

COMPETITION COMMISSION OF PAKISTAN

ENQUIRY REPORT

(Under the provisions of Section 37(2) of the Competition Act, 2010)

**IN THE MATTER OF COMPLAINT FILED BY
M/S DAR E ARQAM SCHOOLS (PRIVATE) LTD/
DAR E ARQAM FOUNDATION**

BY

Noman Laiq & Marryum Pervaiz

Dated: 30-08-2018

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1. BACKGROUND

- 1.1. This report concludes the enquiry initiated by Competition Commission of Pakistan (the '**Commission**') under section 37(2) of the Competition Act, 2010 (the '**Act**') pursuant to a formal complaint filed with the Commission by M/s Dar e Arqam Schools (Pvt) Limited/ Dar e Arqam Foundation (hereinafter referred to as the '**Complainant**') against the following entities namely:
- i. M/s Dar e Arqam, I-8 Campus, Islamabad (**Respondent No. 1**)
 - ii. Dar e Arqam School, I-10 Campus, Islamabad (**Respondent No. 2**)
 - iii. Dar e Arqam School, Khayaban e Sir Syed Campus, Rwp (**Respondent No. 3**)
 - iv. Dar e Arqam School, Hayat Abad Campus, Peshawar (**Respondent No. 4**)
 - v. Dar e Arqam School, University Town Campus, Peshawar (**Respondent No. 5**)
 - vi. New Dar e Arqam Schools Systems, Canal Road, Peshawar (**Respondent No. 6**)
 - vii. Tarbiyah Schools International, Peshawar (**Respondent No. 7**)
 - viii. International Model Tarbiyah (Private) Limited, Islamabad (**Respondent No. 8**)
 - ix. Rehman Book Centre, Rawalpindi (**Respondent No.9**)
 - x. Hamdani Stationer/ Hamdani Photocopy Centre, Islamabad (**Respondent No. 10**)

(hereinafter collectively referred to as the '**Respondents**').

- 1.2 The Complainant alleged that the Respondents are disseminating false and misleading information to consumers by fraudulently using its trademark, trade name and other distinctive advertising items etc., which is capable of harming the business interest of the Complainant, *prima facie*, in violation of Section 10 of the Act, i.e., Deceptive Marketing Practices.
- 1.3 Keeping in view the above, the Competent Authority has initiated an Enquiry in accordance with sub-Section (2) of Section 37 of the Act by appointing Ms. Marryum Pervaiz, Deputy Director (OFT) and Ms. Urooj Azeem, Management Executive (OFT), as the enquiry officers (hereinafter referred to as the '**Enquiry Committee**'). During the course of enquiry Ms. Urooj Azeem resigned and thus the Competent Authority appointed Mr. Noman Laiq, Director (OFT) as enquiry officer in her place. The undersigned Enquiry Committee was directed to conduct the enquiry on the issues raised in the complaint and to submit the enquiry report by giving their findings and recommendations, *inter alia*, on the following:

Whether the allegations leveled in the complaint constitute a, prima facie, violation of Section 10 of the Act?

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2. COMPLAINT

- 2.1. The Complainant is a private limited company, running a reputable business in Pakistan by providing high quality services in field of education and is incorporated under Companies Ordinance, 1984. The Complainant has also established a publication company with the name "USNA (Pvt.) Ltd." for the purposes of printing and publishing its academic and educational material books.
- 2.2. The Complainant is using "Dar e Arqam School" as a mark, trade mark, service mark and trade name, to distinguish its goods and services from those of others, since its establishment in 1991 vide Registration Certificate No.RP/62 dated 08.08.1991 before the Assistant Registrar, Joint Stock Companies, Lahore. (Copy of "Registration Certificate" is attached as Annexure-A.)
- 2.3. It was submitted that the Complainant got itself registered before the Government of Punjab Education Department vide Registration No.3/2. GIII (84)/ 48777, dated 18.10.1992. (Copy of certificates is attached as Annexure-B.)
- 2.4. It was claimed by the Complainant that its Business "Dar e Arqam School" is presently known as one of the best quality education service providers in Pakistan, for which the Complainant converted his partnership business into a private limited company named as "Dar e Arqam School (Private) Limited" in the year 08-09-2009 hence, it has a well-established and independent trade mark in the field of education. (Copy of "Registration Certificate" is attached as Annexure- C.)
- 2.5. It was submitted that the trade mark and trade name "Dar e Arqam School" is an innovative and unique name for education service provider which was adopted by the Complainant in the year 1991. It was further submitted that the adoption of the Complainant's trade mark and trade name without the consent, permission or license of the Complainant is a dishonest and an attempt to deceive or confuse the public into believing that such a company or business is related to the Complainant in one way or another.
- 2.6. It was submitted that the Complainant enjoys unparalleled reputation and goodwill in Pakistan as one of the leading education service providers under its trade mark and trade name. Any sort of imitation depicting the Complainant's trademark is perceived to be emanating from and / or associated with the Complainant only. It was further submitted that the Complainant's trademark is protectable by virtue of the provisions of Section 86 of the Trade Mark Ordinance, 2001.
- 2.7. The Complainant introduced dozens of publications, books, note books, registers, periodicals, generals, magazines, papers, web-pages, soft-wares after its establishment in 1991. The Complainant also conducted hundreds of training sessions for individuals, companies, corporations, NGOs, trusts and various government bodies. It was submitted that the Complainant also conducted joint training workshops in collaboration with

National and International reputed organizations. (Copy of study reports, certificates issued by different national and international organizations, joint trainings certificates, pamphlets, joint venture agreements, periodicals, magazines, generals and newspapers are attached as Annexure-D.)

- 2.8. The services provided under the Complainant's trademark have acquired immense reputation and goodwill at national as well as international level which belongs to the Complainant only and the use of an identical or similar or deceptively similar trademark by another similar business would result in misrepresentation which would amount to infringement of the rights of the Complainant. This would also result in harming the Complainant's goodwill and cause damage to the Complainant's business.
- 2.9. It was submitted that in order to protect the Complainant's interest and right in the trademark, the Complainant applied for the registration of trademark before the Registrar of trademarks, trademark registry, Karachi and the registrar of trademarks issued Trademark Registration Certificate No. 200114 Class 41 dated 23.08.2004 to the Complainant. (Copy of trademark registration certificate is attached as Annexure-E.)
- 2.10. It was further submitted that the Complainant also applied for registration of copyright in copyright registration office, Intellectual Property Organization of Pakistan, Karachi whereupon a Copyright Registration Certificate No. 24079-Corp dated: 30-09-2011 was issued to the Complainant. (Copy of Copyrights Registration Certificate is attached as Annexure-F.)
- 2.11. It was submitted that the Complainant carried out various tasks for the promotion of business and widely advertised its trademark through advertisements in magazines, newspapers and through its website to raise awareness for the trademark showing the origin and association with the Complainant. (Copies of newspapers advertisements are attached as Annexure-G.)
- 2.12. That in the year 2003, it came to the knowledge of the Complainant that some individuals were illegally and unlawfully using an imitated trade mark in clear infringement of Complainant's genuine trade mark in order to deceive the general public. The Complainant therefore, was constrained to file a Suit under Section 117 read with section 52 of Trade Marks Ordinance 2001 read with all the enabling provisions of Code of Civil Procedure 1908 against them in the Court of Learned District Judge, Lahore wherein the violators appeared and contested the suit which was ultimately decided in favor of the Complainant from the Lahore High Court, Lahore. (Copies of Court Decisions attached as Annexure-H.).
- 2.13. It was further submitted that the dispute between the Complainant and Respondents was also brought before the Registrar of Trade Marks, Karachi, which was also decided in favor of the Complainant.
- 2.14. That the Complainant executed the following franchise agreements with the representative of Respondent No. 1 and Respondent No. 2 in respect of different branches at different

locations:

- i. Franchise agreement dated: 01.04.2011 with the representative of the Respondent No. 1, namely Mr. Farooq Sadiq in respect of Dar-e-Arqam School, I-8 Branch, Islamabad which expired on 31-03-2016 and no extension was granted to him. The Franchise agreement was later executed in the name of Ms. Wasima Farooq on 07.09.2016. This agreement was later terminated on 06-05-2017.
- ii. Franchise agreement dated: 05.12.2010 in respect of Dar-e-Arqam School, University Town, Peshawar with Mr. Farooq Sadiq for a period of 5 years which also expired on 04.12.2015 and no extension was granted in his favor till date.
- iii. Franchise agreement for Hayatabad, Peshawar was also executed on 01-01-2015 which was later terminated on 06-05-2017
- iv. Franchise agreement dated: 25.08.2016 was executed with Waseema farooq in respect of Dar-e-Arqam School, I-10 Branch, Islamabad for a period of 5 years. The agreement was later terminated on 06-05-2017.
- v. Agreement dated: 01-09-2016 was executed with Ms. Waseema Farooq for .Khayaban-e-sir Syed, Rawalpindi branch. She was also allowed to convert Dar-e-Arqam School Khayaban-e-sir Syed, Rawalpindi from foundation to franchise system through an agreement dated: 01-12-2016. Both the agreements were later terminated on 06-05-2017.
(Copy of franchise agreements annexed as Annexure- I)

- 2.15. It was alleged by the Complainant that the Respondents with the assistance of each other started publishing and printing text books, note books, work books, registers and other printing material with exactly same name, style and get up as the Complainant's printed and published material without any written authorization/permission (the printing material contains all books/material from Class 1 to Class 5). It was further alleged that the Respondents are not only distributing /selling the same to the students studying in the 5 branches referred above but also to other branches. Additionally, The representatives/owners of Respondents No. 1 to 8 namely Mr. Farooq Sadiq and Ms. Waseema Farooq changed the syllabus and curriculum design in the above referred branches of Dar-e-Arqam under their supervision, which is a serious violation of franchise agreement.
- 2.16. It was alleged that the Complainant was constrained to initiate immediate legal action against the Respondents consequently, the franchises mentioned at "serial No. 2.14(i) and 2.14(iii) to 2.14(v)" were also terminated vide termination letters 06.05.2017 but the Respondents continued to use the copyright and trademark owned by the Complainant (Annexed as Annexure- J). It was further alleged that the Respondent No. 1 and 10 also continued to utilize, publish, print and sell the product's name, trade name, trade mark,

thereby, deceiving the general public for wrongful gain and wrongful loss. The Complainant further provided a list of school teacher names who work in the schools managed by the Respondents No. 1 to 8 and facilitate preparation and publication of printing material, hence, it was submitted that they are equally liable to deceive the general public.

- 2.17. The Complainant also introduced a Total Child Development Programme (TCDP) with the name "TARBIYAH", an activity base learning program in 2014. On 18th April 2014, it was notified via email to all network associates including Respondents No. 1 to 05 regarding invitation to join this "TARBIYAH" program. It is noteworthy here that from 18.04.2014 till now the Complainant conducted hundreds of training sessions for the students, parents and teachers with collaboration of M/S Ataleeq under the umbrella of 'TARBIYAH' for TCDP. (Copies of emails dated 19.04.2014 and 11.05.2014 along with periodicals, generals, magazines, papers, facebook pages etc is attached as Annexure- K)
- 2.18. It was submitted by the Complainant that due to the launch of "TARBIYAH" programme the general public became well aware of this project as one of the Complainant's projects. However, the Respondent No. 1 to 5 used this project's name fraudulently to mislead and confuse the general public and to take unfair advantage of the Complainant's goodwill.
- 2.19. The Complainant further alleged that the Respondents No. 1 to 8 used both the trademarks of its projects i.e; *Dar-e-Arqam School and Tarbiyah School International*, on various sign boards and printing material associating these trade names with it, throughout Pakistan, thereby, deceiving the general public. It was further alleged that the Respondent No.1 to 5 also established and registered a company with the Company Registration Office, SECP, with malafide intention to fake the real ownership of the Complainant's trade name.
- 2.20. It was further submitted that the Respondents caused huge financial loss as well as reputation loss to the Complainant by forging and fabricating printing material and infringing the copy rights and trade mark of the Complainant. (Forged books published/ printed by the Respondents are attached as Annexure-L).
- 2.21. The Complainant submitted that it requested the Respondents several times to stop using and infringing its trade mark but the Respondents showed no concern for which the Complainant was compelled to file an application for registration of FIR against the Respondents No.1 to 8. (Copy of application for the registration of FIR is attached as Annexure-M).
- 2.22. The Complainant alleged in the complaint that the use of imitated mark by the Respondents is deliberate and based upon malafide intention to misrepresent the Complainant, as no permission, consent or license has been granted by the Complainant to these Respondents for the use of Complainant's trade mark.
- 2.23. The Complainant further alleged that the Respondents are not only imitating the trade mark of the Complainant but also the goods and services offered by the Respondents is of

the similar description/ category as that of the Complainant's for which the chances of deception to the general public becomes inevitable.

- 2.24. The Complainant submitted that any person, firm or business entity referring to its goods or services under the Complainant's trade name, without prior permission or consent of the Complainant, is said to be committing acts leading to unfair competition as envisaged in the provisions of Section 67 of Trade Mark Ordinance 2001 as well as Section 10 of the Act.
- 2.25. It was alleged by the Complainant in the complaint that the unauthorized use of the Complainant's trade mark by the Respondents constitutes a violation of Section 10(2)(a) which is capable of harming the business interest of the Complainant. In addition, the Complainant alleged that the Respondents are distributing false and misleading information to the consumers, especially in education sector which also constitutes a violation of Section 10(2)(b) of the Act.

PRAYER

- 2.26. The Complainant humbly prayed that the Respondents may be directed to cease the use of the Complainant's established names "Dar-e-Arqam School", "International Model Tarbiyah (Private) Limited", "Tarbiyah Schools" and "New Dar-e-Arqam School System", immediately.
- 2.27. That the Respondents and others involved may also be directed to destroy all the material containing the name of Dar-e-Arqam or Tarbiyah in any form whatsoever and be asked to amend its promotional and marketing material accordingly.
- 2.28. The Respondent No. 8 may kindly be directed to amend its Articles and Memorandum of Association.
- 2.29. A penalty to the tune of Pakistani Rupees 2 Billion may kindly be imposed upon the Respondents, jointly and severally and be directed to pay the same to the Complainant immediately.
- 2.30. The Respondents may kindly be directed to file a compliance report with the Registrar to this Honorable Commission within thirty days from the date of issuance of the order passed by this Honorable Commission and restrain the Respondents from indulging in deceptive marketing practices in future.
- 2.31. Moreover, the Respondents may kindly be restrained from operating the business under the name of "Dar-e-Arqam School" and "Tarbiyah Schools International" or in any other similar form, alone or in conjunctive form with any other word, feature or device, in relation to any service provided in law, as may be colorable or slavish imitation or infringement of Complainant's genuine trade mark.
- 2.32. The Respondents may kindly be restrained perpetually from using the Complainant's

genuine trade mark or any colorful imitation thereof; passing off, advertising or otherwise enabling others to infringe or pass off, committing acts of unfair competition or to conduct any business or services using the Complainant's trade name and trade mark.

- 2.33. Directions may also be passed to the Respondents to destroy all boards, neon signs, hoardings, printing material such as labels/packing, brochure, rate list, letterheads etc bearing the imitated trade mark of the Complainant.
- 2.34. The Respondents may kindly be restrained from executing any franchise agreement or entering into any Memorandum of Understanding with any person in respect of the imitated trade mark of the Complainant.
- 2.35. Any other relief in favor of the Complainant which this honorable Commission deems just and proper may also be granted to the Complainant.

3. SUBMISSIONS BY THE RESPONDENTS:

REPLY RECEIVED FROM RESPONDENT NO. 1 TO RESPONDENT NO. 8:

- 3.1. The complaint, along with its annexures, was forwarded to the Respondents No. 1 to No. 8 via letter dated 23rd of October, 2017.
- 3.2. A joint reply was received from the legal counsel of the Respondent No. 1 to No. 8, namely Ahmad Saleem Khan Law Associates. It was submitted within the reply that the complaint filed by the Complainant was false and frivolous.
- 3.3. It was further submitted that the complaint is misleading and against the law and has been filed to harass the Respondent No. 1 to No. 8. That all the documents appended with the complaint are manipulated and concocted.
- 3.4. It was further submitted that the Respondent No. 1 to No. 8 are already behind bars due to the false and frivolous FIR lodged on the same set of false facts as in the given complaint.
- 3.5. The reply further stated that the Respondent No. 1 to No. 8 have already filed civil suits against the complaint in Islamabad and Peshawar and have been awarded with interim relief as well from the Hon'ble courts.
- 3.6. The reply was however not accompanied by copies of the referred interim reliefs from Islamabad and Peshawar courts or any other necessary documents to substantiate the submissions in the reply.

REPLY RECEIVED FROM RESPONDENT NO. 9:

- 3.7. The complaint, along with its annexures was forwarded to the Respondent No. 9 via letter dated: 5th of January, 2018, for comments.
- 3.8. The comments of the Respondent No. 9 were submitted by hand at the office of the Commission on 18th of January, 2018. The comments of the Respondent No. 9 are summarized in the following paragraphs.
- 3.9. The Respondent No. 9 is located in Awan Market, Khayaban-e-Sir Syed, Sector II, Rawalpindi. The Respondent No. 9 has been working with the director of the Dar-e-Arqam Schools I-10 campus and Khayaban-e-Sir Syed Campus (i.e., Respondent No. 2 and Respondent No. 3) since year 2015.
- 3.10. The Respondent No. 9 has been engaged in the provision of workbooks and Oxford Course Books for the Respondent No. 2 and No. 3. The Respondent No. 2 & No. 3 provide the books list and the invoice list to the Respondent No. 9 every year for sale of books. Therefore, according to the head office invoice list, the Respondent No. 2 & No. 3 accept cash from Respondent No. 9 in turn for provision of work books for sale at the Respondent No. 9's book center.
- 3.11. In the same manner, the books and invoice list of year 2017 was provided to the Respondent No. 9 for sale against cash payment of Rs. 380,000/-. However, on 30th of May, 2017, an FIA inspector visited the Respondent No. 9's premises and checked the complete range of books and workbooks of the Respondent No. 2 and No. 3. It was informed to the Respondent No. 9 that the books being sold by them were pirated.
- 3.12. The Respondent No. 9 explained the aforementioned process to the FIA inspector and the same was also validated later on by the Respondent No. 2 & No. 3 during the FIA's inquiry. After the validation, the name of the Respondent No. 9 was cleared by the FIA inspector as well as by the Presiding Officer, Intellectual Property Tribunal, Islamabad.
- 3.13. The Respondent No. 9 submitted that the books and course material were not provided by the head office of the Complainant, rather, its various franchises provided the course material for sale. Therefore, it is not the fault of the Respondent No. 9 that pirated books were supplied to it for sale without disclosing the same. The invoices and course lists of the Respondent No. 2 & No. 3 were annexed with the reply of the Respondent No. 9 for substantiation.
- 3.14. The Respondent No. 9 prayed that the complaint against it may be vacated and it may be cleared from the enquiry.



REPLY RECEIVED FROM RESPONDENT NO. 10:

- 3.15. The complaint, along with its annexures was forwarded to the Respondent No. 10 (Hamdani Stationers / Hamdani Photocopy Center) via letter dated 5th of January, 2018, for comments.
- 3.16. The comments of the Respondent No. 10 were submitted by hand at the office of the Commission on 18th of January, 2018. The comments of the Respondent No. 10 are summarized in the following paragraphs.
- 3.17. The Respondent No. 10 is located in the Mughal Market, Sector I-8/1 of Islamabad. The Respondent No. 10 had started working with the director of the Dar-e-Arqam School I-8/2 campus (i.e., Respondent No. 1) in February, 2017.
- 3.18. The Respondent No. 1 had provided the invoice and books list to the Respondent No. 10 saying that the same was provided by the Head Office and that the sooner the invoice will be paid the sooner the books will be provided to it. However, despite payment on time, the books were provided late and in parts instead of in lots, due to which the Respondent No. 10 had to bear financial loss.
- 3.19. However, on 27th or 28th of May, 2017, an FIA inspector visited the Respondent No. 10's premises and checked the complete range of books and workbooks of the Respondent No. 1. It was informed by him to the Respondent No. 10 that the books were pirated.
- 3.20. The Respondent No. 10 explained the aforementioned process to the FIA inspector and the same was also validated later on by the Respondent No 1 during the FIA's inquiry. After the validation, the name of the Respondent No. 10 was cleared by the FIA inspector as well as by the Presiding Officer, Intellectual Property Tribunal, Islamabad.
- 3.21. The Respondent No. 10 submitted that the books and course material are not provided by the head office of the Complainant, rather, its various franchises provide the course material for sale to bookshops. Therefore, it is not the fault of the Respondent No. 10 that pirated books were supplied to it for sale without disclosing the same. Furthermore, that the Respondent No. 10 still awaits the reimbursement of invoice amount left unjustified by the Respondent No. 1. The invoices and course lists of the Respondent No. 1 were annexed with the reply of the Respondent No. 10 for substantiation.
- 3.22. The Respondent No. 10 submitted that it is no more engaged in the sale of the books of Respondent No. 1, nor has any future intention to do so. Therefore, the Respondent No. 10 prayed that the complaint against it may be vacated and it may be cleared from the enquiry.

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4. ANALYSIS:

- 4.1. The mandate of this enquiry report is to determine whether, as per the allegations made by the Complainant, the act of the Respondents is in violation of Section 10 (1), read with Section 10 2 (d) of the Act i.e.

(d) fraudulent use of another's trademark, firm name, or product labelling or packaging;

This, if proven, would also lead towards violation of Section 10 (1), read with Section 10 2 (a) and (b) of the Act i.e.

(a) the distribution of false or misleading information that is capable of harming the business interests of another undertaking;

(b) the distribution of false or misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the price, character, method or place of production, properties, suitability for use, or quality of goods;

- 4.2. Trademark Ordinance, 2001, via Section 40, discusses in detail the conducts which may result in trademark (IP) infringement¹. Furthermore, Section 10 (2) (d) of the Act also prohibits fraudulent use of another's trademark, firm name, or product labelling or packaging.
- 4.3. In this reference, for the purpose of this enquiry, it is essential to understand in detail the meaning of the concept of 'trademark', 'service mark' and 'collective mark'.
- 4.4. According to Trademark Act, 1940, trademark has been defined as, "(1) 'trade mark' means a mark used or proposed to be used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark whether with or without any indication of the identity of that person";², where a mark is defined as, "(f) 'mark' includes a device, brand, heading, label, any combination thereof;"³. Therefore, a trademark is a distinguishable sign, design or expression which differentiates goods and services of the producer from that of its competitors.
- 4.5. Similarly, a service mark is a name given to trademarks registered to distinguish the services of an enterprise from that of others. According to Trademarks Ordinance 2001, service means, service of any description which is made available to users or potential user and includes the provision for services in connection with business of any industrial

¹ http://www.acif.org.pk/Files/TradeMark_Ordinance%202001.pdf

² http://www.acif.org.pk/Files/TradeMarkAct_1940.pdf

³ http://www.acif.org.pk/Files/TradeMarkAct_1940.pdf

or commercial nature, and without limitation, includes banking. Retail communication including telecommunication, education, law, financing, insurance, chit funds, real estate, transport, storage, material treatment, processing, supply of goods including electrical or other energy, boarding, lodging, entertainment, amusement, construction, repair, conveying of news or information and advertising.⁴

- 4.6. Moreover, According to section 82 (1) of the Trademark Ordinance, 2001 a collective mark shall be a mark distinguishing the goods or services of members of the association which is the proprietor of the mark from that of other undertakings.⁵
- 4.7. For ease of reference, the Complainant's registered "*Dar e Arqam*" trademark, service mark, logo, design and presentation symbolized in any form will be denoted as *collective marks* in this enquiry report.
- 4.8. In light of the conduct of the Respondents and the submissions made by the Complainant, it will be determined whether the act of the Respondents is in violation of Section 10 of the Act or not.

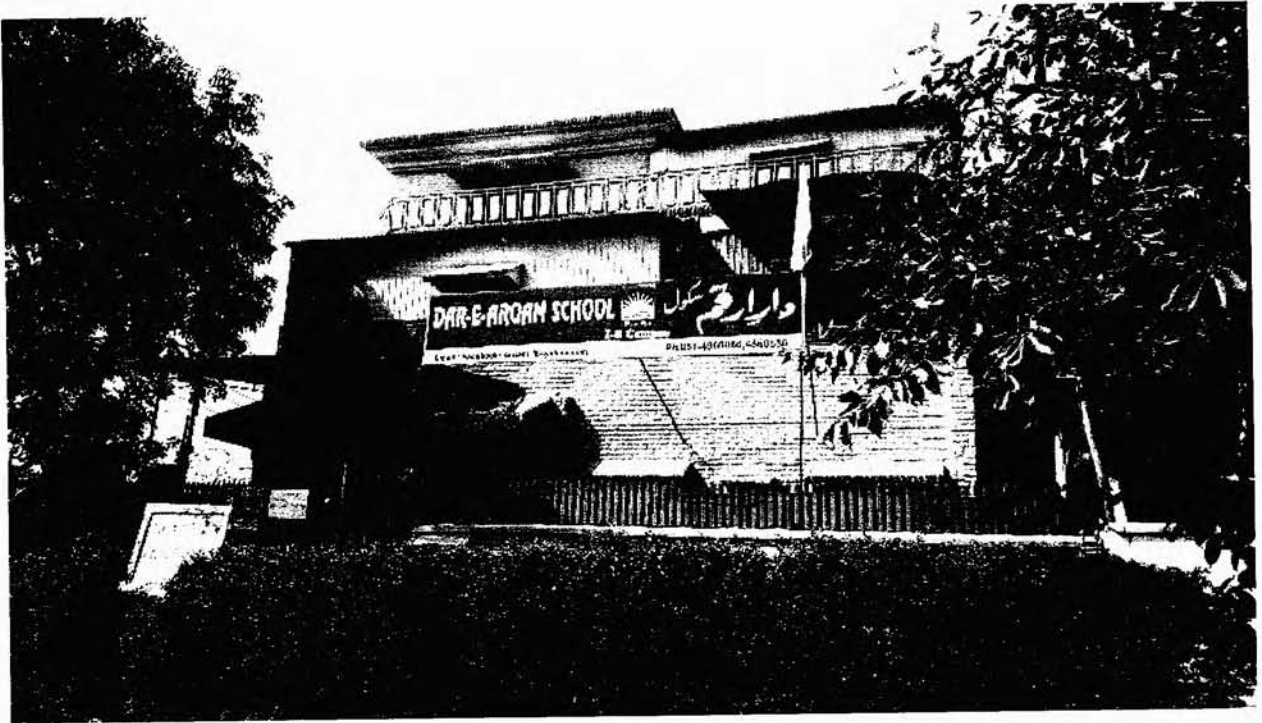
I. IN THE MATTER OF RESPONDENT NO. 1
(M/S DAR E ARQAM I-8 CAMPUS, ISLAMABAD)

- 4.9. The specific allegation against Respondent No. 1, is that it is, *prima facie*, involved in the practice of using the exact collective marks of the Complainant. Moreover, it was also alleged that the Respondent No. 1 is engaged in publishing its course material using identical design, style and collective marks of the Complainant.
- 4.10. For the verification of the allegations, the Enquiry Committee deemed it fit to visit the premises of the Respondent No. 1 for a survey. The following images of the school building and a sample workbook were taken during the visit of the Respondent No. 1 campus:

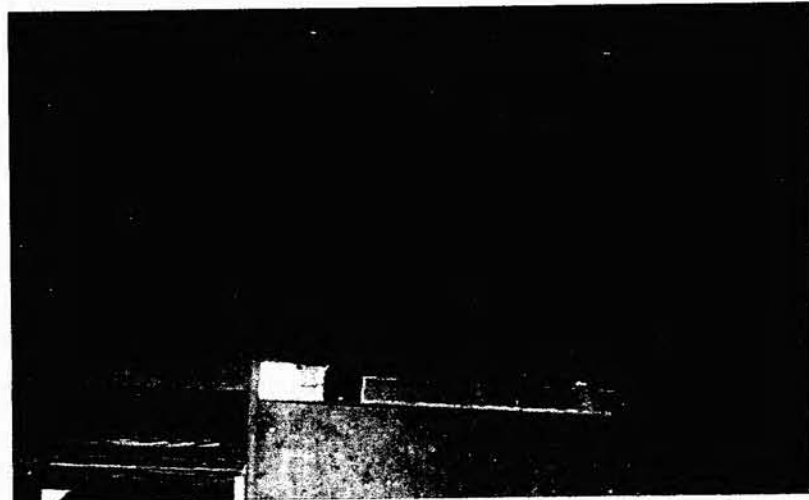
⁴ <https://pakistanilaws.wordpress.com/2012/04/28/trademark-registration-infringement-in-pakistan/#comments>

⁵ <https://pakistanilaws.wordpress.com/2012/04/28/trademark-registration-infringement-in-pakistan/#comments>

IMAGE TAKEN FROM OUTSIDE THE CAMPUS

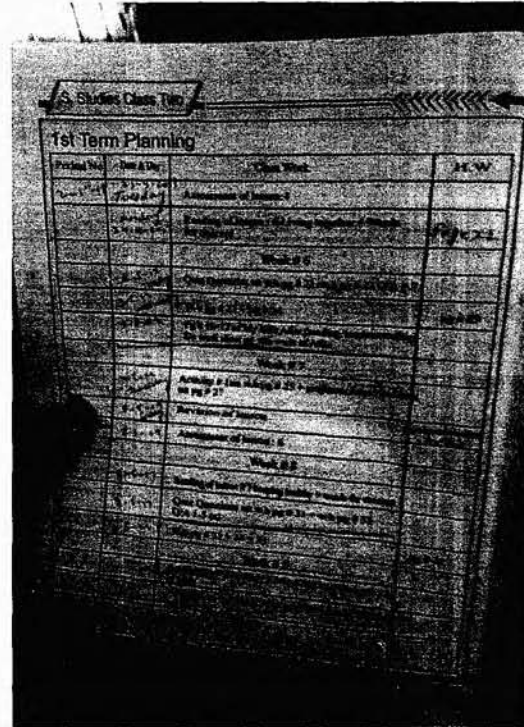
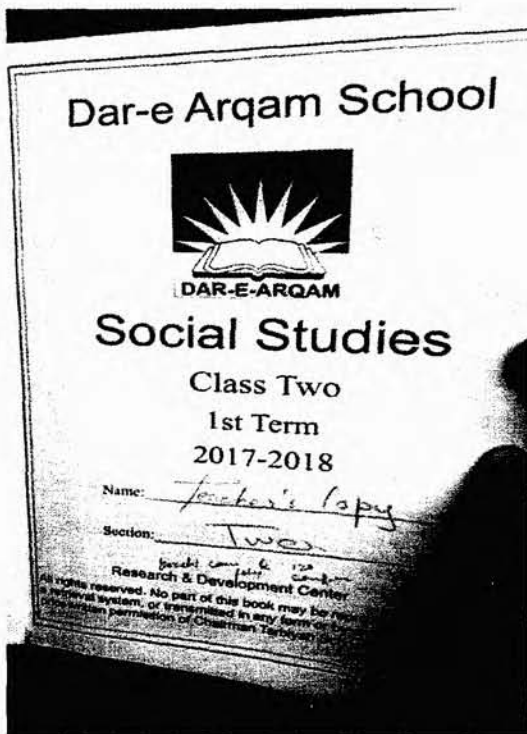


PLAQUE INSIDE THE CAMPUS





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SAMPLE WORKBOOKS



- 4.11. It is noticeable in the images above that the exact collective marks of the Complainant are being used on the billboard of the Respondent No. 1 and the same have been used inside their campus in the form of plaques / certificates.
- 4.12. The Enquiry Committee also witnessed the replication of same collective marks of the Complainant in sample workbook of students inside the premises of the campus.
- 4.13. During the visit, the Enquiry Committee also acquired a fee schedule from the administration of the school. The fee schedule was obtained on request for an admission in class 2. The fee schedule also displayed the infringed collective marks of the Complainant including logo at the top left and the name of the Complainant at the middle of the receipt.

FEE SCHEDULE PROVIDED BY RESPONDENT NO. 1



Dar-e-Arqam School

Fee Schedule

Name: _____ Class: 2nd Date: 5/10/17

S.No	Description	Amount	Remarks
1	Admission Fee	15000/- 7,500/-	
2	Tuition Fee(Monthly)	4000/- 3,500/-	
3	Exam Fee(Annual)	4000/- 9,000/-	
4	Prospectus	500/-0	
	Total	23500/-	Signature

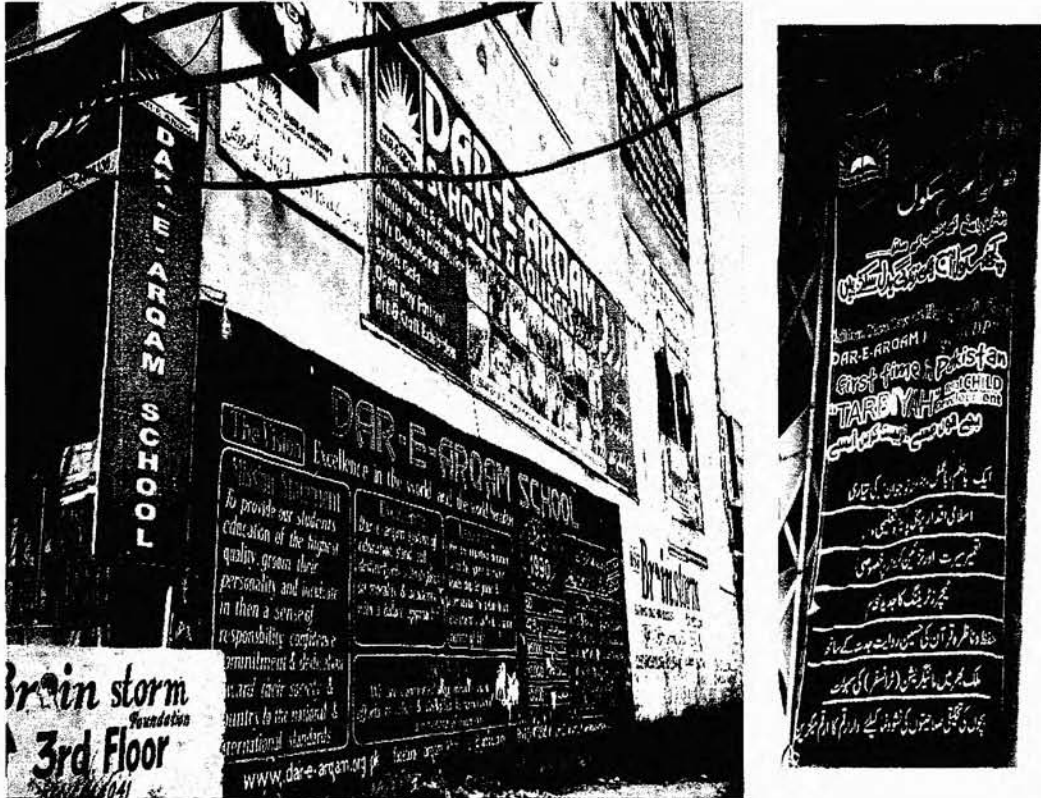
- 4.14. It has also been observed that the Complainant had executed a franchise agreement with Respondent No. 1 on 01-04-2011, which expired on 31-03-2016. Furthermore, another franchise agreement was executed on 07-09-2016, which was terminated by the Complainant on 06-05-2017. Hence, in the absence of any authority, the Respondent No. 1 is not authorized to use the collective marks of the Complainant for its own business.
- 4.15. Moreover, the Respondent No.1 also failed to produce any evidence in its reply related to the authentication of the ownership of the trademark by it. However, Trademark Registration Certificate for the subjected trademark was duly provided by the Complainant as already enclosed as Annexure E.
- 4.16. In view of the above, it is evident that the use of the Complainant's registered collective marks by the Respondent No. 1; in its campus, on the course books and fee schedule, is without any authorization, thereby in violation of Section 10 (1), in terms of Section 10 (2) (d) of the Act. It also appears that the act of the Respondent No. 1 is not only misleading the consumers about its products but it is also capable of harming the business interest of the Complainant, in violation of Section 10 2 (a) & (b) of the Act.

II. IN THE MATTER OF RESPONDENT NO. 2 **(M/S DAR E ARQAM I-10 CAMPUS, ISLAMABAD)**

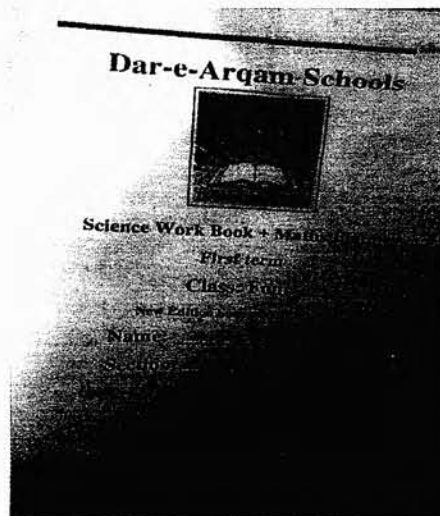
- 4.17. The specific allegation against Respondent No. 2, is that they are, *prima facie*, involved in the practice of using the exact collective marks of the Complainant. Moreover, it was also alleged that the Respondent No. 2 is engaged in publishing its course material using identical design, style and collective marks of the Complainant.
- 4.18. For the verification of the allegations, the Enquiry Committee deemed it fit to visit the premises of the Respondent No. 2 for a survey. The following images of the school

building and a sample workbook were taken during the visit of the Respondent No. 2 Campus:

IMAGES TAKEN FROM OUTSIDE THE CAMPUS



SAMPLE WORKBOOK



- 4.19. It is noticeable in the images above that the exact collective marks of the Complainant are being used on the billboard of the Respondent No. 2. The same collective marks have also been witnessed on the wall chalking on one of the side walls of the campus.
- 4.20. The Enquiry Committee also witnessed the replication of same collective marks of the Complainant in the sample workbooks of students inside the premises of the campus.
- 4.21. Furthermore, it has also been observed that the Complainant had executed a franchise agreement with Respondent No. 2 dated: 25.08.2016, which was terminated by the Complainant on 06-05-2017. Hence, in the absence of any authority, the Respondent No. 2 is not authorized to use the collective marks of the Complainant for its own business.
- 4.22. Moreover, the Respondent No. 2 also failed to produce any evidence in its reply related to the authentication of the ownership of the trademark by it. However, Trademark Registration Certificate for the subjected trademark was duly provided by the Complainant as already enclosed as Annexure E.
- 4.23. In view of the above, it is evident that the use of Complainant's registered collective marks by the Respondent No. 2; in its campus and on the course books, is without any authorization, thereby in violation of Section 10 (1), in terms of Section 10 (2) (d) of the Act. It also appears that the act of Respondent No. 2 is not only misleading the consumers about its products but it is also capable of harming the business interest of the Complainant, in violation of Section 10 2 (a) & (b) of the Act

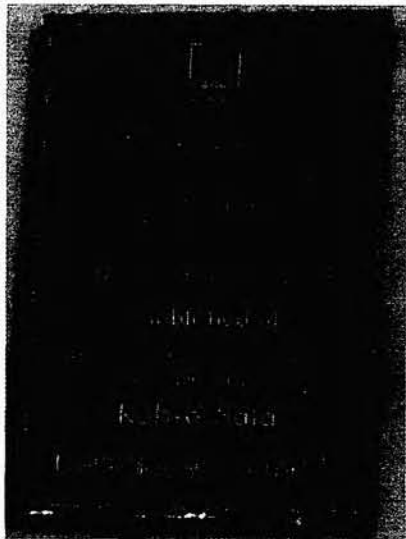
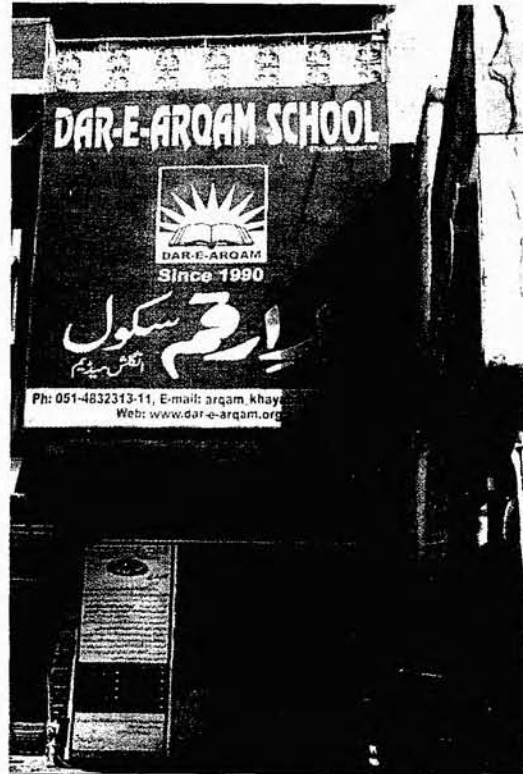
III. IN THE MATTER OF RESPONDENT NO. 3
(M/S DAR E ARQAM KHAYABAN E SIR SYED CAMPUS, RWP)

- 4.24. The specific allegation against Respondent No. 3 is that it is, *prima facie*, involved in the practice of using the exact collective marks of the Complainant. Moreover, it was also alleged that the Respondent No. 3 is engaged in publishing its course material using identical design, style and collective marks of the Complainant.
- 4.25. For the verification of the allegations, the Enquiry Committee deemed it fit to visit the premises of the Respondent No. 3 for a survey. The following images of the school were taken during the visit of the Respondent No. 3 Campus:

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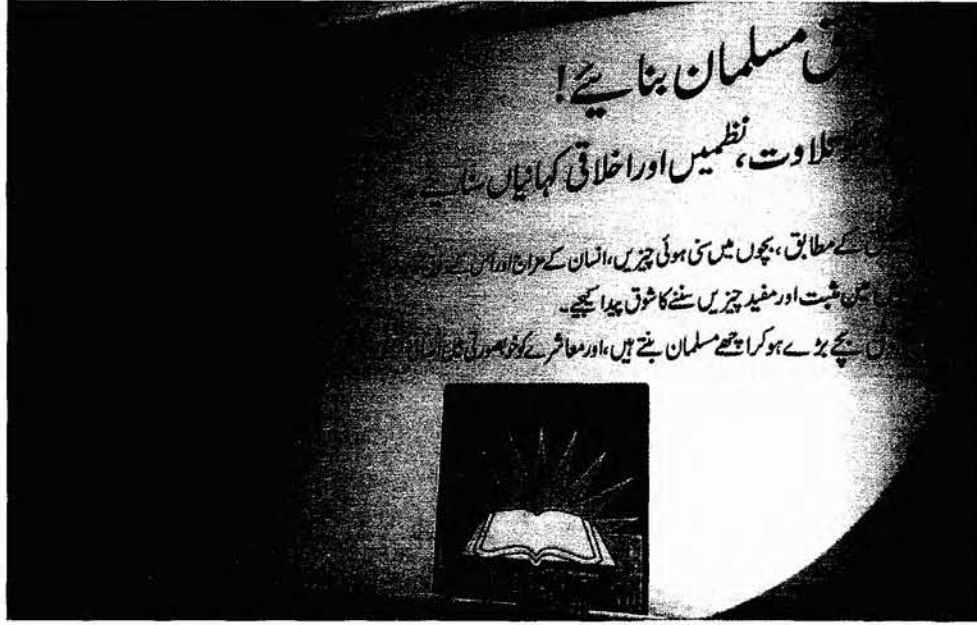
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IMAGES TAKEN FROM OUTSIDE AND INSIDE THE CAMPUS



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Handwritten signature or initials.



- 4.26. It is noticeable in the images above that the exact collective marks of the Complainant are being used on the billboard of the Respondent No. 3 and the same have been used inside the campus in the form of plaques/ certificates. The collective marks identical to that of the Complainant's can also be witnessed on the wall inside the premises of the campus.
- 4.27. The Enquiry Committee was guided that currently no workbooks are available inside the campus for display. They were further clarified that all the course material is available at the book shop of the Respondent No. 9 (Rehman Book Center). The Enquiry Committee, therefore, for the sake of anonymity, did not stress the teachers further to present any course material in front of them. However, sample workbooks used by the Respondent No. 3 were provided by the Complainant with its complaint. The Respondent No. 3 failed to provide any robust defense against the allegation of infringed course material of the Complainant.
- 4.28. During the visit, the Enquiry Committee also acquired a fee schedule from the administration of the school. The fee schedule was obtained on request for an admission in class 2. The fee schedule also displayed the infringed collective marks of the Complainant including logo at the top left and the name of the Complainant at the middle of the receipt. Moreover, it was also stamped with the infringed name of the Complainant.

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FEE SCHEDULE PROVIDED BY RESPONDENT NO. 3



Dar-e-Arqam School

Fee Schedule

Name: Hazrat Babul Class: 2 Date: 18-10-17

S.No	Description	Amount	Remarks
1	Admission Fee	15000/- 5000/-	Director/Principal Signature
2	Tuition Fee(Monthly)	4000/- 3000/-	
3	Exam Fee(Annual)	4000/- 2000/-	
	Total	23000/- 10,000/-	Signature

- 4.29. It has also been observed that the Complainant had executed a franchise agreement with Respondent No. 3 dated: 01-09-2016. The Complainant later allowed the conversion of foundation system to franchise system dated: 01-12-2016. Both agreements were terminated vide notice dated: 06-05-2017. Hence, in the absence of any authority, the Respondent No. 3 is not authorized to use the collective marks of the Complainant for its own business.
- 4.30. Furthermore, Respondent No. 3 also failed to produce any evidence in its reply related to the authentication of the ownership of the trademark by it. However, Trademark Registration Certificate for the subjected trademark was duly provided by the Complainant as already enclosed as Annexure E.
- 4.31. In view of the above, it is evident that the use of Complainant's registered collective marks by the Respondent No. 3; in its campus, on course material and fee schedule, is without any authorization, thereby in violation of Section 10 (1), in terms of Section 10 (2) (d) of the Act. It also appears that the act of Respondent No. 3 is not only misleading the consumers about its products but it is also capable of harming the business interest of the Complainant, in violation of Section 10 2 (a) & (b) of the Act.

IV. IN THE MATTER OF RESPONDENT NO. 4 **(M/S DAR E ARQAM HAYATABAD CAMPUS, PESHAWAR)**

- 4.32. The specific allegation against Respondent No. 4, is that it is, *prima facie*, involved in the practice of using the exact collective marks of the Complainant. Moreover, it was

also alleged that the Respondent No. 4 is engaged in publishing its course material using identical design, style and collective marks of the Complainant.

- 4.33. For the verification of the allegations, the Enquiry Committee deemed it fit to visit the premises of the Respondent No. 4 for a survey. The following image of the school building was taken during the visit of the Respondent No. 4 campus.

IMAGE TAKEN FROM OUTSIDE THE CAMPUS



- 4.34. It is noticeable from the above image that the exact collective marks of the Complainant are being used on the billboard and campus gate of Respondent No. 4. During the visit, the Enquiry Committee was guided that the respective campus is running classes from play groups to grade 6. The Enquiry Committee successfully acquired a fee schedule from the administration of the school. The fee schedule was obtained on request of an admission in nursery class. The fee schedule displayed the infringed name of the Complainant in bold at the top of the receipt.
- 4.35. Moreover, the fee schedule was also stamped with the name of the Complainant's registered collective marks. An image of the fee schedule is reproduced hereunder for reference:

Handwritten marks: a signature and a set of initials.

FEE SCHEDULE PROVIDED BY RESPONDENT NO. 4

Dar-e-Arqam School

Hayatabad Campus

091-5822376

Fee Schedule

Name _____ Class NW Date 17/oct

S.No	Description	Amount	Remarks
1	Admission fee	15000	15000
2	Tution Fee (Monthly)	4000	3000
3	Exam Fee (Annual)	3000	3000
4	Prospectus	500	500
	Total	22500	

- 4.36. Furthermore, the Enquiry Committee was guided by the Principal of the respective campus that the course material is only available through their designated book shops. Therefore, the Enquiry Committee was not able to witness any course material at the Respondent No. 4's campus. However, same has been provided by the Complainant along with its complaint. The Respondent No. 4 failed to provide any robust defense against the allegation of infringed course material of the Complainant.
- 4.37. It has also been observed that the Complainant had executed a franchise agreement with the Respondent No. 4 on 01-01-2015, which was terminated on 06-05-2017. Hence, in the absence of any authority, the Respondent No. 4 is not authorized to use the collective marks of the Complainant for its own business.
- 4.38. Moreover, the Respondent No.4 also failed to produce any evidence in its reply related to the authentication of the ownership of the trademark by it. However, Trademark Registration Certificate for the subjected trademark was duly provided by the Complainant as already enclosed as Annexure E.

4.39. In view of the above, it is evident that the use of Complainant's registered collective marks by the Respondent No. 4; in its campus, on the course books and fee schedule, is without any authorization, thereby in violation of Section 10 (1), in terms of Section 10 (2) (d) of the Act. It also appears that the act of Respondent No. 4 is not only misleading the consumers about its products but it is also capable of harming the business interest of the Complainant, in violation of Section 10 2 (a) & (b) of the Act.

V. **IN THE MATTER OF RESPONDENT NO. 5**
(M/S DAR E ARQAM UNIVERSITY TOWN CAMPUS, PESHAWAR)

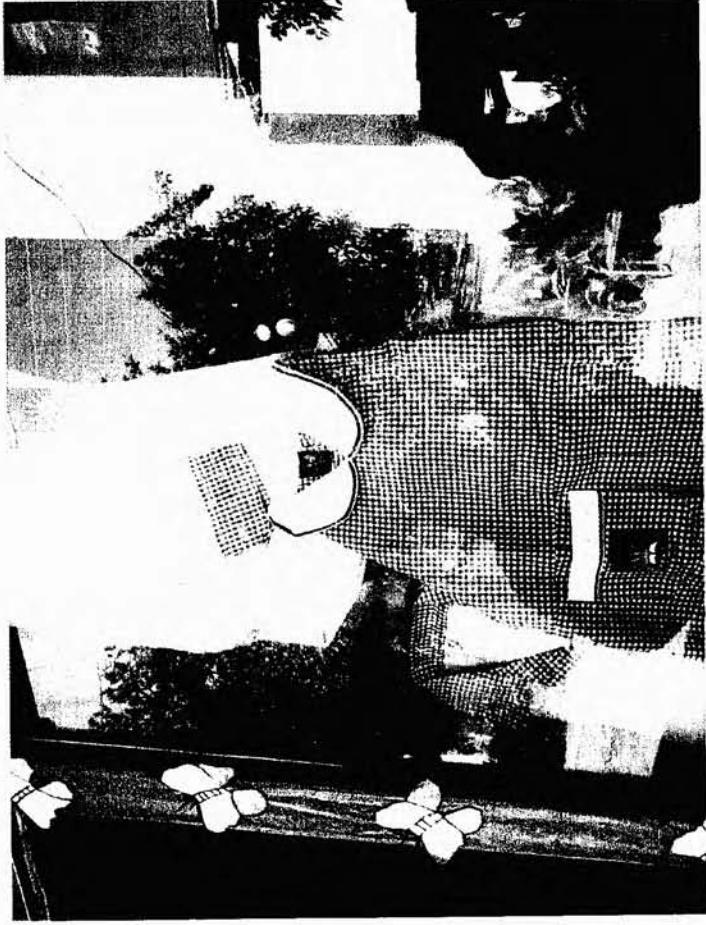
4.40. The specific allegation against Respondent No. 5, is that it is, *prima facie*, involved in the practice of using the exact collective marks of the Complainant. Moreover, it was also alleged that the Respondent No. 5 is engaged in publishing its course material using identical design, style and collective marks of the Complainant.

4.41. For the verification of the allegations, the Enquiry Committee deemed it fit to visit the premises of the Respondent No. 5 for a survey. The following images of the School building and uniform displayed inside the campus were taken during the visit.

OUTSIDE IMAGE OF THE CAMPUS BUILDING



IMAGE OF UNIFORM DISPLAYED INSIDE THE CAMPUS



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- 4.42. It is noticeable in the images above that the exact collective marks of the Complainant are being used on the billboard, flyers and uniforms displayed inside the campus of Respondent No. 5.
- 4.43. Furthermore, the Enquiry Committee was guided by the administration of the respective campus that the course material is only available through their designated book shops. Therefore, the Enquiry Committee was not able to witness any course material at the Respondent No. 5's campus. However, same has been provided by the Complainant with its complaint. The Respondent No. 5 failed to provide any robust defense against the allegation of infringed course material of the Complainant.
- 4.44. During the visit, the Enquiry Committee successfully acquired a fee schedule from the administration of the school. The fee schedule was obtained on request for an admission in Nursery class. The fee schedule also displayed the infringed collective marks of the Complainant including logo at the top left and the name of the Complainant at the middle of the receipt.
- 4.45. Moreover, the fee schedule was also stamped with the infringed collective marks of the Complainant. An image of the fee schedule is reproduced hereunder for reference:

FEE SCHEDULE PROVIDED BY RESPONDENT NO. 5



DAR-E-ARQAM SCHOOLS & COLLEGES

Fee Schedule

Name: Dr. Ummer Class Nurs Date 16-10-17

S. No.	Description	Amount	Remarks
1	Admission Fee	45000/- <u>7000</u>	
2	Tuition Fee(Monthly)	4000/- <u>3000</u>	
3	Exam Fee (Annual)	2000/-	
4	Prospectus	500/-	
5	Stationery/Others(Annual)	4500/-	
	Total	23000/- <u>12000</u>	Signature <u>[Signature]</u>

- 4.46. It has also been observed that the Complainant had executed a franchise agreement with Respondent No. 5 on 05-12-2010, which expired after the completion of five years, with no renewal on record. Hence, in the absence of any authority, the Respondent No. 5 is not authorized to use the collective marks of the Complainant for its own business.
- 4.47. Moreover, the Respondent No.5 also failed to produce any evidence in its reply related to the authentication of the ownership of the trademark by it. However, Trademark Registration Certificate for the subjected trademark was duly provided by the Complainant as already enclosed as Annexure E.
- 4.48. In view of the above, it is evident that the use of Complainant's registered collective marks by the Respondent No. 5; in its campus, on uniform, course books and admission material, is without any authorization, thereby in violation of Section 10 (1), in terms of Section 10 (2) (d) of the Act. It also appears that the act of Respondent No. 5 is not only misleading the consumers about its products but it is also capable of harming the business interest of the Complainant, in violation of Section 10 2 (a) & (b) of the Act.

VI. IN THE MATTER OF RESPONDENT NO. 6
(M/S DAR E ARQAM CANAL ROAD CAMPUS, PESHAWAR)

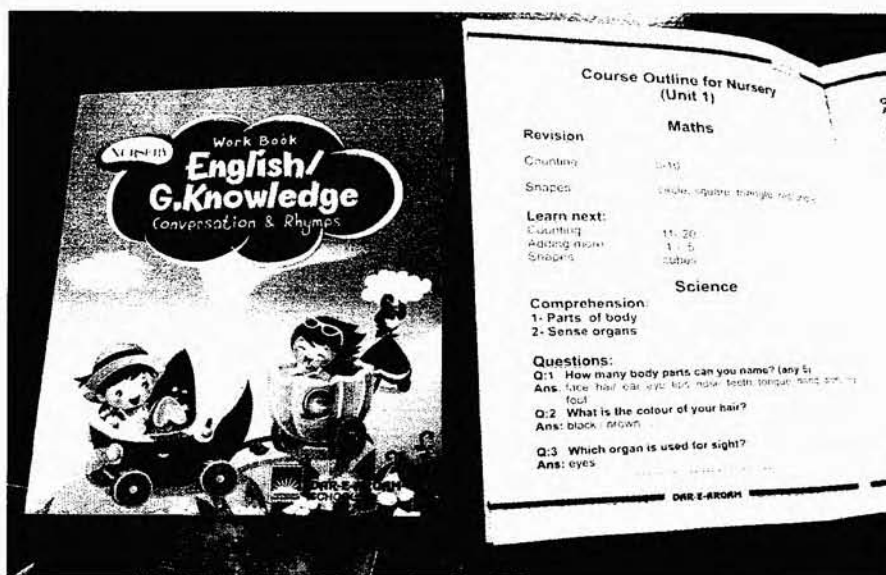
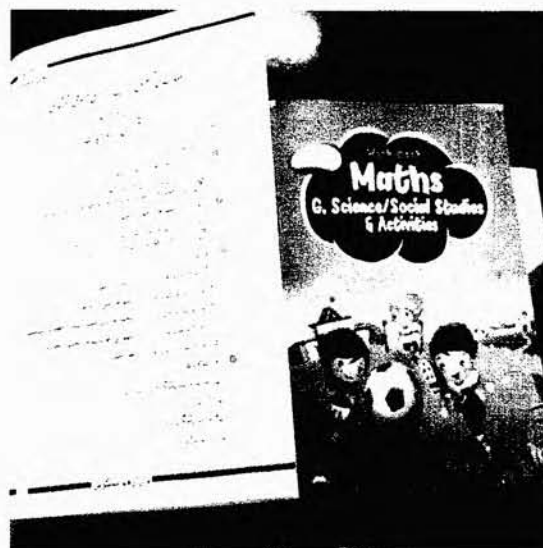
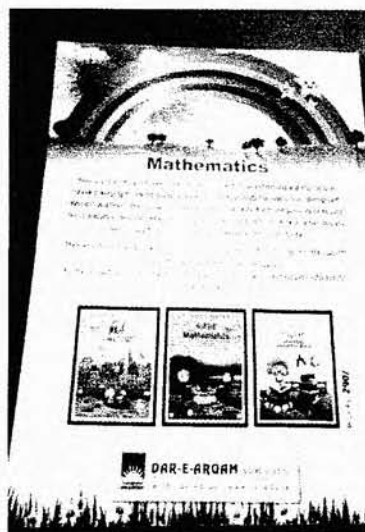
- 4.49. The specific allegation against Respondent No. 6, is that it is, *prima facie*, involved in the practice of using the exact collective marks of the Complainant. Moreover, it was also alleged that the Respondent No. 6 is engaged in publishing its course material using identical design, style and collective marks of the Complainant.
- 4.50. For the verification of the allegations, the Enquiry Committee deemed it fit to visit the premises of the Respondent No. 6 for a survey. The following images of the school building and workbook were taken during the visit of the Respondent No. 6 campus:

IMAGE TAKEN FROM OUTSIDE THE CAMPUS



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IMAGES OF THE WORKBOOK



4.51. It is noticeable in the images above that the exact collective marks of the Complainant are being used on the billboard of the Respondent No. 6. The Enquiry Committee also witnessed the replication of same collective marks of the Complainant in sample workbooks of students inside the premises of the campus.


4.52. During the visit, the Enquiry Committee successfully acquired a prospectus along with a fee schedule form from the administration of the school. Both were obtained on request for an admission in Nursery class. The prospectus as well as the fee schedule also

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displayed the infringed collective marks of the Complainant including logo at the top left and the name of the Complainant in the middle of the receipt.

4.53. Moreover, the fee schedule was also stamped with the infringed name of the Complainant. An image of the fee schedule is reproduced hereunder for reference:

IMAGE OF THE FEE SCHEDULE

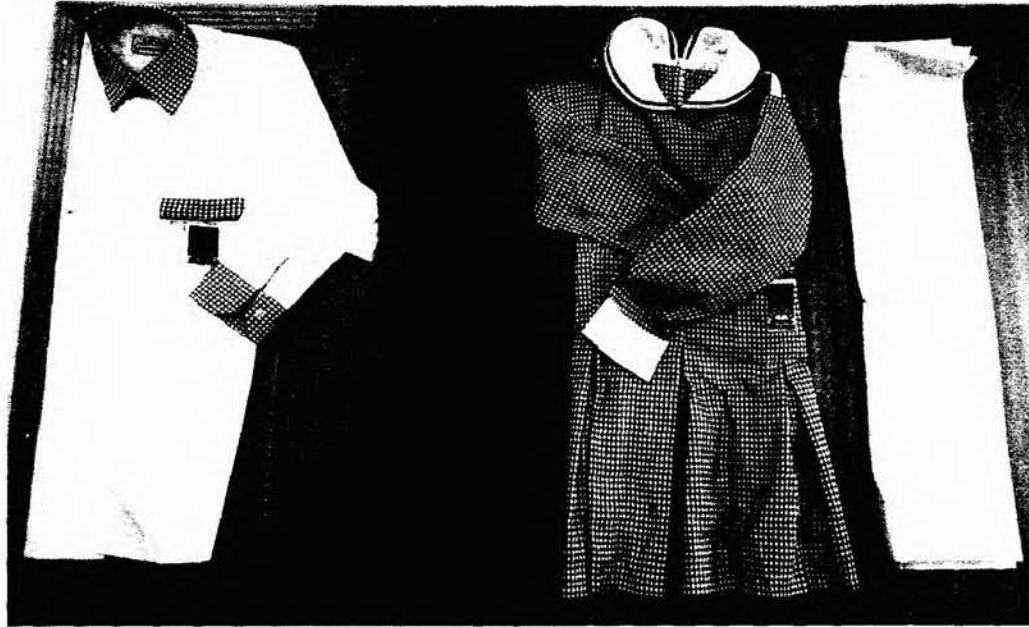
		DAR-E -ARQAM SCHOOL Canal Road Campus	
Billing Month			
Due date of payment			
Student ID			
Studate Name			
Father Name			
Class	Nursery		
Prospectus	500	500	
Security fee	2,000	2,000	
Admission fee (ones)	10,000	10,000	
Monthly fee	2,600	2,600	
Transport fee	2,000	0	
Exam Fee (per year)	1,500	1,500	
Books/Stationary/NB/Uniform		6,000	6,000
TOTAL		22,600	
Received Amount		500	
Balance Amount		22100	
Received date		16-10-17	

Qaiser Salim

4.54. The following images of the uniforms displayed inside the school were also taken during the visit of the Respondent No. 6's Campus containing the infringed collective mark of the Complainant:

Handwritten marks/signatures

IMAGE OF THE UNIFORM DISPLAYED INSIDE THE CAMPUS



- 4.55. It is noticeable in the images above that the same collective marks of the Complainant are being used on the uniforms of the Respondent No. 6.
- 4.56. It has also been observed that the Complainant has never executed any franchise agreement with Respondent No. 6, which authorized it to use the collective marks of the Complainant.
- 4.57. Moreover, the Respondent No.6 also failed to produce any evidence in its reply related to the authentication of the ownership of the trademark by it. However, Trademark Registration Certificate for the subjected trademark was duly provided by the Complainant as already enclosed as Annexure E.
- 4.58. In view of the above, it is evident that the use of the Complainant's registered collective marks by the Respondent No. 6; in its campus, on uniforms, course books and admission material, is without any authorization, thereby in violation of Section 10 (1), in terms of Section 10 (2) (d) of the Act. It also appears that the act of the Respondent No. 6 is not only misleading the consumers about its products but it is also capable of harming the business interest of the Complainant in violation of Section 10 2 (a) & (b) of the Act.

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VII. IN THE MATTER OF RESPONDENT NO. 7
(M/S TARBIYAH SCHOOLS INTERNATIONAL, PESHAWAR)

- 4.59. The specific allegation against Respondent No. 7, is that it is, *prima facie*, involved in the practice of using the exact collective marks of the Complainant. Moreover, it was also alleged that the Respondent No. 7 is engaged in using Complainant's project name 'Tarbiyah', without any due authorization, and hence violating Section 10 of the Act.
- 4.60. The Complainant had introduced a Total Child Development Program (TCDP) with the name and style of Tarbiyah, an activity based learning program in 2014. The Complainant, on 18th April, 2014 sent an email to all network associates including the Respondents No. 1 to 5 regarding invitation to join Tarbiyah program. For marketing purposes various emails comprising activities, publications, periodicals, general, facebook pages etc and training sessions for students & parents were also conducted by the Complainant. The Complainant has also submitted the copy of emails to assure its right of using the program Tarbiyah since 2014.
- 4.61. Due to the extensive marketing of the project Tarbiyah, consumers are well aware that the respective program is owned by the Complainant. The Respondent No. 7, without any franchise agreement, started its campus with the name similar to the project name of the Complainant i.e; Tarbiyah. Initially Respondent No. 7 also used the name of Complainant above its own billboards, to deceive the consumers regarding the ownership of the program. Later in 2017, the Respondent No. 7 registered a company with the name 'International Model Tarbiyah (Pvt) Limited'.
- 4.62. For the verification of the allegations, the Enquiry Committee deemed it fit to visit the premises of the Respondent No. 7 for a survey. The following images of the school building and a course material were taken during the visit of the Respondent No. 7 campus containing the name of Complainant's project Tarbiyah:

IMAGE TAKEN FROM OUTSIDE THE CAMPUS



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IMAGE OF THE COURSE LIST

Tarbiyah Schools BOOK LIST 2017 - 2018 CLASS: NURSERY		
Books	Quantity	Published
1. Urdu Qaida Age 4 - 5	01	
2. English Medium (Age 4 - 5 years)	01	Habitat
3. Math and Reading (Age 4 - 5 years)	01	Habitat
4. Math Medium (Age 4 - 5 years)	01	Habitat
5. Creative Arts (Age 4 - 5)	01	Habitat
Workbooks Compiled by Research & Development Department - Tarbiyah Schools, Bannu New Edition 2017 - 2018		
1. English - Rhymes + G.Knowledge + Conversation Workbook	02 (01 in each term)	Compiled by Tarbiyah Schools
2. Math + General Science + Social Studies + Activities Workbook	02 (01 in each term)	Compiled by Tarbiyah Schools
3. Quran / Islamiat + Urdu Workbook	02 (01 in each term)	Compiled by Tarbiyah School

- 4.63. The Complainant has already alleged that the Respondent No. 7, initially started its campus with the display board containing the collective marks of the Complainant, installed right above the billboard of the Respondent No. 7, outside the campus. The purpose of such a depiction is obviously to show affiliation with the Complainant. The Respondent No. 7 also used the collective marks of the Complainant along with its infringed project name Tarbiyah on other promotional material. The Complainant in order to emphasize its contention, has submitted the following image:

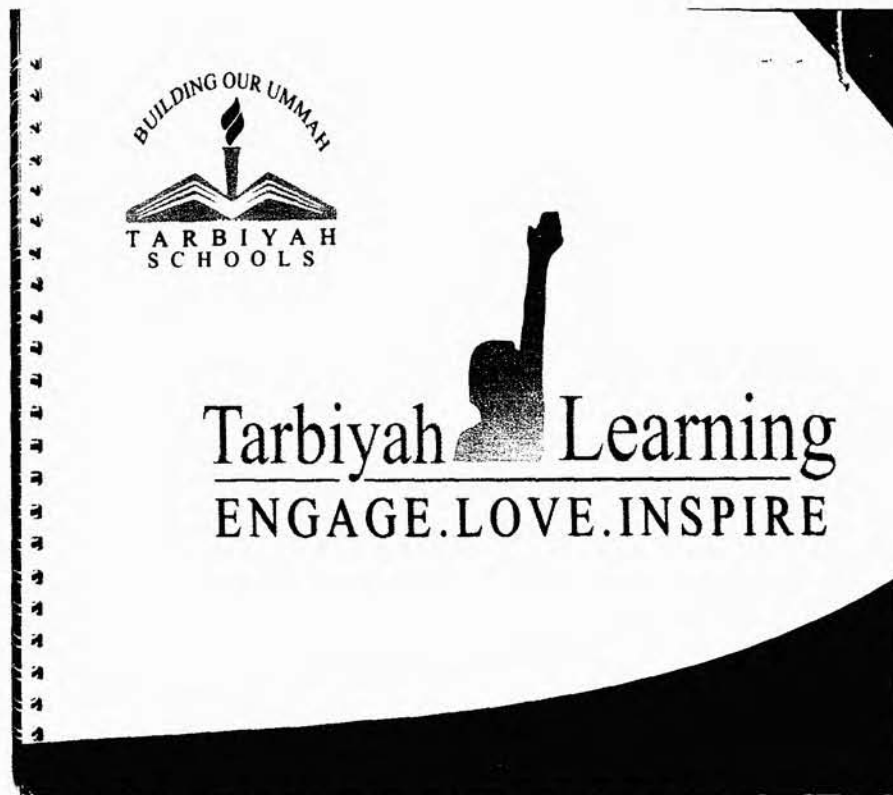
IMAGE SUBMITTED BY THE COMPLAINANT



Handwritten initials or marks, possibly "NC" and "MH", are visible at the bottom left of the page.

- 4.64. It is clear from the above images that the Respondent No. 7 is not only using the project name of the Complainant without authorization but it is also using the collective marks of the Complainant to deceive the general public into believing that the announced project is owned by the Complainant. Hence, Respondent No. 7 is taking an undue advantage of the Complainants goodwill for the publicity of its own project without authorization.
- 4.65. During the visit, the Enquiry Committee successfully acquired a prospectus and a fee schedule from the administration of the school. The fee schedule was obtained on request for an admission in play group class. The prospectus and the fee schedule also contained the infringed project name of the Complainant.

IMAGE OF THE PROSPECTUS



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FEE SCHEDULE PROVIDED BY RESPONDENT NO. 7

INTERNATIONAL TARBIAH

Fee schedule

Name: _____ Date: _____

S.No	Description	Amount
1	Admission fee	15000
2	Tuition fee (Annual)	4000
3	Exam fee (Annual)	5000
4	Prospectus	500
5	Stationery charges (Annual)	1500
	Total	24000

4.66. It is pertinent to mention here that both the Complainant and the Respondent No. 7, have applied for the registration of trademark Tarbiyah in class 41. However, the status of both applications is still pending.

4.67. In view of the above, it is evident that the Complainant is the prior user of the project name Tarbiyah. Hence the use of the Complainant's project name along with its collective marks by the Respondent No. 7; in its school, course books and admission material is without any authorization, thereby in violation of Section 10 (1), in terms of Section 10 (2) (d) of the Act. It also appears that the act of the Respondent No. 7 is not only misleading the consumers about its products but it is also capable of harming the business interest of the Complainant in violation of Section 10 2 (a) & (b) of the Act.

VIII. IN THE MATTER OF RESPONDENT NO. 8

M/S INTERNATIONAL MODEL TARBIAHAY (PVT) LIMITED, ISLAMABAD

4.68. The specific allegation against Respondent No. 8, is that it is, *prima facie*, involved in the practice of using the exact collective marks of the Complainant. Moreover, it was also alleged that the Respondent No. 8 is engaged in using Complainant's project name 'Tarbiyah', without any due authorization, and hence violating Section 10 of the Act.

4.69. For the verification of the allegations, the Enquiry Committee deemed it fit to visit the premises of the Respondent No. 8 for a survey. The following images of the school building were taken during the visit of the Respondent No. 8 campus:

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IMAGES TAKEN FROM OUTSIDE THE CAMPUS



- 4.70. During the visit, it has been observed by the Enquiry Committee that the Respondent No. 2 and Respondent No. 8 are same entities. It was revealed that Respondent No. 8 is using the name and collective marks of the Complainant extensively. The project name of the Complainant i.e; Tarbiyah was also being used by Respondent No. 8 in its flyers.
- 4.71. It has also been observed that the Complainant has never executed any franchise agreement with the Respondent No. 8, which authorized it to use the collective marks of the Complainant.
- 4.72. Moreover, the Respondent No.8 has also failed to produce any evidence in its reply related to the authentication of the ownership of the trademark by it. However, Trademark Registration Certificate for the subjected trademark was duly provided by the Complainant as already enclosed as Annexure E.
- 4.73. In view of the above, it is evident that the use of the Complainant's registered collective marks along with its project name by the Respondent No. 8; in its campus and other promotional material, is without any authorization, thereby in violation of Section 10 (1), in terms of Section 10 (2) (d) of the Act. It also appears that the act of the Respondent No. 8 is not only misleading the consumers about its products but it is also capable of harming the business interest of the Complainant in violation of Section 10 2 (a) & (b) of the Act.

Handwritten signature and initials.

**IX. IN THE MATTER OF RESPONDENT NO. 9
(M/S REHMAN BOOK CENTER, RAWALPINDI)**

- 4.74. The specific allegation against Respondent No. 9, is that it is, *prima facie*, involved in the practice of selling the infringed course material bearing the collective marks of the Complainant without any authorization.
- 4.75. During the survey for collection of evidence, the Enquiry Committee observed that the Respondent No. 9 was not in possession of any infringing course material bearing the Complainant's collective marks.
- 4.76. The Respondent No. 9 had also submitted in its reply that due to ignorance it had fallen into a transaction with the Respondent No. 2 & 3, but had corrected itself in due time.
- 4.77. Since no evidence of the allegations was found in the possession of the Respondent No. 9, it is not found to be violating provisions of Section 10 of the Act.

**X. IN THE MATTER OF RESPONDENT NO. 10
(M/S HAMDANI STATIONERS)**

- 4.78. The specific allegation against Respondent No. 10 is that it is, *prima facie*, involved in the practice of selling the infringed course material bearing the collective marks of the Complainant.
- 4.79. During the survey for collection of evidence, the Enquiry Committee observed that the Respondent No. 10 was not in the possession of any infringing course material bearing the Complainant's collective marks.
- 4.80. The Respondent No. 10 had also submitted in its reply that due to ignorance it had fallen into a transaction with the Respondent No. 1, but had corrected itself in due time.
- 4.81. Since no evidence of the allegations was found in the possession of the Respondent No. 10, it is not found to be violating provisions of Section 10 of the Act.


5. RECOMMENDATIONS:

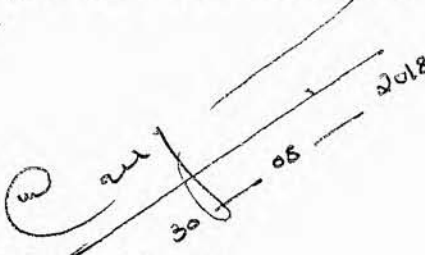
- 5.1 It is evident that the use of the Complainant's registered collective marks by the Respondents No. 1 to 8 and the deceptive use of the Complainant's project name i.e; Tarbiyah, by Respondents No. 7 & 8, is without any due authorization, thereby in violation of Section 10 (1), in terms of Section 10 (2) (d) of the Act. Moreover, it also appears that the act of the Respondents No. 1 to 8 is not only misleading the consumers regarding their

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products but it is also capable of harming the business interest of the Complainant, in violation of Section 10 2 (a) & (b) of the Act.

- 5.2 The deceptive marketing practices have a direct impact on the public at large and therefore, it is in the interest of the general public and fair competition in the market that the undertakings should be stopped from marketing their products in an unfair and misleading manner and be encouraged to resort to marketing practices which are transparent and give consumers true and correct information.
- 5.3 Therefore, in light of the above mentioned findings, it is recommended that show cause notices may be issued to Respondents No. 1 to 8 for, *prima facie*, violation of Section 10 (1), in terms of Section 10 2 (a)(b) & (d) of the Act.


30/08/2018
Noman Laiq
(Enquiry Officer)


30/08/2018
Marryum Pervaiz
(Enquiry Officer)