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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(COMM) 1131/2024 & I.A. Nos. 48515/2024, 48516/2024,
48517/2024, 48518/2024 & 48519/2024

TECHNO SPORTSWEAR P LTDPlaintiff

Through: Mr. Rohit Pradhan with Mr. Sachin
Gupta, Mr. Ajay, Mr. Prashansa
Singh and Mr. Adarsh Agarwal,
Advocates.
(M): 8757182705
Email: info@litlegal.in

versus

BAJRESH KUMAR & ANR.Defendants

Through: None.

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

ORDER
17.12.2024

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I.A. 48516/2024 (Exemption from filing certified and clear copies of documents)

1. The present is an application under Section 151 of the Code of Civil Procedure, 1908 ("CPC"), on behalf of the plaintiff, seeking exemption from filing certified clearer/typed or translated copies of documents.
2. Exemption is granted, subject to all just exceptions.
3. Plaintiff shall file legible, clear, and translated copies of the documents, on which the plaintiff may seek to place reliance, before the next date of hearing.



4. Accordingly, the present application is disposed of.

I.A. 48515/2024 (Exemption from instituting Pre-Institution Mediation)

5. The present is an application under Section 12A of the Commercial Courts Act, 2015, read with Section 151 of CPC, seeking exemption from undergoing Pre-Institution Mediation.

6. Having regard to the facts of the present case and in the light of the judgment of Supreme Court in the case of *Yamini Manohar Versus T.K.D. Keerthi, 2023 SCC OnLine SC 1382*, and Division Bench of this Court in *Chandra Kishore Chaurasia Versus RA Perfumery Works Private Ltd., 2022 SCC OnLine Del 3529*, exemption from attempting Pre-Institution Mediation, is granted.

7. Accordingly, the application stands disposed of.

I.A. 48519/2024 (Exemption from advance service to the defendants)

8. The present is an application under Section 151 CPC, seeking exemption from advance service to the defendants.

9. The plaintiff seeks urgent interim relief, and has also sought appointment of Local Commissioner. Therefore, in the peculiar facts and circumstances of this case, exemption from effecting advance service upon the defendants, is granted.

10. For the reasons stated in the application, the same is allowed and disposed of.

CS(COMM) 1131/2024

11. Let the plaint be registered as suit.

12. Upon filing of the process fee, issue summons to the defendants by all permissible modes. Summons shall state that the written statement be filed by the defendants within thirty days from the date of receipt of summons.



Along with the written statement, the defendants shall also file affidavit of admission/denial of the plaintiff's documents, without which, the written statement shall not be taken on record.

13. Liberty is given to the plaintiff to file replication within thirty days from the date of receipt of the written statement. Further, along with the replication, if any, filed by the plaintiff, an affidavit of admission/denial of documents of the defendants, be filed by the plaintiff, without which, the replication shall not be taken on record. If any of the parties wish to seek inspection of the documents, the same shall be sought and given within the timelines.

14. List before the Joint Registrar (Judicial) for marking of exhibits, on 03rd February, 2025.

15. List before the Court on 06th May, 2025.

I.A. 48518/2024 (Application under Order XXXIX Rules 1 and 2 CPC)

16. The present suit has been filed for permanent injunction restraining infringement of trademark, infringement of copyright, passing off, unfair competition, delivery up, damages/rendition of accounts of profits etc.

17. Learned counsel appearing for the plaintiff submits that by way of the present suit, the plaintiff complains against the defendants for using the



impugned mark which is deceptively similar to the plaintiff's registered and prior used trademark




TECHNOSPORT / TECHNOSPORT”.

“ . The competing mark as given in the
plaint is reproduced as under:

Plaintiff's Registered Trade Mark	Defendant's Mark
 TECHNOSPORT Registered under No. 1819411 dt. 18.05.2009 in Class 25. The trade mark stands renewed and is subsisting.	 Applied under no. 6331838 on 06.03.2024 as “Proposed to be used” basis in Class 25 . Present status is Objected.

18. It is submitted that the plaintiff through its predecessor has been continuously, openly and extensively using its trademark TECHNOSPORT since 2009, and achieved an annual turnover of over Rs. 380 Crores in the FY 2023-24.



19. It is further submitted that the plaintiff discovered in the first week of December 2024 that the defendants have started selling goods bearing the impugned mark TECCNOPRO. The defendants' adoption of the mark TECCNOPRO and the impugned device is phonetically, structurally/conceptually and visually similar to TECHNOSPORT and its device.

20. It is submitted that the defendant's adoption and use of the impugned mark amounts to infringement of plaintiff's registered trade mark,



infringement of copyright, passing off and unfair competition, which is in turn causing confusion and deception amongst the public and loss to the plaintiff.

21. It is further submitted that the plaintiff, in order to safeguard and to protect the long earned goodwill has obtained various registration, details of which, as given in the plaint, are reproduced as under:

S.N	Reg. No.	Mark	Class/ Goods in class 25
1.	1819411 dt. 18.05.2009		<i>hosiery including vests, briefs, knitted trunks, underwears, brassieres, chemises, slips, petticoats, panties, bermudas, nighties, casual wears, pajamas, polo shirts, t-shirts, sweat shirts, shorts, pants, trousers, kidswears, caps, baba-suits, frocks, sports wears, head gears, gloves, swim wears, undergarments, uniforms, knitted and woven readymade garments, etc.</i>
2.	5434922 dt. 4.5.2022		
3.	3735518 dt. 24.1.2018	TECHNODRY	
4.	3929748 dt. 29.8.2018	TechooCool+	
5.	3929749 dt. 29.8.2018	TECHNOWARM+	
6.	4104301 dt. 1.3.2019	TECHNO	
7.	5043753 dt. 14.7.2021	TECHNO LITE	
8.	5043752 dt. 14.7.2021	TECHNOGUARD	
5.	3929749 dt. 29.8.2018	TECHNOWARM+	
6.	4104301 dt. 1.3.2019	TECHNO	



22. It is submitted that the plaintiff has also obtained copyright

TECHNOSPORT „

registration for and the device of the running man



“ ” under nos. 123780 and 123781 both dated 03rd May, 2023. It is submitted that the said works are original artistic works within the meaning of the Copyright Act, 1957.



23. It is further submitted that after discovering that the defendants have started selling goods bearing the impugned mark TECCNOPRO, the plaintiff conducted further due diligence, wherein, it was revealed that the defendant no. 1 has also filed an application for the impugned label



“ ” under application no. 6331838 dated 06th March, 2024 on a “Proposed to be used” basis in Class 25. He submits that the said application is currently objected by the Trade Marks Registry.

24. It is submitted that a simple comparison between the plaintiff’s registered trade mark and the defendant’s impugned trade mark shows the *mala-fide* intention of the defendant, and one can get easily confused between the two marks. A comparison table between the plaintiff’s registered trademark and the defendants’ impugned trademark, is reproduced as under:



COMPARISON OF THE TRADE MARKS	
PLAINTIFF'S REGISTERED TRADE MARK	DEFENDANT'S IMPUGNED MARK
	

25. It is further submitted that, the instances of confusion is substantiated from the pictorial comparison of the plaintiff and the defendant's mark used in the products, which is reproduced as under:

PLAINTIFF	DEFENDANT
	
	



26. It is submitted that the defendant's impugned mark




is visually, structurally, and phonetically deceptively similar to the plaintiff's registered trade mark



“TECHNOSPORT”, and its use will cause confusion and deception among the consumers and persons involved in the same or similar business or profession. Such use of the impugned mark by the defendants constitutes an infringement of the plaintiff's registered trademarks under nos. 1819411 and 5434922 under Section 29 of the Trade Marks Act, 1999.

27. It is further submitted that the artistic work involved in the plaintiff's

registered trade mark  and the device of the

 ” are original artistic works within the meaning of the Copyright as per the Copyrights Act, 1957 and the plaintiff is entitled to right over the said artistic works and infringement of the same will amount to infringement under Section 51 of the Copyrights Act, 1957.

28. It is submitted that the plaintiffs' products under their trade mark



and has been extensively and commercially sold by the plaintiff in the course of trade since the year 2009. Moreover, due to prior adoption, extensive use, and voluminous sales, coupled with extreme quality control maintained by the plaintiff, the said trade mark has acquired distinctiveness and formidable goodwill and reputation as a badge of quality garments originating from the plaintiff. The unauthorized use of the impugned mark by the defendants will cause confusion and/or deception in the minds of the consumers. Such impugned use by the defendants constitutes acts of misrepresentation, misappropriation and passing off of the defendant's product for those of the plaintiff's. The use of the impugned mark by the defendant, is thus, liable to be enjoined under the provisions of Section 135 of the Trade Marks Act, 1999.

29. In the above circumstances, the plaintiff has demonstrated a *prima facie* case for grant of injunction and, in case, no *ex parte ad interim* injunction is granted, the plaintiff will suffer an irreparable loss. Further, balance of convenience also lies in favour of the plaintiff, and against the defendants.

30. Accordingly, it is directed that till the next date of hearing, the defendants, their assignees, partners, affiliates, associates, predecessors, successors in business, their distributors, dealers, stockists, super-stockist, wholesalers, retailers, custodians, franchisees, licensees, importers, exporters, servants, agents and all persons claiming through and/or under



them or acting on their behalf, are restrained from selling, offering for sale, advertising, distributing, marketing, exhibiting for sale, trading in, or otherwise directly or indirectly dealing in garments or similar or like or allied goods under the impugned mark



“TECCNOPRO” / “TECCNOPRO”

or any other extensions and/or

any other trade mark, as may be identical with and/or deceptively similar to



the plaintiff's registered trade mark

amounting to infringement of the plaintiff's registrations under nos. 1819411 and 5434922, infringement of copyright of the plaintiff, as well as passing off of the defendants' goods and business for those of the plaintiff's goods and business.

31. Issue notice to the defendants by all permissible modes upon filing of the Process Fee, returnable on the next date of hearing.
32. Let reply be filed within a period of four weeks.
33. Rejoinder thereto, if any, be filed within two weeks, thereafter.
34. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of two weeks.
35. List before the Court on 06th May, 2025.

I.A. 48517/2024 (Application for appointment of Local Commissioner)

36. The present application has been filed on behalf of the plaintiff under Order XXVI Rule 9 read with Order XXXIX Rule 7 CPC read with Section



135 of the Trade Marks Act, 1999, seeking appointment of Local Commissioner.

37. It is submitted that in order to preserve evidence of infringement, it is necessary that Local Commissioner be appointed to visit the premises of the defendant.

38. Accordingly, the following directions are issued:

I. Ms. Aditi Mohan, Advocate (M: 9871899882), is appointed as Local Commissioner, with a direction to visit the following premises of the defendants:

M/s. Sri. MJR Trading Co.

Shop No. 2, Mohana Kaveti Arcade

99, Sultanpete Main Rd

Manivartapete, Bengaluru

Karnataka 560053

II. The learned Local Commissioner, along with a representative of the plaintiff and its counsel, shall be permitted to enter upon the premises of the defendants mentioned hereinabove, or any other location/premises, that may be identified, during the course of commission, in order to conduct the search, and seize the packaging of the goods of the defendants having infringing trademark and similar trade dress of packaging, as that of the plaintiff.

III. After seizing the infringing material, the same shall be inventoried, sealed, and signed by the learned Local Commissioner, in the presence of the parties, and released on *superdari* to the defendants, on its undertaking to produce the same, as and when further directions are issued, in this



regard.

IV. The learned Local Commissioner shall also be permitted to make copies of the books of accounts, including ledgers, cash books, stock registers, invoices, books, etc., in so far as they pertain to the infringing products.

V. Further, the learned Local Commissioner shall be permitted to undertake/arrange for photography/videography of the execution of the commission.

VI. Both the parties shall provide assistance to the learned Local Commissioner, for carrying out the aforesaid directions.

VII. In case, any of the premises are found locked, the learned Local Commissioner shall be permitted to break open the lock(s). To ensure an unhindered and effective execution of this order, the Station House Officer (“SHO”) of the local Police Station, is directed to render all assistance and protection to the Local Commissioner, as and when, sought.

VIII. The fee of the learned Local Commissioner, to be borne out by the plaintiff, is fixed at ₹ 2,00,000/- (Rupees Two Lakhs). The plaintiff shall also bear all the expenses for travel/lodging of the Local Commissioner and other miscellaneous out-of-pocket expenses, for the execution of the commission. The fee of the Local Commissioner shall be paid in advance by the plaintiff.

IX. The Local Commission shall be executed within a period of two weeks from today. The Local Commissioner shall file the report within a period of two weeks from the date, on which the commission is executed.

39. The order passed today, shall not be uploaded for a period of two weeks.



40. In terms of the foregoing, the present application stands disposed of.
41. *Dasti* under signatures of the Court Master.

MINI PUSHKARNA, J

DECEMBER 17, 2024

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