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

+ CS(COMM) 147/2020

GS1 INDIA

....Plaintiff

Represented by: Mr.Aditya Gupta, Ms. Geetanjali
Visvanathan and Ms.Aishwarya
Kane, Advocates.

versus

BARCODES SL & ORS.

.... Defendants

Represented by: Mr.Abhimanyu Chopra and Ms.
Aishwarya Modi, Advocates for
defendant No.3.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

29.05.2020

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The hearing has been conducted through Video Conferencing.

I.A. 4078/2020 (exemption from filing clear copies and duly notarised affidavit)

1. By this application, plaintiff seeks exemption from filing the duly attested/notarised affidavit.
2. Exemption is allowed, subject to the condition that plaintiff will file the duly sworn/attested affidavit in support of the plaint and application within 72 hours from the date of resumption of the regular functioning of this Court.
3. Application is disposed of.

I.A. 4077/2020 (under Order XI Rule 1 (4) CPC-additional documents)

1. Additional documents, if any, be filed within 30 days.

2. Application is disposed of.

I.A. 4079/2020 (under Section 80(2) r/w Section 151 CPC)

1. By this application, plaintiff seeks leave to institute the suit without serving notice to defendant Nos.4 and 5 who are Department of Telecommunications and Ministry of Electronics and Information Technology.

2. Considering the urgency involved, application is disposed of granting leave to the plaintiff exempting from issuing notice under Section 80 CPC.

CS(COMM) 147/2020 &

I.A. 4076/2020 (under Order XXXIX Rule 1 and 2 CPC)

1. Plaint be registered as a suit.

2. Issue summons in the suit and notice in the application.

3. Leaned counsel for the defendant No.3 enters appearance and accepts summons in the suit and notice in the application.

4. Summons in the suit and notice in the application be now issued to defendant Nos.1, 2, 4 and 5 on the plaintiff taking steps through email, SMS, Whatsapp returnable before Court on 26th June, 2020.

5. Plaintiff is a society registered under the Societies Registration Act set up in 1996 by several industry bodies and statutory bodies like Bureau of Indian Standards, Federation of Indian Chambers of Commerce and Industry (FICCI), Associated Chambers of Commerce and Industry of India (ASSOCHAM), Confederation of Indian Industry (CII). Plaintiff holds a license from the global body namely GS1 which was set up by various countries coming together to maintain global standards as also database of the barcodes issued in compliance of the standard set up by GS1, the global body. The plaintiff company, the only licensed body in India, is named GS1

India and has been allocated the code '890' which is used for further allocation along with ten other digits to various manufacturers, suppliers who want their products to be certified with a barcode so as to ascertain the country of origin as also the manufacturing, supplying units of the product. Once the plaintiff allocates the bar code, the same is entered into the database of the global page of GS1 thereby giving it a uniqueness and also ensuring uniformity in the standards. The plaintiff also has a certificate of registration for trade mark with a pictorial design and '890' therein in class-35 for the business of certification.

6. Claim of the plaintiff in the suit is that the defendant No.1 is operating the websites www.indiabarcodesship.com and <https://india-barcode-store.com/> through which it allocates barcode numbers starting with '890'. These numbers which are being allocated by defendant No.1 do not originate from the Plaintiff; are not compliant with GS1 standards; are not unique; and cannot be verified against the GS1 global database. Since the plaintiff is licensed to allocate barcodes starting with '890' and also holds a registered certification trademark in this regard, plaintiff claims that the defendant No. 1's activities amount to infringement of the plaintiff's trademark as also violate the common law rights of the plaintiff thereby causing deception to the customers and public at large.

7. Due to the misrepresentation of the defendant No.1, innocent customers are made to believe that the barcodes assigned by the defendant No.1 originate from the plaintiff and are compliant with GS1 standards. Plaintiff has placed on record documents to show that the defendant No.1 allocated barcode to a company called Simbologies Bholanath Khadi Gramodhyod having 13 digits however, when the said customer checked on

the global data base he could not find that the said barcode existed and thus there was no legal sanctity of the barcode sold by the defendant No.1 to the said customer.

8. Plaintiff has placed on record complaints by the other customers as well who have been cheated by issuing fake and illegal bar codes starting with number '890' to show that they have been validly issued by the plaintiff.

9. Considering the material placed on record, the plaintiff has made out a prima facie case in its favour and in case no ad-interim injunction is granted not only the plaintiff but the other customers would also suffer irreparable loss. Balance of convenience also lies in favour of the plaintiff and against the defendant No.1.

10. Consequently, an ad-interim injunction is granted in favour of the plaintiff and against the defendant No.1 in terms of prayers (A) and (B) as prayed for in para-25 of the application.

11. Defendant Nos.2 and 3 are also directed to block/suspend the domain name and website hosted as www.indiabarcodeshop.com and <https://india-barcodes-store.com/> as prayed for in prayer (C) of para-25 of the application. At this stage, learned counsel for the defendant No.3 states that he has no instructions whether defendant No.3 is hosting the two websites and in case the defendant No.3 is hosting the said websites they will be taken down/suspended including the domain names will be suspended.

12. Defendant Nos.4 and 5 are further directed to issue directions to internet service providers to temporarily block access to the websites www.indiabarcodeshop.com and <https://india-barcodes-store.com/>.

13. Compliance under Order XXXIX Rule 3 CPC be made within one week.

14. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

MAY 29, 2020

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