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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 334/2024, I.A. 9175/2024, I.A. 9176/2024, I.A. 9177/2024, I.A. 9178/2024, I.A. 9179/2024 & I.A. 9180/2024**
PLUTO TRAVELS INDIA PRIVATE LIMITED Plaintiff

Through: Mr. Vivek Ranjan Tiwary, Mr. Sajan Shankar Prasad, Ms. Radhika Pareva, Mr. Vagish Pandey and Ms. Asavari Mathur, Advs.

versus

PTW HOLIDAYS PRIVATE LIMITED Defendant

Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **26.04.2024**

I.A. 9176/2024 (Seeking leave to file additional documents)

1. The present application has been filed on behalf of the plaintiff under Order 11 Rule 1(4) of the Code of Civil Procedure, 1908 (“CPC”) as applicable to commercial suits under the Commercial Courts Act, 2015 seeking to place on record additional documents.
2. The plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.
3. Accordingly, the present application is disposed of.

I.A. 9177/2024 (Exemption of making advance service on the defendant)

1. Since there is an urgency in the matter and the same is being heard today, plaintiff is exempted from serving advance notice on the defendant



herein.

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

I.A. 9178/2024 (Exemption from pre-institution mediation)

1. Having regard to the facts of the present case and in light of the judgement of Division Bench of this Court in **Chandra Kishore Chaurasia v. R.A. Perfumery Works Private Ltd.**, FAO (COMM) 128/2021, exemption from attempting pre institution mediation is allowed.
2. Accordingly, the application stands disposed of.

I.A. 9179/2024 (Exemption from filing original/dim documents etc.)

1. Exemption is granted, subject to all just exceptions.
2. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance before the next date of hearing.
3. Accordingly, the present application is disposed of.

I.A. 9180/2024 (Seeking condonation of delay in re-filing the suit)

1. This application has been filed seeking condonation of delay in re-filing the suit.
2. For reasons stated in the application, the same is allowed.
3. Accordingly, the present application is disposed of.

CS(COMM) 334/2024

1. Let the plaint be registered as a suit.



2. Upon filing of process fee, issue summons to the defendant by all permissible modes. Summons shall state that the written statement be filed by the defendant within 30 days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the documents of the plaintiff, without which the written statement shall not be taken on record. Liberty is given to the plaintiff to file a replication within 30 days of the receipt of the written statement. Along with the replication, if any, filed by the plaintiff, affidavit of admission/denial of documents filed by 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 any documents, the same shall be sought and given within the timelines.
3. List before the Joint Registrar for marking of exhibits on 30th July, 2024.
4. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

I.A. 9175/2024 (Application under Order XXXIX Rule 1 and 2 CPC)

1. This application has been filed under Order XXXIX Rule 1 and 2 of the CPC as part of the accompanying suit seeking a decree of permanent injunction restraining the defendant, and all those acting for and on their behalf, from advertising, promoting, displaying, marketing and using the mark 'PLUTO' or  in any manner whatsoever, and from infringing the registered trademark of the plaintiff, and using any other mark which is identical and deceptively similar thereto, in respect of travel services



(Class 39).

2. Plaintiff claims to be a leading luxury car engaged in business of transport, travel and tour services since 2004 using the tradename 'PLUTO'. The present suit relates to the use by the defendant of an identical word mark 'PLUTO' and a deceptively similar device mark as is evident from the pictorial comparison given below:

Plaintiff's Marks	Impugned Marks
PLUTO 	PLUTO TOURS 

3. The trademark registrations claimed by the plaintiff are tabulated as under:

S.No.	Mark	Application No.	Class	Application Date	Used Since	Valid Upto
1.	PLUTO	3024008	39	30/07/2015	21/04/2004	30/07/2025
Services: Transport services; travel arrangement services which includes all types of vehicles; car rentals pertaining to luxurious cars, sedans, small cars and all other vehicles. Providing transport solutions						
2.		3244423	39	26/04/2016	26/01/2016	26/04/2026
Services: Transport services; travel arrangement services which includes all types of vehicles; car rentals pertaining to luxurious cars, sedans, small cars and all other vehicles. Providing transport solutions						



4. Plaintiff has claimed sales turnover for various years which are tabulated as under:

Year	Total Revenue (INR; Approximate)
2004-05	91,94,436/-
2005-06	1,75,28,335/-
2006-07	2,18,50,043/-
2007-08	2,71,66,394/-
2008-09	2,31,02,500/-
2009-10	2,47,04,510/-

2010-11	2,85,82,272/-
2011-12	2,70,88,069/-
2012-13	3,28,34,589/-
2013-14	3,32,54,646/-
2014-15	3,12,76,202/-
2015-16	6,32,60,667/-
2016-17	8,38,17,145/-
2017-18	14,30,56,948/-
2018-19	14,92,29,044/-
2019-20	17,23,41,598/-
2020-21	1,64,02,831/-
2021-22	2,79,15,212/-
2022-23	10,37,37,873/-
2023-24 (Upto 31-08-2023)	3,93,70,932/-

5. Plaintiff claims advertising expenses of the said mark as per the following table:



Year	Advertisement & Promotional Expenditure (INR; Approximate)
2007-08	3,00,324.00
2008-09	2,19,638.61
2009-10	4,60,423.00
2010-11	6,40,650.92
2011-12	5,81,987.00
2012-13	7,57,780.00
2013-14	10,49,825.00
2014-15	78,439.00
2015-16	5,77,639.00
2016-17	5,89,537.00
2017-18	5,95,163.00
2018-19	3,16,822.00
2019-20	3,86,656.00
2020-21	88,971.00
2021-22	18,600.00
2022-23	1,49,035.20
2023-24	26,499.00
(Upto 31-08-2023)	

6. Plaintiff runs a website i.e. www.plutotravels.com and they are listed



on various trade websites and social media handles. Counsel for the plaintiff claims that despite serving a legal notice on 04th November, 2022 to the defendant to cease and desist from using the mark, they have not complied. Subsequent notices were sent on 17th March, 2023 and 04th April, 2023. The

defendant has also applied for the 'PLUTO' device mark  under application No.5700432, which was opposed by the plaintiff and has since been abandoned by order dated 20th March, 2024.

7. In these circumstances, the plaintiff seeks order of restraint.
8. Considering the facts and circumstances, the defendant be served notice on steps being taken by the plaintiff through all permissible modes, including email.
9. List on 10th May, 2024.
10. Order be uploaded on the website of this Court.

ANISH DAYAL, J

APRIL 26, 2024/MK/rj