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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 1185/2016

THE CARTOON NETWORK INC.

..... Plaintiff

Through: Mr. Dhruv Anand, Ms. Udit Patro &
Mr. Shamim Nooreyzedan, Advs.

Versus

VISHVAJEET SHARMA & ORS.

..... Defendants

Through: Mr. Amit Jain & Ms. Priyanka
Anand, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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20.03.2017

1. The counsels state that no settlement could be arrived at.
2. The counsel for the defendants states that the defendants have applied for rectification of the plaintiff's registered trade mark.
3. The suit is otherwise ripe for framing of issues.
4. On the pleadings of the parties, the following issues are framed:

- (i) Whether the plaintiff is the proprietor of the



logo? OPP

- (ii) Whether the defendants adoption of the



logo

amounts to infringement of Trademark Registration
No.1268352 in classes 38 & 41 as also passing off? OPP

- (iii) Whether the defendants use of



and

“CARTOON TV” word mark in relation to their channel
amounts to infringement of the “CARTOON NETWORK” word



mark and Trademark Registrations detailed in para 18 of the
Plaint, as also to passing off? OPP

- (iv) Whether the defendants adoption of the  logo and the “CARTOON TV” word mark is dishonest? OPP
- (v) Whether the plaintiff is not entitled to the relief claimed on account of laches, acquiescence and waiver? OPP
- (vi) Whether the word “CARTOON” as well as the word “NETWORK” are public juris and common to trade qua for telecommunication services etc.? OPD
- (vii) Whether the plaintiff can claim any right in the words “CARTOON NETWORK” perse by operation of Section 17 of the Trade Marks Act, 1999? OPD
- (viii) Whether the defendant is protected under the Section 30(1) and Section 30(2)(a) of Trade Marks Act, 1999? OPD
- (ix) Whether the defendant no.1 is a *bona fide* adopter and proposed user of the trade mark / label “CARTOON TV” for broadcasting services and if so to what effect? OPD
- (x) Whether the registrations of the plaintiff containing the words “CARTOON NETWORK, C.N.” etc. are valid? OPP
- (xi) Whether the plaintiff can claim a secondary meaning in the word “CARTOON NETWORK C.N.” etc.? OPP
- (xii) Whether the registrations of the plaintiff are subject to limitation and conditions, if so to what effect? OPD.



(xiii) Whether the plaintiff can claim monopoly on the words
“CARTOON NETWORK”? OPPr

(xiv) Relief.

5. No other issue arises or is pressed.
6. The parties to file their list of witnesses within 15 days.
7. The plaintiff to file affidavits by way of examination-in-chief of all its witnesses within eight weeks.
8. Option of having the evidence recorded before the Court Commissioner has been accepted by the counsel for the plaintiff.
9. Accordingly, Mr. C.K. Chaturvedi, Additional District Judge (Retd.), Mob. No.9810652722 is appointed as the Court Commissioner for recording evidence.
10. The fee of the Court Commissioner is fixed at Rs.10,000/- per hearing besides out of pocket expenses to be borne by the parties equally subject to the final order on the cost.
11. The counsel for the defendants objects to bearing 50% of the fee of the Court Commissioner.
12. In the facts and circumstances of the case, it is deemed appropriate that at this stage both parties should bear the fee of the Court Commissioner equally subject to further orders as to costs as aforesaid.
13. The parties to appear before the Court Commissioner on or about 16th May, 2017 for fixing the schedule for recording of evidence.
14. To be listed after the recording of the evidence is completed.

RAJIV SAHAI ENDLAW, J

MARCH 20, 2017/‘gsr’..

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