

Domain Name Law and Practice

17 March 2005	India	Part IV: Court Litigation
Type of update: Case law		
<p>In a recent case the IN Registry was directed to freeze the domain name “barbie.in”, which was registered by some cyber squatters, and not to permit its transfer or sale to any third party. They were also directed to disclose to the plaintiff the identity and address of the person who had registered the domain name. The relevant order is reproduced below:</p> <p>“IN THE HIGH COURT OF DELHI AT NEW DELHI (Ordinary Original Civil Jurisdiction)</p> <p>Civil Suit (O.S.) No. 254 of 2005</p> <p>Mattel, Inc. (Plaintiff)</p> <p>Versus</p> <p>Direct Information Private Limited & Anr. (Defendants)</p> <p>ORDER</p> <p>25.02.2005</p> <p>Present: Mr. Pravin Anand with Ms. Jyotsna Balakrishnan for the plaintiff</p> <p>IA No. 1514/2005</p> <p>Exemption granted subject to just exceptions. The application stands disposed of.</p> <p>CS (OS) No. 254/2005 Let the plaint be registered as a suit. Issue summons to the Defendant No 1 only by Registered A.D. Post as well as through approved courier for 17th March, 2005.</p> <p>No summons be issued to Defendant No. 2 inasmuch as Defendant No.2 is a non-existent person and has been impleaded on the principle of John Doe only.</p> <p>IA No. 1513/2005</p> <p>Notice for 17th March, 2005. A perusal of the pleadings, averments made in the application and the documents placed on record shows that the plaintiff is the proprietor of the registered trade mark “BARBIE” and is producing and selling various toys and dolls under the trade mark “BARBIE” which is known worldwide.</p> <p>The Defendant No 1, is the Accredited Registrar, through whom someone has registered a domain name “www.barbie.in” which is in violation of the plaintiff’s trade mark and is also an act of passing off products under</p>		

the trade mark of the plaintiff. Defendant No 1 has not so far disclosed to the plaintiff the identity of the person who has got the said domain name registered.

In case no ex parte ad interim injunction is granted, the plaintiff may suffer irreparable loss/injury inasmuch as the person registering the aforesaid domain name with defendant No 1 may manufacture, sell and advertise its products under the plaintiff's trade mark "BARBIE". It would not only harm the plaintiff monetarily but may also cause irreparable loss/damage to its reputation and goodwill. Besides, the unsuspecting consumers also may be misled in purchasing the products under the trade mark "BARBIE" which are not manufactured or produced by the plaintiff but by somebody else who is indulging in piracy.

Accordingly, till the next date of hearing, the Defendant No 1 is directed to freeze the domain name "www.barbie.in" and not to permit its transfer or sale to any third party. The Defendant No. 1 is also directed to disclose to the plaintiff immediately the identity and address of the person who has got registered the aforesaid domain name with Defendant No. 1

Order XXXIX Rule 3, CPC be complied within three days.

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