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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 631/2024, I.A. 34947/2024, I.A. 34948/2024, I.A.
34949/2024, I.A. 35248/2024 & I.A. 35249/2024
TELUS CORPORATIONPlaintiff

Through: Mr. Chander Lall, Sr. Adv. with Ms.
Manisha Singh, Mr. Abhai Pandey,
Ms. Anjy Agrawal, Mr. Gautam
Kumar, Mr. Nishant Rai, Ms. Shivani
Singh, Mr. Dhruv Tandan, Ms.
Annanya Mohan and Mr. Abhinav
Bhalla, Advs.
M: 9811161518

versus

TELUS INTERNATIONAL ACADEMY PVT. LTD.Defendant
Through:

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
02.08.2024

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I.A. 34948/2024 (Application seeking leave to file additional documents)

1. The present application has been filed on behalf of the plaintiff under Order XI Rule 1(4) of Code of Civil Procedure, 1908 ("CPC"), as amended by the Commercial Courts Act, 2015, read with Section 151 CPC, seeking liberty to file additional documents, at the appropriate stage.
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 ("DHC") (Original Side) Rules, 2018.
3. Accordingly, the present application is disposed of.



I.A. 34949/2024 (Exemption from filing originals and certified copies of documents)

4. The present is an application under Section 151 CPC, on behalf of the plaintiff, seeking exemption from filing original/certified copies, documents in vernacular/clear copies and permission to file copies/dim documents without translated documents and documents without prescribed margin, along with supporting affidavit.

5. Exemption is granted, subject to all just exceptions.

6. Applicant 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.

7. Accordingly, the present application is disposed of.

I.A. 35248/2024 (Application seeking exemption from advance service to defendants)

8. The present is an application under Section 151 CPC on behalf of the plaintiff, seeking exemption from serving the Plaint, applications and accompanying documents on the defendant, in advance.

9. 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.

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

I.A. 35249/2024 (Application seeking exemption from instituting Pre-Litigation Mediation)

11. 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.

12. 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.

13. Accordingly, the application stands disposed of.

CS(COMM) 631/2024

14. Let the plaint be registered as suit.

15. Upon filing of the process fee, issue summons to the defendant by all permissible modes. Summons shall state that 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.

16. 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.

17. List before the Joint Registrar (Judicial) for marking of exhibits on 20th September, 2024.

18. List before the Court for framing of issues, thereafter.



I.A. 34947/2024 (Application under Order XXXIX Rules 1 & 2 read with Section 151 of CPC)

19. The present suit has been filed for permanent and mandatory injunction restraining infringement of registered trademark, passing off, dilution along with damages, rendition of accounts of profits, delivery-up, etc.

20. Learned Senior Counsel appearing for the plaintiff submits that present suit has been filed seeking permanent and mandatory injunction restraining the defendant from infringing the plaintiff's registered and prior used trademarks TELUS and TELUS



INTERNATIONAL/ and passing off its goods and services as that of the plaintiff.

21. Learned Senior Counsel for the plaintiff submits that the mark TELUS was coined and adopted by the plaintiff's predecessor in title in or about 1990, and an application for registration of the mark was first filed in Canada on 04th May, 1990, which application stood registered, accordingly. Since then, the plaintiff has been using the name as its corporate identity, trade name and trademark for a wide range of goods and services offered worldwide.

22. Thus, it is submitted that the trademark TELUS, forms an integral and inalienable part of the plaintiff's identity and business. It is further submitted that plaintiff has obtained registrations for its TELUS marks in over 60 countries around the world. The details of various trademarks registered by the plaintiff in India, as given in the plaint are as under:



Registration No.	Mark	Class(es)
3651605		35
3651606		38
3651607		42
3651608		35

3651609		38
3651610		42
3651611	TELUS International	35
3651612	TELUS International	38
3651613	TELUS International	42
1612908	TELUS	38
5033382	TELUS	35, 38, 42
5290382	TELUS	9, 35, 36, 37 and 42

23. It is submitted that the trademarks in favour of the plaintiff, are valid and subsistent on the Register of Trademarks. Thus, it is submitted that the same confers upon the plaintiff, the statutory right to use the said mark to the exclusion of others, and to restrain the use and/or registration of any identical and/or deceptively similar trademark under the provisions of Section 28(1) of The Trade Marks Act, 1999.



24. It is submitted that the TELUS marks are inherently distinctive in nature and have acquired substantial goodwill, distinctiveness and reputation among the members of trade and public, owing to extensive and continuous use for the past several years.

25. It is submitted that the TELUS marks have been extensively and uninterruptedly used in India. The plaintiff has widely published its TELUS marks by way of advertisements and brochures and various media publications, having wide circulation amongst the members of the trade and consuming public in India.

26. It is submitted that defendant no.1, i.e., M/s Telus International Academy Private Limited, although incorporated in December, 2022, became operational only around October, 2023, when it came to the plaintiff's attention that the defendant was unauthorizedly using the plaintiff's reputed, famous and well-known trademarks 'TELUS' and/or 'TELUS International', as part of its trade name – M/s TELUS INTERNATIONAL ACADEMY PRIVATE LIMITED and

logo , as is evident from the defendant's website.

27. It is submitted that the defendant's services provided under the impugned marks pertain to the education sector, including student admissions in foreign universities and colleges along with tutorial services for international language tests. It is submitted that the defendant on its website and social media, claims to have a network with universities and colleges in Germany, United Kingdom and Canada.



28. Attention of this Court has been drawn to the document filed along with the plaint and by referring to the said documents, it is submitted that the defendant is not only using the plaintiff's TELUS mark, as part of the leading and essential feature of its domain name www.telusacademy.com, but is also portraying to the potential customers/visitors on its websites that its company viz. 'Telus International Academy Pvt. Ltd.', is built to fulfil children's passion to study in the best foreign universities and colleges including in Canada, which is also the home country of plaintiff. Thus, it is submitted that such use of plaintiff's marks can lead to confusion, deception and misrepresentation and also false association with plaintiff's business.

29. It is submitted that upon knowing the infringing activities of the defendant, the plaintiff sent a cease-and-desist notice dated 10th October, 2023 to the defendant demanding immediate cessation of the impugned marks in all manner, whatsoever. However, the defendant, in response to the said cease and desist letter demanded a consideration amount from the plaintiff, to cease the use of the mark 'TELUS'.

30. It is submitted that after receiving the cease-and-desist notice, the defendant has also applied for an infringing mark, i.e., 'Telus International Academy' on 21st October, 2023 bearing application no. 6159168 in Class 41 for the services "*Foreign Language training and Education, Educational Consultancy*", claiming use since 12th December, 2022.

31. It is submitted that the plaintiff has filed the opposition on 11th April, 2024 and opposition notice has been issued by the Trademark Office on 16th April, 2024. A counter statement has also been filed by the defendant, which has been placed on record, before this Court.

32. Learned Senior Counsel appearing for the plaintiff, thus, submits that



defendant's use of a trademark identical to that of the plaintiff's, gives an unjust benefit to them from the reputation built around the TELUS marks by the plaintiff. It is further submitted that the defendant's services overlap with the plaintiff's services, as the plaintiff has also launched various educational initiatives across the globe, wherein, the Telus International University is used by the plaintiff. The plaintiff has launched the same in the year 2023.

33. It is submitted that the plaintiff's business under the trade name/trademark "Telus International", also involves operating multi-lingual call centres around the world. On account of that, there is a high risk that defendant's business under the impugned marks would be perceived as an institution related to the registered trademark "TELUS International" of the plaintiff and connected to the programs launched by Telus International India recently, as being portrayed to offer language tutorials in preparation for work at one of its call centres.

34. It is submitted that the defendant's adoption of an identical mark in relation to similar services is dishonest, and with an ulterior motive and with an intent to trade upon and profit from the goodwill and reputation of the plaintiff's business. There is an active misrepresentation with an attempt to deceive and mislead the consumers and therefore, to pass off the Defendant's goods and services, as those of the plaintiff.

35. Thus, it is submitted that if the defendant is allowed to use the impugned marks, the plaintiff's TELUS marks will suffer dilution, weakening and eventual erosion of the goodwill and reputation, associated therewith, thus, causing irreparable injury and harm to the plaintiff.

36. It is submitted that the defendant is providing its services online and through physical classes, which is clearly mentioned on the defendant's



website as well. It is submitted that online classes provided by the defendant can be attended from anywhere in India, including New Delhi.

37. Thus, it is submitted that this Court has the jurisdiction to hear the present matter.

38. Considering the submissions made before this Court, it is held that 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.

39. Accordingly, till the next date of hearing, the defendant, its directors, partners, promoters, investors, assignees, employees, servants, retailers, dealers, agents, stockiest, distributors and all other persons acting on its behalf, are restrained from using the trademark, in any manner, under the impugned marks 'TELUS' and/or 'TELUS International' or



, including on any social media or any e-commerce platform or website, including their existing website <https://telusacademy.com/en/> or any variant thereof, or any other trademark logo device/domain name as may be identical or deceptively similar to the plaintiff's TELUS marks, amounting to infringement/passing off, of the plaintiff's TELUS marks or any other mark, which is identical and/or deceptively similar to plaintiff's TELUS marks, including from using its trade name "TELUS INTERNATIONAL ACADEMY PRIVATE



LIMITED.

40. Issue notice to the defendant by all permissible modes, upon filing of process fee, returnable on next date of hearing.
41. Let reply be filed within a period of four weeks.
42. Rejoinder thereto, if any, be filed within two weeks, thereafter.
43. Compliance of Order XXXIX Rule 3 CPC be within a period of one week, from today.
44. Re-notify on 20th December, 2024.

MINI PUSHKARNA, J

AUGUST 2, 2024/kr