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

+ CS(OS) 154/2010

Decided on: 27th February, 2012

INDICUS NETLABS(P) LTD Plaintiff
Through :Mr. C.M. Lall, Ms. Ekta
Sarin and Mr. Dhruv Singh,
Advs.

Versus

RAFTAAR MEDIA PVT LTD Defendant
Through : Defendant is ex-parte.

Coram:

HON'BLE MR. JUSTICE A.K. PATHAK

A.K. PATHAK, J. (ORAL)

1. Plaintiff has filed this suit for permanent and mandatory injunction, passing off, infringement of trademark, rendition of accounts and damages against the defendant.

2. A perusal of plaint discloses that the plaintiff was incorporated under the Indian Companies Act, 1956. It has its registered office at 202, Raj Tower, IG-I, Alaknanda, Community Centre, New Delhi. The suit has been filed by plaintiff through its Director-cum-Constituted Attorney Mr. Peeyush Bajpai. Plaintiff is the largest integrated search engine in Hindi under the domain name "Raftaar.in/Raftaar.com" in India. Plaintiff had registered the

domain names raftaar.com, raftaar.in, raftaar.info, raftaar.org, raftaar.org.in, raftaar.net.in, raftaar.co.in, raftaar.firm.in, raftaar.biz, raftaar.us and raftaar.net sometime in the month of November, 2005. On 26th January, 2006 plaintiff launched its website with the primary Uniform Resource Locator (for short “url”) as Raftaar.com and Raftaar.in as a secondary url.

3. Plaintiff’s website “Raftaar.in” is a single window access to information which prominently features latest national and local news, daily horoscopes, search for images, photos, songs, information on education, astronomy, dictionary, religion, blogs, sports, Bollywood news, market prices, stock exchange etc. under the following heads, “Raftaar Khabar” for Hindi news, “Raftaar foto” for images, “Raftaar gane” for Hindi songs, “Raftaar Khel” for sports, “Raftaar Bollywood” for latest bollywood gossip, “Raftaar Shiksha” for education, “Raftaar Blog”, “Raftaar Lifestyle”, “Raftaar Bhaav” for stock exchange markets, “Raftaar Rashiphaal” for astrology, “Raftaar Dharm” for religion, “Raftaar Ekalam” for a typing and font conversion tool, “Raftaar Shabdkosh” for dictionary, “Raftaar Trends”, “Raftaar Calendar and “Raftaar Directory”.

4. Plaintiff is the registered owner of the trademark “RAFTAAR” in India, under the “Classes 9, 16, 35, 38, 41 and 42”

in respect of the goods and services including telecommunications, education, providing of training, entertainment, sporting and cultural activities. Plaintiff's website "Raftaar.in" gets around 1,50,000 page views every week and has indexed nearly eight million of the estimated total of 10 million pages in Hindi on the internet. Further "Raftaar.in" also invites registrations of new sites. Plaintiff's website "Raftaar.in" has over 2000 subscribers of daily alerts to whom latest news alerts, daily astrology alerts, local city news alerts are sent on the daily basis by way of emails.

5. Plaintiff was bestowed with prestigious "Manthan Award" for India's successful e-Content development in the year 2007. Various leading newspapers, namely, Navbharat Times, Pioneer, Dainik Jagran, Hindustan and Swadesh extensively covered the launch of "Raftaar.in" stating that the plaintiff had launched the website to encourage the local users to search the information in the Hindi language. Plaintiff enjoys statutory and common law rights in respect of the trademark "RAFTAAR". Plaintiff's website "RAFTAAR" had achieved immense goodwill and repute in the field of entertainment , news, services etc.

6. Plaintiff has alleged that the defendant has adopted the plaintiff's registered trademark "RAFTAAR" in respect of broadcasting and airing news programs on television channels in

relation to activities which were similar to that of plaintiff, in order to encash on the reputation and goodwill of the plaintiff, who had been providing the news, entertainment, education etc. on its website under the mark "RAFTAAR". On making an enquiry, plaintiff came to know that the defendant had applied for registration of mark "RAFTAAR" under "Class 41". Defendant has adopted the mark "RAFTAAR" of the plaintiff for its news channel, so as to cause confusion and deception in the mind of public at large as also to ride on the reputation and goodwill of the plaintiff.

7. After service of summons, defendant appeared in Court through a lawyer. Written statement was not filed on time. Vide order dated 27th July, 2010, Joint Registrar condoned the delay in filing of the written statement, subject to, however, cost of ₹3,000/- (Rupees Three Thousand Only). However, cost was not paid by the defendant. Vide order dated 18th October, 2010, defendant was saddled with further cost of ₹15,000/- (Rupees Fifteen Thousand Only). It was made clear that in case cost is not paid, written statement shall not be taken on record. Cost has not been paid, meaning thereby that the written statement has not been taken on record. Subsequently, defendant even stopped appearing and was proceeded against ex-parte on 14th July, 2011.

8. Plaintiff has led ex-parte evidence. Plaintiff has filed

affidavit of PW1 Sh. Peeyush Bajpai to prove its case. Documents have also been proved by him as PW1/1 to PW1/14. Memorandum of Association of plaintiff has been proved as Ex. PW1/2. “Who-is” search report has been proved as Ex. PW1/3 collectively to show that the plaintiff is the registered owner of the domain names “raftaar.com”, “raftaar.in”, “raftaar.info”, “raftaar.org”, “raftaar.org.in”, “raftaar.net.in”, “raftaar..co.in”, “raftaar.firm.in”, “raftaar.biz”, “raftaar.us” and “raftaar.net”. Printouts of the screenshots of plaintiff’s website has been proved as Ex. PW1/4 to show that plaintiff has website by the name “Raftaar.in” and is a Hindi search portal and a single window access to information in Hindi across the internet. Ex. PW1/5 collectively are the certified copies of the registration of the mark “RAFTAAR” of the plaintiff under the Trade Marks Act, 1999 under the “Classes 9, 35, 38, 41 and 42”. Ex. PW1/6 is the Chartered Accountant’s certificate showing that the plaintiff has generated more than ₹16 lacs revenue in advertisements on its website during the financial year 2010-11. PW1 has reiterated the averments made in the plaint, which have been detailed in brief in the preceding paras hereinabove. It has been further deposed that “Raftaar.in” features latest national and local news, daily horoscopes, search for images, photos, songs, information on education, astrology, dictionary, religion, blogs,

sports, Bollywood news, market prices, stock exchange etc.

9. Evidence adduced by the plaintiff has succeeded in proving that it is engaged in the business of entertainment and information media through internet under the registered trademark “RAFTAAR”. Defendant is also engaged in the similar business of airing local news on television channels as well as carrying on broadcast of news and entertainment through internet and is in the use of deceptively similar mark as that of the plaintiff. There is every likelihood of causing confusion and deception in the mind of public at large that defendant has a link/connection with the plaintiff, inasmuch as, plaintiff is the owner of registered mark “RAFTAAR” and use of such mark by any other person for similar trade would amount to infringement under Section 29 of the Trade Marks Act, 1999.

10. For the foregoing reasons, suit of the plaintiff is decreed in terms of prayer A (i) and (ii) along with costs of the proceedings. As regards to other prayers, the same have been given up during the course of hearing. Decree-sheet be drawn.

A.K. PATHAK, J.

FEBRUARY 27, 2012

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