



# CENTRiiK'S NEWSLETTER

## AUGUST 2020

### **RESTRAINS INFRINGER FROM USING ITS MARK**

Business to business (B2B) portal Indiamart ('Plaintiff'), filed a suit before the Delhi High Court for a permanent injunction to restrain Akash Verma ('Defendant') from deceptively using its trademark, INDIAMART. The Plaintiff, an internet-based marketplace with free and paid listings of products and services, had claimed in the suit that it had started using the brand name since 1996 and is the registered holder of the trademark and the domain [www.indiamart.com](http://www.indiamart.com). The Plaintiff came to know that the Defendant has been fraudulently using its name/trademark/logo/trade dress duping customers into believing that the services provided by him originate from the Plaintiff. The Court passed an ex parte ad-interim injunction in favour of the Plaintiff. The Court stated that the use of the mark INDIAMART involved not only cheating the company, but also defrauding innocent customers into believing that the Defendant is their representative and taking their money fraudulently. Therefore, the Defendant has been restrained from using the mark INDIAMART.

**Citation:** INDIAMART INTERMESH LIMITED vs. MR. AKASH VERMA & ORS (*I.A. 5594/2020*)

### **LUIS VUITTON SECURES PROTECTION OVER WELL-KNOWN 'DAMIER AZUR' TRADEMARK**

The General Court of the European Union, in a recent judgement, overturned the decision of the European Union Intellectual Property Office (EUIPO) to nullify Louis Vuitton's famous 'Damier Azur' trademark. In 2008, the fashion accessories brand Louis Vuitton was granted trademark protection by the EUIPO over its 'Damier Azur' chequerboard pattern, made up of brown and beige squares. The

Damier Azur trademark was used extensively on leather bags and related accessories. In 2016, however, the Cancellation Division of the EUIPO, acting on an application filed by a third party, declared the trademark to be invalid. The reason stated was that the mark lacked a distinctive character and was too common to be monopolised by a single brand. This decision of the Cancellation Division was appealed by Louis Vuitton unsuccessfully before the European Union Board of Appeals. The luxury brand then further challenged the decision before the General Court of the European Union, arguing that the Damier Azur trademark pattern had acquired a distinctive character through continued use of the mark, and it was now a 'well-known mark'. The General Court concurred with the decision of the Board of Appeals to the extent that the mark was not inherently distinctive, but also accepted Louis Vuitton's contentions regarding the acquired distinctiveness of the mark. The General Court held that through continued widespread use of the Damier Azur trademark, consumers would only associate the brown and beige chequerboard pattern with Louis Vuitton, and no one else. The General Court has reverted the matter to the Board of Appeals of the European Union, to decide the matter in light of the General Court's ruling.

### **TESLA UNSUCCESSFUL IN SECURING 'TESLAQUILA' TRADEMARK**

Elon Musk's Tesla was recently denied trademark registration by the United States Patent and Trademark Office (USPTO), for the mark 'Teslaquila'. Tesla, the American automobile company, known for its electric car had filed a trademark application for 'Teslaquila', a Tesla brand tequila, for alcoholic beverages in 2018. However, the registration was refused by the Examiner at the USPTO, as there already exists a mark by the name of 'Spirit Tesla', registered by a Siberian company that produces plum brandy under the same name. The Examiner objected against the mark stating that the usage of the word 'Tesla' by both companies in their trademark would lead to confusion among customers. Further, Tesla's argument that the two companies were producing different liquors, ie. tequila and plum brandy, and hence there would be no incidence of confusion among consumers was also rejected by the Examiner..

### **TRAVEL SHOW HOST LOSES DOMAIN NAME DISPUTE**

Darley Newman, host of the popular travel television series 'Travels with Darley' had recently filed a dispute with the WIPO Arbitration and Mediation Center for alleged cybersquatting by her ex-husband Chip Ward. Domains [www.darleynewman.com](http://www.darleynewman.com), [www.darleynewman.org](http://www.darleynewman.org), [www.equitrekking.com](http://www.equitrekking.com), [www.equitrekking.org](http://www.equitrekking.org), and [www.travelswithdarley.com](http://www.travelswithdarley.com) have been registered by Ward in his personal capacity or through his organization Lambda Cubed LLC. Newman contented that the domain names

were supposed to be transferred to her name, pursuant to an agreement, after her divorce from Ward. However, the existence of any such agreement was denied by Ward.

The WIPO panellist Scott Blackmer denied Newman's contentions and found that none of the domain names were used in bad faith. The Panel further held that such disputes are not under the purview of the UDRP, and should be settled in the Courts instead and has therefore denied the complaint.

## **MP GOVERNMENT APPROACHES SUPREME COURT OVER BASMATI RICE GI TAG**

In a new twist in the ongoing battle between the Madhya Pradesh (MP) government and the GI Registry going back to 2008, the MP government has filed a petition before the Supreme Court to challenge the Madras High Court's (HC) decision to not grant a GI tag to its Basmati rice-growing regions. The new petition has been filed in light of the MP government losing two cases earlier this year in the Madras HC where MP had challenged the exclusion of 13 MP districts from a map submitted by the Agriculture and Processed Food Products Export Development Authority (APEDA) for basmati GI tag. APEDA is the apex govt body responsible for the export promotion of agricultural products and had filed the application seeking GI tag for basmati rice.

## **JONAS BROTHERS SUED FOR COPYRIGHT INFRINGEMENT**

Nick Jonas – along with Jonas Brothers Enterprises, LLC – have been sued by Joshua Wong Photography, LLC for copyright infringement. The complaint was filed yesterday June 22, 2020 in the U.S. District Court in the Southern District of New York. The claim stems from a photograph of Priyanka Chopra that was shared by Nick Jonas on both Instagram and Twitter. Joshua Wong Photography claims the use was unauthorized and thus a violation of the Copyright Act.

On December 5, 2019, an image of Priyanka Chopra was shared from the Instagram account of Nick Jonas. The image received over 790,000 "likes" on the social media platform. A similar posting shared on Twitter is alleged to have gained 8,800 "likes" on the website.

[info@centriik.com](mailto:info@centriik.com) | [www.centriik.com](http://www.centriik.com)