

Peak Xv Partners Advisors India Llp & ... vs John Doe & Ors. on 26 March, 2025

Author: Amit Bansal

Bench: Amit Bansal

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision

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CS(COMM) 71/2024 with I.A. 1822/2024
PEAK XV PARTNERS ADVISORS
INDIA LLP & ANR.

Through: Mr. Akshay Maloo, Mr. Ya
Garg and Ms. Astha Sehga
Advocates.

versus

JOHN DOE & ORS.

Through: Mr. Vedansh Anand, Advoc

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present suit has been filed seeking relief of permanent injunction restraining the defendants from passing off the trademark, along with other ancillary reliefs.

CASE SETUP IN THE PLAINT

2. Plaintiff no. 1, Peak XV Partners Advisors India LLP, formerly Sequoia Capital India LLP, is a venture capital and investment advisory firm that advises foreign funds investing in India and Southeast Asia under the brand 'PEAK XV PARTNERS'.

3. Plaintiff no. 2, Peak XV Partners Operations LLC, formerly Sequoia Capital India Operations II LLC, is a Mauritius-based company regulated by the Mauritius Financial Services Commission as an 'Investment Advisor (Restricted)'.

4. The plaintiffs provide investment advisory services to funds supporting startups across various sectors, including artificial intelligence, machine learning fintech, health-tech, climate-tech etc. across India and SouthEast Asia.

5. The plaintiff no.1 started its operations in India in 2006 as 'Sequoia Capital India', as an authorized user of 'Sequoia Capital'. In June 2023, Sequoia Capital & SEA was rebranded to PEAK XV PARTNERS.

6. It is stated that the brand name 'PEAK XV' is inspired by the original moniker given to Mount Everest in the 1850s by the British Survey before it was officially renamed. For the plaintiffs, the name 'PEAK XV' symbolizes the relentless pursuit of excellence by its founders despite challenges.

7. Since its rebranding to 'PEAK XV PARTNERS' in June 2023, the Plaintiffs have invested substantial efforts and resources in promoting and establishing the brand as a distinctive mark associated with its longstanding reputation in India. These efforts have been widely covered by third-party media platforms, which are detailed in paragraph 16 of the plaint.

8. The plaintiff no.2 has applied for trade mark registration for its word and device marks 'PEAK XV' and the same is currently pending consideration before the Trade Marks Registry. The details of the trademark application are given in paragraph 19 of the plaint.

9. The plaintiffs operate the website www.peakxv.com, registered by the plaintiff no.2 on June 5, 2023. The website prominently displays the trademarks, 'PEAK XV PARTNERS', and provides information about its team, investment programs, and portfolio companies.

10. Plaintiff no.1 also maintains active social media accounts on platforms like Twitter (now X) and Instagram, where the 'PEAK XV PARTNERS' trademarks are consistently featured.

11. It is stated that the plaintiff no. 1 has played a pivotal role in India's venture capital landscape, making significant investments in companies such as Groww, Meesho, Razorpay, Oyo Rooms, Zomato, FreeCharge, Just Dial, Equitas Holdings, Citrus Payment Solutions, and Urban Ladder, among others. Over the years, the plaintiff no.1 has advised thirteen (13) funds that have invested in over 400 startups, with more than fifty (50) portfolio companies valued at \$1 billion. The firm has also facilitated nineteen (19) IPOs and M&A deals, generating \$4.5 billion in realized exits.

12. On June 6, 2023, as part of a global restructuring, Sequoia Capital Operations, LLC and plaintiff no.2 announced the division of Sequoia Capital into three independent entities focusing on different regions. Consequently, plaintiff no.1 and plaintiff no.2 transitioned into autonomous entities 'PEAK XV PARTNERS'. It is averred that the firm's senior management, well-regarded in the industry, continues to drive the plaintiffs' growth, with its activities including fundraising, investments, and industry initiatives.

13. Defendant no. 1 [John Doe/ the Impersonators] is operating a fraudulent trading and investment scheme through the website <https://pakxv.ioyppp.com/> and the mobile application 'PAK XV', misrepresenting itself as affiliated with the plaintiffs.

14. Defendant no.2 is the domain name registrar of the domain hosting the fraudulent website.

15. Defendant no.3 (erstwhile defendant no.9) [Bharti Airtel] is impleaded for suspension of the mobile number +91 8271422399, which is being used by the Impersonators to deceive the public.

16. The erstwhile defendants Meta Inc. (defendant no. 3), Telegram FZ- LLC (defendant no.4), the Ministry of Electronics and Information Technology (defendant no.5), the Department of Telecommunications (defendant no. 6), the Impersonators' bank (defendant no.7), Google LLC (defendant no.8) were impleaded to prevent the fraudulent activities of the impersonators. Subsequent to orders passed by this court, these defendants have been deleted after complying with the court orders.

17. In December 2023, plaintiff no.1 discovered the activities carried out by the defendant no.1 through its website and the mobile application. The plaintiffs found that defendant no.1's branding, including the domain name, colour scheme, and trademarks Pak XV' were deceptively similar to 'PEAK XV PARTNERS'. The platform falsely claimed to offer investment opportunities such as IPOs, Venture Capital Services ('VCS'), and Value-averaging Investment Plans ('VIPs'). Further, it also unauthorizedly reproduced a promotional video from the plaintiffs' website, copied the 'About Us' section, and offered misleading investment schemes such as 'Pakxv-VCS: 102', promising unrealistic returns.

18. The defendant no.1 also provided WhatsApp and Telegram contact options that redirected users to groups named 'Peak XV 1026' and 'Peak XV Group', where the impersonators falsely claimed to be Mr. Shailendra Singh and Mr. Rajan Anandan, both Managing Directors at plaintiff no.1 company. These impersonators actively engaged with the public and potential investors, soliciting investments under false pretences while disseminating misleading information to create an illusion of legitimacy. Since the actual identity of defendant no.1 was unknown, defendant no.1 was arrayed as John Doe.

19. On 8th December, 2023, plaintiff no.1 issued legal notices, to WhatsApp and Telegram, requesting the takedown of the groups 'Peak XV 1026' and 'Peak XV' and the removal of the associated phone numbers and usernames. On 30th December, 2023, Telegram confirmed the removal of the 'Peak XV' group. On 9th January 2024, WhatsApp responded, stating that it had reviewed the complaint and taken appropriate action in accordance with its policies.

PROCEEDINGS IN THE SUIT

20. The suit came before the court for the first time on 24th January 2024, and the court granted an ex-parte ad interim injunction restraining defendant no.1 from using the trade names/ marks 'PEAK XV PARTNERS'. Further, this court directed Meta Platforms Inc., Telegram FZ-LLC, Google LLC, and Bharti Airtel Ltd. to take down, remove, and block access to the accounts, URLs, and mobile numbers carrying out the aforesaid activities. The court also directed IndusInd Bank Limited, to disable the UPI IDs used by defendant no.1 for carrying out the aforesaid websites.

21. On 12th March 2024, the predecessor bench of this court allowed the application of the plaintiff for impleadment of WhatsApp LLC as defendant no.10 in the present suit. Further court directed

the WhatsApp LLC to take down, remove, and block access to the accounts, and mobile numbers carrying out the aforesaid activities.

22. On 18th March 2025, this court noted that the relief qua defendants no.3, 4, 5, 6, 7, 8, and 10, stands satisfied and the court deleted the aforesaid defendants from the array of parties. Further, it was noted that the suit survives qua only defendants no.1, 2 and 9. Since none had entered an appearance on behalf of defendants no.1 and 2, on the same date, the said defendants were proceeded against ex-parte. It is also noted that despite the service of erstwhile defendant no.9, neither the defendant no.9 has complied with the orders passed by this court nor has entered an appearance. ANALYSIS AND FINDINGS

23. I have heard the submissions of the plaintiff and also perused the material on record.

24. The plaint has been duly verified and is also supported by the affidavit of the plaintiff. In view of the fact that no written statement has been filed on behalf of the defendants, all the averments made in the plaint have to be taken to be admitted. Further, since no affidavit of admission/denial has been filed on behalf of the defendants in respect of the documents filed with the plaint, in terms of Rule 3 of the Delhi High Court (Original Side) Rules 2018, the same are deemed to have been admitted. Therefore, in my opinion, this suit does not merit trial and the suit is capable of being decreed in terms of Order VIII Rule 10 of CPC.

25. From the averments made in the plaint and the evidence on record, the plaintiffs have been able to prove that they have proprietary rights over the trademark 'PEAK XV PARTNERS' and other formative marks.

26. The plaintiff has placed on record images of defendant no.1's impugned trademarks/packaging to show that defendant no.1 is indulging in passing off of the plaintiff's mark, 'PEAK XV PARTNERS' and other formative marks. The similarities between the plaintiff's marks/website/ mobile applications and the defendant no.1's impugned marks/website/ mobile applications are set out below:

PLAINTIFFS' WEBSITE

DEFENDANT NO.1'S
WEBSITE/ MOBILE A

By: VIVEK MISHRA
Signing Date: 01.04.2025
16:44:13

27. The plaintiff's name and marks have been used by defendant no.1 with the clear intent to defraud and deceive the public. It is apparent that defendant no.1 is attempting to defraud the public by falsely claiming to offer investment advice through WhatsApp/Telegram Groups, website and mobile which they claim are associated with the plaintiff. The unauthorized actions of defendant no.1, including the creation and operation of fraudulent WhatsApp/Telegram groups, websites and mobile apps, have given rise to substantial confusion, leading individuals to falsely believe that the impugned groups and website are authorized, associated, and affiliated with the plaintiff.

28. Based on the discussion above, a case of passing off is made out. The defendant no.1 has taken unfair advantage of the reputation and goodwill of the plaintiffs' marks and has also deceived the unwary consumers of their association with the plaintiff by dishonestly adopting the plaintiff's mark without any plausible explanation.

29. At this stage, it may be relevant to note that defendant no.1, the contesting defendant, is an unknown entity who is passing off the plaintiff's mark and logo. Since, defendant no.1 has failed to take any requisite steps to contest the present suit, despite having suffered an ad-interim injunction order, it is evident that it has no defence to put forth on merits.

30. Accordingly, the plaintiff is entitled to restrain the aforesaid defendant from using the plaintiff's name and marks without authorization from the plaintiff.

RELIEF

31. In view of the foregoing analysis, a decree of permanent injunction is passed in favour of the plaintiff and against defendant no.1 in terms of prayer clause 52(a) of the plaint.

32. Further, in terms of relief claimed in prayer clause 52 (h) against defendant no.3 (erstwhile defendant no.9) a decree is passed in favour of the plaintiff and against defendant no.3 directing it to suspend the mobile number +91 8271422399 used by defendant no.1 to deceive the members of the general public and also provide KYC details of the registrant.

33. Counsel for the plaintiff does not press for the remaining reliefs claimed in the plaint.

34. Let the decree sheet be drawn up.

35. All pending applications stand disposed of.

AMIT BANSAL, J MARCH 26, 2025 kd