



Court pegs increasing incidence of IPR infringement via online marketing platforms

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TITAN COMPANY LIMITED vs. ROHIT KUMAR JAIN AND ORS CS (COMM) 380/2019 before the Delhi High Court A suit was filed against Rohit Kumar Jain (Defendant No. 1), Dharam Pal (Defendant No. 2) and Snapdeal Pvt. Ltd (Defendant No. 3) for permanent injunction restraining counterfeiting of the Plaintiff's products under the marks "TITAN" and "FASTRACK". On 29.07.2019, the Hon'ble High Court of Delhi restrained Defendants No. 1 and 2 from selling, marketing or otherwise dealing in goods bearing the marks "TITAN" and "FASTTRACK" of the Plaintiff and the Defendant No. 3, till further order, was directed to, within 24 hours of service of the order, remove the URLs of which complaint has been lodged by the Plaintiff. Further, to remove URLs immediately upon receipt of complaint from the Plaintiff of other / further URLs selling counterfeit goods of the plaintiff. Read more of the ad-interim order at

<https://www.anandandanand.com/titan-co-ltd-vs-rohit-kumar-jain-ors-cs-comm-no-3802019-pending-honble-high-court-delhi/> On 23.08.2019, Hon'ble Delhi High Court passed a decree in favour of

the Plaintiff and against the Defendants No. 1 and 2 permanently injunctioning them from using the marks "TITAN" and "FASTRACK". The court further directed the Defendants No. 1 and 2 to pay Rs.1,50,000/- each to the Plaintiff as costs. The counsel for Defendant No. 3 contended that Defendant No. 3, on receipt of communications from the Plaintiff had removed more than 500 listings/URLs. The Plaintiff submitted that on the portal of the Defendant No. 3, the goods under the impugned marks continue to be sold and further contended that the Defendant No.3, on its portal is showing the Plaintiff's products as the Defendant No. 3's range of products thereby disentitling the Defendant No. 3 from claiming the defence under Section 79 of the Information Technology Act, 2000. The Hon'ble Court in paragraph no. 11 of the order dated 23.08.2019 noted as under: "11. *This Court is now inundated with such suits against online marketing platforms and it appears that infringement of intellectual property rights, as of today, is happening more via such online marketing platforms than physically, with on most occasions, the identity of the seller being not traceable and the said online marketing platforms claiming the defence of Section 79 supra. In spite of repeated orders, the said online marketing platforms have not come up with a solution to the problem. Certainly online marketing platforms were not intended to foster such infringement and it cannot be disputed that infringement of intellectual property rights is taking place in the goods sold on the said online marketing platforms. It is upto the online marketing platforms to come up with a solution therefor or face claims for damages.*" The Hon'ble Court further noted in paragraphs 12 and 13 in the order dated 23.08.2019 as under: "12. *The Defendant No.3 to, besides filing its written statement within the prescribed time, also furnish an affidavit with particulars of all the goods sold on its portal under the marks TITAN and FASTTRACK, the sale price thereof collected and the amount appropriated by the defendant no.3 to itself and the amount disbursed to the so-called sellers of the*



said goods. The said particulars be given with effect from 1st January, 2018.” “13. The concerned technical official of the Defendant No. 3, in a position to answer the queries, to also remain present in Court on the next date of hearing.” Whilst making the above directions, the Hon’ble Court re-notified the matter for 20th February 2020. Team Anand and Anand: Pravin Anand, Achuthan Sreekumar and Akshay Agarwal.

