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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 573/2021 & I.As. 14842/2021, 14845/2021, 573/2022,
1989/2022, 3720-21/2022, 4976-77/2022**
RXPRISM HEALTH SYSTEMS PRIVATE LIMITED
& ANR. Plaintiffs

Through: Mr. Tanmaya Mehta, Mr. Sanyam
Khetarpal, Mr. Nitesh Goyal, Ms.
Prakriti Anand & Mr. Karan Vijayan,
Advocates. (M:9873674225)

versus

CANVA PTY LTD & ORS. Defendants
Through: Ms. Sneha Jain, Ms. Garima Sahney,
Dr. Victor Vaibhav Tandon, Ms.
Bhamini Shenoy, Ms. Shruti Jain, Ms.
Asavari Jain & Mr. Sidharth Chopra,
Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **31.03.2022**

1. This hearing has been done through hybrid mode.

I.As. 3721/2022 & 4977/2022(for exemptions)

2. These are applications for exempting the Defendants from filing duly
executed/affirmed original notarized and apostilled affidavits. Exemption is
allowed. Let the original documents be filed within four weeks.

3. ***I.As. 3721/2022 & 4977/2022*** are disposed of.

I.A. 3720/2022

4. This is an application filed on behalf of the Defendants seeking to
place the written statement on record. Delay, if any stands condoned. The
written statement is taken on record.



5. ***I.A. 3720/2022*** is disposed of.

I.A. 1989/2022

6. This is an application under Order VIII Rule 1 and 10 CPC. In view of the order passed in ***I.A. 3720/2022*** above, ***I.A. 1989/2022*** is disposed of.

I.A. 14845/2021 (u/S 12A)

7. This is an application seeking exemption from instituting pre-litigation mediation. In view of the orders passed in ***CS (COMM) 132/2022*** titled ***Upgrad Education v. Intellipaat Software***, the ***I.A. 14845/2021*** is disposed of.

I.A. 573/2022

8. This is an application under Order VII Rule 11 CPC which has been filed on the ground that the suit is liable to be rejected as rights of the Plaintiff-patent holder have not yet been crystallized.

9. The suit patent was granted on 10th March, 2021. The stand of the Defendants is that, after the suit was filed, a post-grant opposition has been filed by the Defendants. Thus, the rights of the Plaintiff-patent holder are yet to be crystallized as the period of 12 months during which a post-grant opposition can be filed, has not yet passed.

10. After some hearing, Ms. Sneha Jain, Id. Counsel for the Defendants submit that they would seek instructions in the matter as to whether their client intends to press this application or not.

11. List for further hearing on 10th May, 2022.

I.A. 4976/2022

12. This is an application filed by the Defendants seeking an opportunity to file a response to the Plaintiff's rejoinder wherein certain fresh averments/screenshots are stated to have been filed.



13. Without going into the merits of this application, since the matter is being adjourned today, Defendants are given an opportunity to file a five page response to the rejoinder, either in the form of a sur-rejoinder or an affidavit, within two weeks. No further opportunity shall be granted to file the same.

14. **I.A. 4976/2022** is disposed of.

CS(COMM) 573/2021 & I.As. 14842/2021, 573/2022

15. Parties shall ensure that no unnecessary applications are filed by either of the parties.

16. The documents filed by both parties are taken on record.

17. List before the Joint Registrar for conducting the admission/denial and marking of exhibits on 18th April, 2022

18. List before the Court for hearing on 10th May, 2022.

19. Passover is sought on behalf of the Defendants on the ground that Mr. Akhil Sibal, Sr. Adv., is held up in another Court. Passover is not possible due to the heavy board today.

20. Ld. Counsel for the Plaintiffs submits that the hearing of the interim injunction application is being delayed by the Defendants on one ground or the other. It is made clear that no further adjournment shall be granted in this matter.

PRATHIBA M. SINGH, J.

MARCH 31, 2022

dj/ad