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

+ CS(COMM) 406/2020

I.A. 8773/2020 (under Order XXXIX Rule 1 and 2 CPC)

WORKNEST BUSINESS CENTRE LLP & ANR. .... Plaintiff

Represented by: Mr. Sachin Gupta, Advocate.

versus

M/S WORKNESTS THROUGH

RAJESH GOYAL

.... Defendant

Represented by: Mr. Sanjoy Kumar Ghosh, Advocate  
with Ms. Rupali S. Ghosh, Advocate.

**CORAM:**

**HON'BLE MS. JUSTICE MUKTA GUPTA**

**ORDER**

**30.09.2020**

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The hearing has been conducted through Video Conferencing.

**I.A. 8774/2020 (exemption from filing certified/clear/typed copies)**

1. Exemption allowed subject to just exception.
2. Application is disposed of.


**CS (COMM) 406/2020**

**I.A. 8773/2020 (under Order XXXIX Rule 1 and 2 CPC)**

1. Complaint be registered as a suit.
2. Issue summons in the suit and notice in the application.
3. Learned counsel for the defendant accepts summons in the suit and notice in the application.

4. The present suit has been filed by the plaintiff seeking injunctions



against the infringement of its label mark .

5. Case of the plaintiff is that the plaintiff has got the trademark that is




the label mark  registered on 16<sup>th</sup> July, 2018 and the domain name of the plaintiff [www.worknest.co.in](http://www.worknest.co.in) was registered on 21<sup>st</sup> April, 2018.

The plaintiff has the two registration of its label mark in Classes 35 and 36.

The plaintiff also has a copyright registration in the device mark



 granted on 5<sup>th</sup> August, 2019.

6. Case of the plaintiff is that the plaintiff has coined the unique and distinct mark WORKNEST and is using the same since 2018. The idea behind WORKNEST is to give its users an opportunity to build their own community, share ideas, innovate with like-minded people and write their own success stories. The plaintiff provides workplaces and motivates its users towards creativity. Thus, plaintiff which is working from Noida provides co-working spaces spread over an area of 20,000 square feet. Another centre of the plaintiff is being developed in Sector 3 Noida. According to the plaintiff, it plans to expand Pan India and develop multiple co-working spaces in the trade name WORKNEST. As per the plaint the plaintiff has expended over Rs.5 crores in developing WORKNEST over

these spaces and due to the world class facilities provided, plaintiff claims that it has acquired tremendous goodwill and enviable reputation since 2018.

7. As per the plaintiff, it came to know in last week of September, 2020 that the defendant is infringing its trademark WORKNEST when it received an e-mail from a property consultant enquiring about the rates of their WORKNEST Kolkata property. The plaintiff thus made enquiries and it was found that the defendant's website, namely, [www.worknests.com](http://www.worknests.com) in operation and the defendant was also in the business of providing co-working spaces which is identical to the business of the plaintiff. Thus, the plaintiff claims infringement of its trademark and copyright as also passing off the business of the defendant as that of the plaintiff.

8. Learned counsel for the defendant enters appearance on advance notice. He states that even though the domain name of the plaintiff was registered in April, 2018 and that of the defendant on 27<sup>th</sup> July, 2018, however, the defendant entered into the business prior to the plaintiff for the reason the defendant's GST registration is on 7<sup>th</sup> December, 2018 whereas that of the plaintiff is on 11<sup>th</sup> January, 2019.

9. Learned counsel for the defendant further states that the defendant has been using the mark WORKNESTS prior to the plaintiff and has logo

registration of  and  .

10. Learned counsel for the defendant further submits that the defendant's exclusive work is in Kolkata and that the defendant is using the mark WORKNESTS alongwith its logo and not separately as is evident from the website of the defendant and thus there is clear distinction between the two

marks.

11. Learned counsel for the plaintiff contends that since the label mark of the plaintiff also contains the word WORKNEST, whereas the defendant's registered mark is only 'WN', the action of the defendant would amount to infringement of the plaintiff's trademark WORKNEST which is duly registered.

12. Considering the fact that the plaintiff and defendant appear to be concurrent users of the mark WORKNEST plaintiff being registered owner




of the mark/label mark  and defendant label mark



and  and using WORKNESTS along with its logo



 everywhere and at the moment the plaintiff is operating in Noida and the defendant is working in Kolkata, both are providing co-working spaces in different areas, at this stage this Court finds no ground to grant an *ad interim* injunction.

13. Written statement to the suit and reply affidavit to the application along with affidavit of admission-denial be filed within 30 days.

14. Replication and rejoinder affidavit along with affidavit of admission-denial be filed within three weeks thereafter.

15. List the suit and the application on 21<sup>st</sup> January, 2021.

16. Order be uploaded on the website of this Court.

**MUKTA GUPTA, J.**

**SEPTEMBER 30, 2020**

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