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

+ **CS(COMM) 193/2019**

COLGATE PALMOLIVE COMPANY & ANR..... Plaintiff

Through Mr.Pravin Anand, Mr.Soib Khan and
Mr.Akshay Agarwal, Advs. for plaintiffs No.1 and
2

versus

NIXI & ANR.

..... Defendant

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **12.04.2019**

IA No.5401/2019 (exemption)

Allowed subject to all just exceptions.

IA No.5400/2019

This application is filed under Order 11 Rule 1(4) CPC seeking leave to file additional documents. Needful be done within four weeks from today.

Application stands disposed of.

CS(COMM) 193/2019

Let the plaint be registered as suit. Issue summons to the defendants by speed post and ordinary process, returnable for 26.7.2019.

IA No.5399/2019

1. Issue notice to the defendants by speed post and ordinary process, returnable for date fixed above.

2. This is an application under Order 39 Rule 1 and 2 CPC seeking ex parte injunction to direct defendant No.1 to block the domain names being



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operated by the defendant No.2 or to transfer the same in the name of plaintiff No.2 and to provide the complete details of the Registrant(s) of defendant No.2 to the plaintiff No.2. Other connected reliefs are also sought.

3. The case of the plaintiff is that it is in the business of oral care products in India since 1937. It is pleaded that the plaintiff's products enjoy tremendous goodwill and reputation throughout India. Since its inception plaintiffs have been continuously and consistently using the trademark and trade name COLGATE and also the domain name. In addition to the common law rights that have accrued to the plaintiffs by virtue of the aforesaid facts, it is also the registered proprietor of several COLGATE-formative trademarks in India in relation to various goods across various classes. It is further stated that the plaintiffs' trademark COLGATE over a long period of time has gained an unparalleled reputation and goodwill and has acquired the status of a well known trademark.

4. Defendant No.1 is the National Internet Exchange of India which is a Not-for-Profit company under section 25 of the Indian Companies Act, 1956. It was formed with the objective of facilitating improved internet services in the country. Defendant No.2 is the website called www.colgatepalmoliveindia.in which is operated by unknown persons whose identity and particulars are currently unknown. All that is known is the defendant is in fact one Vishal Sharma which could very well be a fake identity, is sending out emails using the said IDs hr@colgatepalmoliveindia.in, vishal@colgatepalmoliveindia.in and info@colgatepalmoliveindia.in and inviting innocent and unsuspecting members of the public for job interviews in the name of the plaintiff No.1, Colgate Palmolive India, while soliciting money deposits from the said



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prospective interviewees. It is submitted that the exact constitution and other details of defendant No.2 are not known. Plaintiffs were first informed of the infringing activities of the defendant through the emails and messages received from the supportive and sympathetic members of the general public who informed the plaintiff No.2 of the actions of defendant No.2. Further, defendant No.2 has also been sharing the account details of an SBI account and Axis Bank account where it has been soliciting money from unsuspecting members of the public as security deposit for the said fake interview.

5. Plaintiff has also taken steps to file a criminal complaint against the perpetrators of the crime. FIR is yet to be registered. It is pleaded that this is a clear indication of the attempts of defendant No.2 to pass off themselves as the HR of the plaintiff No.2. This is also indicative of the intention of defendant No.2 to unjustly enrich their pockets at the expense of the general public and the plaintiffs while committing this act of fraud, misrepresentation and cyber-squatting.

6. Plaintiff has made out a prima facie case. Balance of convenience is also in favour of the plaintiffs and against the defendants. Defendant No.1 is directed to forthwith block the domain names hr@colgatepalmoliveindia.in, vishal@colgatepalmoliveindia.in and info@colgatepalmoliveindia.in being operated by defendant No.2. Defendant No.2 will also thereafter transfer the domain names in favour of plaintiff No.2. Defendant No.1 will also disclose the details of the persons who have opened the aforesaid domain name.

7. State Bank of India is directed to block the account No.32268573333 IFSC Code SBIN0008079.

8. Learned counsel for the plaintiffs also states that apart from this



account there is another account of Oriental Bank of Commerce being A/C No.13332413000935 IFSC Code ORBC0101333 and that a communication to this effect has been received from one of the victims that a fraud has been played by the defendants which is at page 677 of the list of documents. Oriental Bank of Commerce is also directed to block the aforementioned account. The banks will also inform the court details of the account holders of the aforementioned accounts.

9. Plaintiff to comply with provisions of Order 39 Rule 3 CPC *vis-a-vis* the defendant No.1 within 7 days.
10. A copy of this order be given dasti under signatures of the Court Master to learned counsel for the plaintiff.

JAYANT NATH, J

APRIL 12, 2019

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