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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 1075/2024, I.A. 46990/2024, I.A. 46991/2024, I.A.
46992/2024, I.A. 46993/2024 & I.A. 46994/2024
TECHNO SPORTSWEAR P. LTD.Plaintiff

Through: Mr Sachin Gupta, Mr Rohit Pradhan,
Ms Prashansa Singh, Mr Ajay Kumar,
Mr Yashveer Singh, Mr Adarsh
Agrawal, and Mr Tanmay Sharma
and Ms Archana, Advocates.
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versus

JITENDRA SINGHDefendant
Through: Mr. Karan Singh, Adv. (Through VC)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
03.12.2024

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I.A. 46991/2024 (Exemption from filing 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 clear copies of documents with correct margins and exemption from filing documents or English translations or originals of the 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. 46994/2024 (Application seeking extension of time to file Court Fees)

5. Learned counsel appearing for the plaintiff submits that the requisite Court Fees shall be filed within a period of one week.

6. Liberty is so granted.

7. Noting the aforesaid, the present application is disposed of.

I.A. 46990/2024 (Application seeking exemption from Pre-Institution Mediation)

8. The present application seeking exemption from Pre-Institution Mediation.

9. Learned counsel appearing for the plaintiff draws the attention of this Court to the fact that the plaintiff has already initiated to legal proceedings against the defendant, wherein, the defendant, has chosen not to appear.

10. He further submits that despite the pendency of the earlier two suits against the defendant herein, the defendant has continued with the infringing activities, on account of which the plaintiff has been constrained to file the present suit.

11. 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.

12. Accordingly, the application, stands disposed of.



I.A. 46992/2024 (Application for appointment of Local Commissioner)

13. The present is an application for appointment of Local Commissioner.

14. Learned counsel appearing for the plaintiff submits that since upon advance service, the defendant has put in appearance, he does not press the present application for the time being.

15. Noting the aforesaid, the present application is disposed of.

CS(COMM) 1075/2024

16. Let the plaint be registered as suit.

17. Issue Summons. Summons is accepted by Mr. Karan Singh, learned counsel appearing for the defendant.

18. Let the written statement be filed by the defendant within thirty days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the plaintiff's documents, without which, the written statement shall not be taken on record.

19. 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 defendant, 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.

20. List before the Joint Registrar (Judicial) for marking of exhibits, on 27th January, 2025.


21. List before the Court on 11th February, 2025.



I.A. 46993/2024 (Application under Order XXXIX Rules 1 and 2 read with Section 151 CPC)

22. 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.

23. By way of the present suit, the plaintiff complains against the

defendant for using the impugned mark  / TECCHNOPLUSS which is deceptively similar to the plaintiff's registered

and prior used trademark  / TECHNOSPORT.

The comparison of the marks has been reproduced below:

Plaintiff's Registered Trade Mark	Defendant's Mark
 <p>Registered under No. 1819411 dt. 18.05.2009 in Class 25. The trade mark stands renewed and is subsisting.</p>	 <p>Applied under no. 5755973 dt. 09.01.2023 as "Proposed to be used" basis in Class 25.</p> <p>Subsequently, amended the trade mark application to TECCHNOPLUSS. The Plaintiff has opposed the application before the Trade Marks Registry.</p>






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

25. It is submitted that the plaintiff came across the defendant's application for registration of the impugned mark and immediately filed an opposition against the same before the Trade Marks Registry. The opposition proceedings are currently pending. The plaintiff also instituted a suit being *Suit no. COS 17 of 2023* for infringement of copyright & trade mark and passing off against the defendant for using the impugned mark before the District Court, Tirupur, where the present defendant has been proceeded *ex-parte* on 01st December, 2023. The plaintiff's application for injunction has remained pending. The said proceedings are at the stage of *ex-parte* evidence since 01st December, 2023.

26. It is submitted that the defendant continues to use the impugned mark giving a recurring cause of action to the plaintiff. The defendant's adoption and use of the impugned mark amounts to infringement of plaintiff's registered trade mark, copyright, passing off and unfair competition, which is in turn causing confusion and deception amongst the public and loss to the plaintiff.

27. It is submitted that the plaintiff, in order to safeguard and to protect the long earned goodwill has obtained various registration details of which are 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,</i>
2.	5434922 dt. 4.5.2022		<i>chemises, slips, petti-coats, panties, bermudas, nighties, casual wears,</i>
3.	3735518 dt. 24.1.2018	TECHNODRY	<i>pajamas, polo shirts, t-shirts, sweat shirts, shorts,</i>
4.	3929748 dt. 29.8.2018		<i>pants, trousers, kidswears, caps, baba-suits, frocks,</i>
5.	3929749 dt. 29.8.2018	TECHNOWARM+	<i>sports wears, head gears, gloves, swim wears,</i>
6.	4104301 dt. 1.3.2019	TECHNO	<i>undergarments, uniforms, knitted and woven</i>
7.	5043753 dt. 14.7.2021	TECHNO LITE	<i>readymade garments, etc.</i>
8.	5043752 dt. 14.7.2021	TECHNGUARD	
5.	3929749 dt. 29.8.2018	TECHNOWARM+	
6.	4104301 dt. 1.3.2019	TECHNO	



28. It is submitted that the above registrations are valid and subsisting.

29. It is further submitted that the Plaintiff has also obtained copyright registration for TECHNOSPORT and the device of the running man



under no. 123780 and 123781, both dated 03rd May, 2023. It may be noted that the above works are original artistic works within the meaning of Indian Copyright Act, 1957.

30. It is submitted that the plaintiff has been using the said trademarks openly, extensively, exclusively and continuously since 2009 and have generated considerable amount of goodwill and the public associate the said trademarks exclusively with the plaintiff in connection of the said goods and with no one else.

31. The plaintiff came across the defendant's impugned mark




from the defendant's Instagram post, and immediately conducted a search in the Official website of Trade Marks Registry and found that the defendant had filed an application for the impugned mark



on 09th January, 2023. Subsequently, the defendant has

changed the trade mark to **TECCHNOPLUSS** by way of TM-M, yet the



defendant has been continuing to use the trade mark . Once the said application was accepted and advertised, the Plaintiff herein immediately filed an opposition against the said application on 23rd November, 2023.

32. It may also be noted that the defendant had also filed an application



for registration of trade mark under no. 5500109 on 22nd June, 2022, to which the plaintiff had filed an opposition on 29th November, 2022, which on failure on the part of the defendant to pursue, was directed to be 'Abandoned' by the Trade Marks Registry. The Plaintiff had also instituted a suit, i.e., *COS 6/2023* for infringement of copyright and trade mark, passing off against the usage of the logo of the above-said mark by the defendant herein before this Principal District Judge, Tirupur in February 2023. This suit is also at the stage of *ex parte* evidence.

33. It is submitted that, the defendant's act constitutes infringement. The



Defendant's impugned mark  is visually structurally, and phonetically deceptively similar to the plaintiff's registered trademark



and its use will cause confusion and




deception among the consumers and persons involved in the same or similar business or profession.

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



registered trade mark

and the device of

the running man  are original artistic works within the meaning of the copyright as per the Copyright Act, 1957, and the plaintiff is entitled to right over the said artistic works. Therefore, usage of the said work by the defendant will amount to infringement of copyright under Section 51 of the Copyrights Act, 1957.

35. Learned counsel appearing for the plaintiff submits that a fresh cause of action arises in favour of the plaintiff every time there is an instance of infringement by the defendant. Thus, he submits that there is no bar to filing the present fresh suit before this Court, even though two earlier suits have already been filed against the defendant.

36. In view of 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, the balance of convenience also lies in favour of the plaintiff and against the defendant.

37. Accordingly, till the next date of hearing, the defendant, its assignees, 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



TECCHNOPLUSS

or any other extensions and/or any other trade mark, as may be identical with and/or deceptively similar to the plaintiff's registered trademark



and



, amounting to infringement of plaintiff's registrations under no. 1819411 and 5434922, infringement of copyright of the plaintiff, as well as passing off of the defendant's goods and business for those of the plaintiff's goods and business.

38. Issue notice to the defendant. Notice is accepted by learned counsel appearing for the defendant.

39. He submits that he is yet to receive instructions.

40. Accordingly, let reply be filed within a period of four weeks.

41. Rejoinder thereto, if any, be filed within two weeks, thereafter.

42. Considering the nature of dispute between the parties, with the consent of the parties, the matter is referred to Delhi High Court Mediation and Conciliation Centre, to be listed before the learned Mediator, on 11th December, 2024.



43. List before the Court on 11th February, 2025.
44. A copy of this order shall be sent to Delhi High Court Mediation and Conciliation Centre, forthwith.

MINI PUSHKARNA, J

DECEMBER 3, 2024/kr