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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 1143/2024, I.A. 48690/2024, I.A. 48691/2024, I.A.
48692/2024 & I.A. 48693/2024

INTER IKEA SYSTEMS BVPlaintiff

Through: Ms. Shwetasree Majumder, Ms.
Tanya Varma, Mr. Vardaan Anand,
Ms. Ruchika Yadav, Advocates
(M:9911167179)

versus

I KEY HOME STUDIO LLP AND ANR.Defendants

Through: None.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
18.12.2024

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I.A. 48693/2024 (Exemption from filing original 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 original/certified and clear copies of documents with proper margins.
2. Exemption is granted, subject to all just exceptions.
3. Plaintiff shall file legible, clear, and original 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. 48692/2024 (Application seeking leave to file additional documents)

5. This is an application under Order XI Rule 1(4) read with Section 151 CPC as amended by the Commercial Courts Act, 2015, seeking leave to file additional documents.

6. The plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

7. The application is disposed of, with the aforesaid directions.

I.A. 48691/2024 (Exemption from undergoing Pre-Institution Mediation)

8. 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.

9. 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.

10. Accordingly, the application stands disposed of.

CS(COMM) 1143/2024

11. None appears for the defendants despite advance service.

12. Let the plaint be registered as suit.

13. 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.

14. 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.

15. List before the Joint Registrar (Judicial) for marking of exhibits, on 10th February, 2025.

16. List before the Court on 09th May, 2025.

I.A. 48690/2024 (Application under Order XXXIX Rules 1 and 2 read with Section 151 CPC)

17. The present suit has been filed for permanent injunction restraining infringement of trademark, passing off, rendition of accounts, damages, and delivery up, etc.

18. It is submitted that the present action concerns the plaintiff's trademark rights in the widely recognized trademark IKEA, which was adopted by its founder in the year 1943 and has been used since then. The defendant no. 1 is using the impugned name and mark 'IKEY' along with other variants which is deceptively and confusingly similar to the plaintiff's IKEA trademark, which is used by the plaintiff and its franchisees worldwide, including, in India, in respect of identical, allied and cognate goods i.e. home interior items such as tiles, sanitary ware, plumbing materials, hardware, paints, glass and plywood and other home interior solutions.



19. It is submitted that the plaintiff is the proprietor of the well-known



and internationally renowned trademark IKEA and along with its color combination and trade dress, which are the subject of a large number of trademark registrations across several countries of the world, including, in India. The trademark IKEA forms a part of nearly all the trade names of all the companies under the plaintiff Group umbrellas as well as companies of the plaintiff Group's franchisees.

20. It is submitted that ever since its *bona-fide* and honest adoption, the plaintiff Group has *inter-alia* been using the mark continuously and in the course of trade and has built a globally valuable and enduring trade, goodwill and reputation there under. IKEA is a unique and coined word having all the trappings of an invented mark and is an inherently strong mark.

21. It is submitted that apart from plaintiff's statutory rights over its IKEA trademarks overseas, the plaintiff's trademark has also been declared well-known in several countries, such as but not limited to China, Chile and Indonesia, Italy, Kazakhstan, EU, Turkey and Vietnam. Additionally, the WIPO Arbitration and Conciliation Centre has passed several orders recognizing the well-known status of the IKEA trademark.

22. It is submitted that with specific reference to India, the plaintiff is the registered proprietor of a number of trademarks in English and in vernacular. The specific registrations relevant to the present suit, as given in the plaint, are listed below:



S. No.	Registration No.	Trademark	Class/es
1.	2499130	IKEA	7
2.	2499131	IKEA	9
3.	343317	IKEA	20
4.	1523574		20
5.	1523584		20
6.	616434		20
7.	1523563	IKEA	21
8.	2750192		21
9.	2946194		9, 16, 19, 20, 21, 24, 35
10.	1523565	IKEA	41
11.	1523581		41
12.	1523564	IKEA	42
13.	1523580		42



23. It is submitted that in view of the plaintiff Group's priority in adoption and use thereof, the members of the trade, industry, the consumers and public at large in India and world over, are well aware of the trademark IKEA and the same has acquired secondary meaning such that it is exclusively associated with the goods and services offered, and the business conducted, by the plaintiff Group and its franchisees and other licensees.

24. It is submitted that in the month of November 2022, during a routine market check of the Trade Marks Journal, the plaintiff came across five (5) trade mark applications filed by defendant no. 1 for registration of the mark



under applications no. 5332458, 5332459, 5332464, 5332465, 5332466 in classes 11, 19, 21, 35, and 39 respectively. The said applications were filed on 17th February 2022 claiming a user date of 10th February 2017. The said mark(s) were published in Trade Marks Journal No. 2073 dated 10th October 2022. Dismayed by the adoption of a deceptively similar mark for similar goods, the plaintiff addressed a cease-and-desist letter to the defendant no. 1 through counsel contending, *inter alia*, cessation of use of the impugned marks, withdrawal of afore mentioned trade mark applications, take-down of promotional material, and destruction of banners, products, etc.

25. It is submitted that in response to the said letter, the defendant no. 1 through counsel addressed a response dated 15th November 2022 to the plaintiff's letter, *inter alia*, denying similarity between the marks and asserting the plea of honest and *bona fide* adoption.

26. It is submitted that as it became apparent to the plaintiff that the



defendant no. 1 does not intend to amicably resolve the dispute and cease










use of the name and mark IKEY/ the plaintiff proceeded to file notice of opposition against the five applications.

27. It is submitted that during the opposition proceedings before the Trade Marks Registry, the defendant no. 1 had delayed the filing of evidence in support of all 5 of its trademark applications, pursuant to which hearings were appointed by the Trade Marks Registry where the defendant no. 1 did not enter appearance and consequently the applications of the defendant no. 1 were abandoned on 16th April 2024. In February 2024, the plaintiff also came across two more applications filed by the defendant no. 1 for the



same mark under application nos. 5332463 and 5332468 in classes 20 and 41 respectively. The same were published in the Trade Marks Journal No. 2143 dated 12th February, 2024 and the plaintiff also proceeded to initiate opposition proceedings against the said applications. The proceedings are pending as on date before the Trade Marks Registry. A comprehensive table of the defendant no. 1's trade mark applications, as given in the plaint, is reproduced hereinbelow:



Application No.	Mark	Class	Date of filing	Status
5332458		11	17.02.2022	Abandoned
5332459		19	17.02.2022	Abandoned
5332463		20	17.02.2022	Opposed
5332464		21	17.02.2022	Abandoned
5332465		35	17.02.2022	Abandoned
5332466		39	17.02.2022	Abandoned
5332468		41	17.02.2022	Opposed

28. It is submitted that in May 2024, witnessing that the defendant no. 1 had filed responsive pleadings in opposition proceedings against application no. 5332463, the plaintiff apprehended that the defendant no. 1 may be using the mark in the commercial domain and accordingly deputed an investigator to enquire into the activities of defendant no. 1. The investigator came across the defendant no. 1's website <https://ikeyllp.com/> where third-party products of home solutions of different brands were listed.

29. It is submitted that thereafter, the investigator visited the premises of defendant no. 1 at the address provided on the website. Upon reaching the location, the investigator noticed 'IKEY' prominently displayed on the façade of a three-story building. Pertinently, the mark was *de hors* the words



‘Home Studio’ or the tagline ‘Let’s do it your style’. A photograph of the building as captured by the investigator, is reproduced below:



30. It is submitted that after entering the building, the investigator noticed



numerous banners, posters displaying the mark **IKEY** without the tagline. Further, the main entrance and reception of the showroom displayed the mark ‘IKEY’ *per se* without the tag line or the words ‘Home Studio’. The investigator met Mr. Nasim Kutukkan and Mr. Nihal who introduced themselves as the owner and manager of the building. Mr. Nihal informed the investigator that they employ over fifty workers. The investigator further observed that products of multiple third-party brands were on display in the building, each labelled with a price tag bearing



31. It is submitted that the word IKEY forms a prominent part of the impugned mark 'IKEY Home Studio' which is deceptively similar to the plaintiff's prior adopted, used and registered trademark IKEA. The similarity between the conflicting marks 'IKEA' and 'IKEY' is such that it cannot be mere co-incidence and a case of ignorance. In furtherance, photographs from the investigation reveal that defendant no. 1 is also using the mark 'IKEY' stand-alone at its own showroom and warehouse, thus, trying to sail as close as possible to the plaintiff.

32. It is submitted that it is also not out of place to mention here that plaintiff's IKEA home furnishings retail segment is the world's largest seller of furniture in the early 21st century, operating more than 250 stores around the world. IKEA specializes in low-priced goods, sold whenever possible in compact "flat-pack" form for in-home assembly by the customer. Therefore, the adoption and use of the impugned mark and logo by defendant no. 1, in respect of similar, allied and cognate goods and services, has been *mala-fide* and dishonest since inception. The intention of defendant no. 1 is to piggyback on the plaintiff's entrenched goodwill and reputation in the IKEA marks, which is highly unethical, dishonest and illegal. Defendant no. 1 on its website has indicated that they '*showcase a wide variety of products from renowned brands*'. Therefore, there is a serious apprehension that an unwary consumer will mistakenly believe that defendant no. 1 is engaged in stocking and selling the products of the plaintiff.

33. It is submitted that defendant no.1 is, therefore, liable to be restrained



from using the impugned mark IKEY and the logos



or any other variation thereto as part of its trade name and trademark 'IKEY Home Studio'/ 'IKEY Home Studio LLP', which amounts to infringement of plaintiff's registered trademark IKEA in any manner. Further, use of 'IKEY' as part of the domain name www.ikeyllp.com, through which defendant no. 1 conducts its business online, also amounts to infringement of the plaintiff's IKEA trademark and defendant no. 1 ought to be restrained from using 'IKEY' as part of its domain name.

34. 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 defendants.

35. This Court further notes that advance service of the present suit has been done upon the defendants. However, despite advance service, none has appeared for the defendants.

36. Accordingly, till the next date of hearing, defendant no.1, its partners, their legal heirs, proprietors, employees, servants, agents, representatives and all others in active concert or participation with them, are restrained from selling/ advertising/ importing/ exporting or in any other way dealing in goods and providing services under the impugned mark 'IKEY', 'IKEY



HOME STUDIO', 'IKEY HOME STUDIO', 'IKEY HOME STUDIO', and/or any other deceptively similar mark, in any manner which amounts to infringement of the plaintiff's IKEA trademark and amounting to passing off of the defendant no.1's products as that of the plaintiff.

37. Further, defendant no.2 is directed to suspend the domain name ikeyllp.com of defendant no.1 during the pendency of the present suit. Further, defendant no.2 is also directed to disclose the registrant details of the said domain name.

38. Issue notice to the defendants by all permissible modes, upon filing of process fees, returnable on the next date of hearing.

39. Reply be filed within a period of four weeks, from the date of service.

40. Rejoinder thereto, if any, be filed within a period of two weeks, thereafter.

41. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of one week, from today.

42. List before the Court on 09th May, 2025.

MINI PUSHKARNA, J

DECEMBER 18, 2024/au