

Whitehat Education Technology Pvt. Ltd vs Aniruddha Malpani on 24 November, 2020

Author: Mukta Gupta

Bench: Mukta Gupta

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(COMM) 518/2020
I.A.10952/2020 (under Order XXXIX Rule 1 and 2 CPC)
I.A.10953/2020 (under Order XI Rule 1 (4) Commercial Courts Act)
I.A.10954/2020 (under Order XI Rule 1 (4) Commercial Courts Act)
I.A.10955/2020 (Exemption)

WHITEHAT EDUCATION TECHNOLOGY PVT. LTD..... Plaintiff
Represented by: Mr.Neeraj Kishan Kaul, Sr. Advocate
with Mr.Rajshekhar Rao,
Ms.Shwetashree Majumder, Ms.Diva
Arora, Ms.Eva Bishwal,
Ms.Vasundhara Majithia, Mr.Raghav
Kacker, Mr.Akash Lamba, Mr.Ram
Madan, Advocates

versus

ANIRUDDHA MALPANI Defendant
Represented by: Mr.Yadunath Bhargavan, Advocate
with Ms.Soujanya Ketharaj, Advocate

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA
ORDER

% 24.11.2020 The hearing has been conducted through video conferencing. I.A. 10955/2020 (exemption)

1. Exemption allowed subject to just exceptions. Original documents, if any, be filed within two weeks of the resumption of the normal Court functioning.

2. Application is disposed of.

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

2. Application is disposed of.

I.A. 10954/2020 (under Order XI Rule 1(4) Commercial Courts Act)

1. By this application, the plaintiff seeks to place on record the video evidence in the form of CD/Pen Drive.
2. Evidence/material through Pen Drive/Compact Disc be filed within two weeks with the Registry.
3. Application is disposed of.

CS(COMM) 518/2020 I.A. 10952/2020 (under Order XXXIX Rule 1 and 2 CPC)

1. Complaint be registered as a suit.
2. Issue summons in the suit and notice in the application to the defendant.
3. Ms. Soujanya Ketharaj, learned counsel for the defendant accepts summons in the suit and notice in the application.
4. Written statement to the suit and reply affidavit to the application along with the affidavits of admission-denial will be filed within thirty days. Replication and rejoinder affidavit along with the affidavit of admission- denial within three weeks thereafter.
5. List the suit and application before Court on 14th January, 2021.
6. The present suit has been filed by the plaintiff Whitehat Education Technology Private Limited (in short, 'Whitehat') impleading Aniruddha Malpani as the defendant, inter alia, seeking permanent injunction restraining the defendant from defamation, infringement of trademark, dilution and tarnishing of trademarks, disparagement, damages, unfair competition etc. CS(COMM) 518/2020 Page GUPTA
7. The plaintiff claims to be a start-up company teaching children the Coding, helping them build Games, Animations and Apps. According to the plaintiff, it has developed a Proprietary Coding Curriculum focused on product creation and imparts lessons through live, interactive online classes. The Courses offered to the students are at five levels, that is, Beginners, Intermediate, Advanced, Professional and Applied-Technology. According to the plaintiff, free classes are given to the students and on satisfaction, the students can then enrol themselves where there is no time-limit for the classes and even after availing few classes, if the students want to opt out, the balance fee is refunded on the same day.
8. Even the teachers (all females) recruited by the plaintiff are vetted by a rigorous 4-step selection process to intake only top 1% of applicants and are assessed on their ability to deliver classes, to manage students of the corresponding age group and to teach the contents. Assessment of the teachers continues through in-house technology system and only 1% of the candidates who apply to become teachers on the platform are selected and employed to teach students. Besides the rigorous

selection process, training is also imparted to the teachers in the form of pre-joining training coupled with a continuous process of learning by in-house Learning Management System besides the performance management.

9. According to the plaintiff, as in November 2020, the plaintiff has over 9800 employees, out of which, 5300 are salespersons besides 11000 teachers. The plaintiff owns and operates a website under its domain name www.whitehatjr.com registered on 23rd May, 2018 and claims a strong presence on the social media. The plaintiff has registered trademarks 'WHITE HAT JR' both as a wordmark and device marks.

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10. According to the plaintiff, the defendant is an IVF specialist and founder of the angel investment firm Malpani Ventures, has invested in several start-ups dealing in educational technology such as 'Bibox', which also appears to provide services to students aged 8-14 years on innovative subjects like animation, website development and app development; 'Concept Owl', which imparts online training in Mathematics and Science to students of 8th to 12th Standards and JEE/NEET aspirants on the same business model as Byju as also 'Multibhashi', a language learning platform for children and adults. According to the plaintiff, in late September, 2020, the plaintiff came across the defendant's posts on Twitter referring to the registered trademarks of the plaintiff 'WHITE HAT JR' and issuing statements/posts amounting to defamation/disparagement/trademarks' infringements, dilution and tarnishment of its trademarks. Some of the tweets of the defendant are as under:-

(i) (Tweet dated 7th October, 2020 at Page 35 of the plaint) CS(COMM) 518/2020
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(ii) (Tweet dated 8th October, 2020 at Page 36 of the plaint)

(iii) (Tweet dated 19th October, 2020 at Page 39 of the plaint)

(iv) (Tweet dated 21st October, 2020 at Page 41 of the plaint) CS(COMM) 518/2020
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(v) (Tweet dated 25th October, 2020 at Page 54 of the plaint)

(vi) (Tweet dated 12th October 2020 at Page 56 of the plaint)

(vii) (Tweet dated 8th October 2020 at Page 62 of the plaint)

11. An additional affidavit has been filed by the Mr.Karan Bajaj, CEO of the plaintiff showing the posts put up by the defendant yesterday night, which are as under:

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(i)

(Tweets at para 9, pdf page 6 of the additional affidavit filed by Mr.Karan Bajaj)

(ii) (Tweet at para 9, pdf page 8 of the additional affidavit filed by Mr.Karan Bajaj) CS(COMM) 518/2020 Page GUPTA

(iii) (Tweet at para 9, pdf page 8 of the additional affidavit filed by Mr.Karan Bajaj)

(iv) (Tweet at para 9, pdf page 9 of the additional affidavit filed by Mr.Karan Bajaj)

(v) (Tweet at para 9, pdf page 10 of the additional affidavit filed by Mr.Karan Bajaj) CS(COMM) 518/2020 Page GUPTA

12. According to learned counsel for the defendant the present suit is not maintainable before this Court for want of territorial jurisdiction, therefore the defendant would be filing an application under Order VII Rule 11/10 CPC. It is further stated that the defendant has not caused any defamation, derogation or its statements being deprecatory, for which the defendant needs to file his affidavit to present the correct facts.

13. As some of the facts as alleged in the plaint/application are disputed by learned counsel for the defendant and the same are required to be adjudicated only after an affidavit is filed by the defendant, at this stage, a limited ad-interim injunction is required to be passed on the prima facie case shown by the plaintiff, resulting in an irreparable loss to the plaintiff, as also keeping in view the balance of convenience lying in favour of the plaintiff. Accordingly, an ad-interim injunction is granted in favour of the plaintiff and against the defendant, restraining the defendant from posting, publishing, sharing any content which is defamatory, derogatory or deprecatory in nature to the plaintiff, its management or the employees. Further, the defendant is directed to take down the following tweets within 48 hours of the passing of this order:-

(i) Tweet dated 7th October, 2020 mentioned in para 30(A)(ii) at Page 35 of the plaint

(ii) Tweet dated 8th October, 2020 mentioned in para 30(A)(iii) at Page 36 of the plaint

(iii) Tweet dated 19th October, 2020 mentioned in para 30(A)(iii) at Page 39 of the plaint

(iv) Tweet dated 21st October, 2020 mentioned in para 30(A)(viii) at Page 41 of the
plaint

(v) Tweet dated 25th October, 2020 mentioned in para 30(A)(xviii) at Page 54 of the
plaint

(vi) Tweet dated 12th October 2020 mentioned in para CS(COMM) 518/2020 Page
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(vii) Tweet dated 8th October 2020 mentioned in para 30(C)(i) at Page 62 of the
plaint

(viii) Tweet mentioned in para 9, pdf page 6 of the additional affidavit filed by
Mr.Karan Bajaj

(ix) Tweet mentioned in para 9, pdf page 8 of the additional affidavit filed by
Mr.Karan Bajaj

(x) Tweet mentioned in para 9, pdf page 8 of the additional affidavit filed by
Mr.Karan Bajaj

(xi) Tweet mentioned in para 9, pdf page 9 of the additional affidavit filed by
Mr.Karan Bajaj

(xii) Tweet mentioned in para 9, pdf page 10 of the additional affidavit filed by
Mr.Karan Bajaj

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

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Signing Date:25.11.2020
12:16:19