

A trade mark proprietor cannot assume that a platform is under a continuing court-mandated obligation to proactively police all visible uses of its marks unless the operative part of the order expressly imposes such an obligation

The **Delhi High Court** in the case of **DRS Logistics vs Google India Pvt Ltd [CS(COMM) 1/2017]** dated **June 15, 2026**, has held that a trade mark proprietor cannot assume that a platform is under a continuing court-mandated obligation to proactively police all visible uses of its marks unless the operative part of the order expressly imposes such an obligation. The Court has drawn a clear distinction between: (i) judicial directions dealing with the use of trade marks as keywords in online advertising; and (ii) platform-policy enforcement concerning use of trade marks in visible fields such as Ad-Text, Ad-Title and URL.

The Court observed that the principal question was whether the earlier directions were confined to use of the subject marks as keywords, or whether they also extended to use of the subject marks in Ad-Text, Ad-Title or URL, and further whether defendant nos. 1 and 3 were under a proactive obligation to ensure that such use did not occur without any complaint from the plaintiffs. The Court held that the operative portions of the earlier judgments required defendant nos. 1 and 3 to investigate complaints made by the plaintiffs alleging use of the subject marks and their variations as keywords, to review the overall effect of the advertisement, and to remove or block such advertisements if infringement or passing off was found. It noted that, although the plaintiffs had sought broader reliefs, the directions ultimately granted were limited to complaints regarding use of the subject marks as keywords.

The Court further observed that the plaintiffs had, in the earlier proceedings, confined their submissions to the issue whether providing the proprietor's trade mark as a keyword to a third party would amount to infringement, after the statement recorded on behalf of defendant nos. 1 and 3 that third parties were not permitted to put / publish / refer to the trade mark in Ad-Text / Ad-Title as per policy.

The Court nevertheless observed that defendant nos. 1 and 3 remained bound by the statement recorded in the judgment dated 30.10.2021 that the subject marks would not be permitted to be used in Ad-Text, Ad-Title or URL in terms of the policy, but that this did not translate into a judicial direction imposing a proactive monitoring obligation. Rather, grievances regarding such use were to be governed by the defendants' policy, under which, upon receipt of a complaint, the complaint would be examined and appropriate action taken.

The Court also observed that contempt jurisdiction can be invoked only in relation to explicit or plainly self-evident directions, and where two interpretations are possible and the conduct is not wilful, contempt is not maintainable. Since the advertisements / URLs complained of had already been taken down pursuant to the plaintiffs' notice and subsequent Court orders, and since the operative part of the judgments did not extend to proactive policing of Ad-Text, Ad-Title or URL, no wilful disobedience was made out.

The Court stated that the operative directions in the judgments dated Oct 30, 2021 and Aug 10, 2023 were confined to requiring defendant nos. 1 and 3 to investigate complaints made by the plaintiffs regarding use of the subject marks as keywords, to review the overall effect of the advertisement, and to restrain / remove / block advertisements if infringement or passing off was found; those judgments did not impose a proactive obligation on defendant nos. 1 and 3 to monitor and prevent use of the subject marks in Ad-Text, Ad-Title or URL of third-party advertisements without any complaint from the plaintiffs.

The Court further held that, while defendant nos. 1 and 3 remained bound by their recorded statement that use of the subject marks in Ad-Text, Ad-Title or URL would not be permitted in terms of their policy, any grievance in that regard was to be addressed under the policy framework upon notice by the plaintiffs, and not through contempt on the footing that the earlier judgments had expressly directed proactive enforcement. Therefore, no wilful disobedience of the earlier judgments was established and the contempt application was dismissed.