents and plaint which indicates that Defendants No. 1 and 2 have been dishonestly using Plaintiffs’ mark. Defendants No. 1 and 2 use of Plaintiffs’ registered word mark “MISS INDIA” in the impugned title of the beauty pageants, their websites and social media account was with the sole intent of misrepresenting an association with

Plaintiffs to dupe innocent members of the public and prospective participants of Plaintiffs' beauty pageants. The promotional material and posts uploaded on social media, i.e., Facebook pages and YouTube videos proves the *mala fide* intention of Defendants No. 1 and 2 is to ride upon the goodwill and reputation of the Plaintiffs. The impugned pageants which are not connected to the Plaintiffs in any manner, are bound to create confusion and deception for the public, prospective participants and even sponsors, resulting in irreparable harm to Plaintiffs' business, and well-established goodwill and reputation. Defendants No. 1 and 2, if not restrained, are likely to cause commercial harm to the Plaintiffs. Thus, the Court finds that acts of Defendants No. 1 and 2 amount to infringement and passing off Plaintiffs' marks.

10. In view of above, Plaintiffs have established their right to permanent injunction for restraining infringement. Plaintiffs have restricted their reliefs to prayers at paragraph 44 (a), (b), (c), (f), (g) and (i) of the plaint. They have not pressed for damages.

11. For the forgoing reasons, Plaintiffs are entitled to a judgment in accordance with Order VIII Rule 10 of CPC, 1908.

RELIEFS

12. Suit is decreed in favour of Plaintiffs and against Defendants No. 1 and 2 in terms of prayers at paragraph 44 (a), (b), (c) of the plaint. Since damages are not being claimed, the prayer for rendition of accounts is denied. Considering the nature of the subject matter, no direction for delivery up is warranted.

13. Plaintiffs are entitled to actual costs, in terms of the Commercial Courts Act, 2015 and Delhi High Court (Original Side) Rules, 2018 read with Delhi

High Court Intellectual Property Division Rules, 2022, recoverable jointly and severally, from Defendants No. 1 and 2. Plaintiffs shall file their bill of costs in terms of Rule 5 of Chapter XXIII of the Delhi High Court (Original Side) Rules, 2018 on or before 31st May, 2023. As and when the same is filed, the matter will be listed before the Taxing Officer for computation of costs.

14. Decree sheet be drawn up.

15. Suit and pending applications are accordingly disposed of.

SANJEEV NARULA, J

APRIL 20, 2023

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(Corrected and released on: 13th May, 2023)

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