

Digital Deception Involving TATA POWER Brand Name & TM

Tata Sons Private Limited is one of India's leading conglomerates and a multinational company. It is a registered proprietor of the trademark 'Tata' and also the parent of Tata Power Solar Systems Limited, a solar module manufacturer providing innovative solar power solutions to consumers across industries as well as the general public (*hereinafter, the plaintiffs*). Recently, both filed a suit before the Delhi High Court against various defendants (including unknown individuals) that were operating fraudulent websites [*Tata Power Solar Systems Limited & Anr. vs. www.tatapowersolardealership.co.in & Ors., CS(COMM) 419/2024, Delhi High Court*] and succeeded in obtaining an *ex parte ad interim* injunction restraining the defendants from using the plaintiffs' trademarks and directing the blocking of infringing domain names, mobile numbers and bank accounts [*order dated May 20, 2024*].



It was submitted that between February 2024 to April 2024 the plaintiffs were alerted of many innocent customers being duped by the defendants into parting with sums of money on the false pretext of either providing services offered by the plaintiffs and/or offering the consumer the chance to become an authorized dealer/distributor of the plaintiffs. The defendants had registered the domain names "www.tatapowersolardealership.co.in" and "www.tatapowersolars.com" to set up websites of fake dealerships that claimed to offer services of the plaintiffs and portrayed the defendants as the authorised dealers/distributors of the plaintiffs. The *modus operandi* of the fraud was to approach prospective customers *via* WhatsApp accounts, mobile numbers and email addresses associated with the domain names mentioned above, with the defendants claiming to be employees of the plaintiffs, and offering to render the services of the plaintiffs with the ulterior motive of swindling them. To appear legitimate, the defendants sent fabricated employee IDs, dealership letters/letters of intent, certificates, confirmation letters and invoices bearing the plaintiffs' trademarks to such customers.

The plaintiffs alleged that the incorporation and use of their proprietary trademarks in the defendants' domain names, email addresses, communications with customers (including *via* specific mobile numbers by certain unknown persons – John Does in the instant suit) and fake dealership letters/letters of intent resulted in infringement of various marks including 'TATA', 'TATA POWER', 'TATA POWER SOLARROOF', accompanying logos and formative marks.

After considering the aforesaid facts, the court found that the plaintiffs had established a *prima facie* case of infringement and passing off. It noted that registered trademarks belonging to the plaintiffs could only be used by the plaintiffs themselves and persons duly authorised by them. Also, the defendants false claims of being authorised employees/dealers of the plaintiffs substantiated with fabricated documents bearing the plaintiffs' trademarks was an attempt to pass off their services as genuinely coming from the plaintiffs.

The court conducted a comparison of the plaintiffs' original website and defendant no. 2's impugned domain and found that the latter's website was an exact replica of the plaintiffs' authentic website, with the only discernible difference being the lack of an animated character serving as the website guide. Considering the substantial goodwill and reputation of the plaintiffs and the fact that the services offered by them are highly technical and expensive, the misuse of the plaintiffs' trademarks by the defendants was deceitful, *mala fide* and intended to wrongfully and illegally gain monetary sums from the public. Such unauthorised use of the plaintiffs' trademarks *prima facie* amounted to infringement and passing off. The court granted an *ex parte ad interim* injunction restraining defendant nos. 1 to 3 and/or any other persons acting on their behalf from using the plaintiffs'

trademarks or any other deceptively similar mark that would amount to infringement or passing off of the plaintiffs' registered trademarks. The court also issued several directions to other impleaded defendants to block and suspend the impugned domain names, block access to the infringing websites, temporarily block the fraudulent mobile numbers, and to freeze the bank accounts of the defendants perpetrating the fraud, in order to aid in identifying and preventing the fraudulent activities.

This case is another valuable addition to the slew of recent judgments being passed by the Delhi High Court to curb cases of fraudulent online acts involving infringement of the rights of reputed brand owners not to mention impacting the interests of consumers adversely. The sophisticated and elaborate nature of the fraud in the present case – involving creation of replica websites, fabrication of documents and use of multiple communication channels – demonstrates the need for robust legal protection and swift action by the courts to protect innocent customers and brand owners. By granting an *ex parte ad interim* injunction and issuing comprehensive directions to various stakeholders, including domain registrars, telecom companies, banks and pertinent government departments, the Delhi High Court took a proactive and comprehensive approach to quell misuse.