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

+ **CS(COMM) 631/2024**

TELUS CORPORATION

.....Plaintiff

Through: Mr. Anju Agrawal, Ms. Manisha Singh, Mr. Abhai Pandey, Mr. Gautam Kumar and Ms. Akhya Anand, Advs.

Versus

TELUS INTERNATIONAL ACADEMY PVT LTDDefendant

Through: Mr. Lakshmeesh S. Kamath, Mr. Samriti Ahuja and Ms. Aditi Prakash, Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **26.05.2025**

I.A. 46686/2024-For rejection of plaint

1. By virtue of the present application under *Order VII Rule 11* read with *Section 151* of the Code of Civil Procedure, 1908, the defendant seeks rejection of the captioned plaint.

2. The learned counsel for the defendant submits that the captioned plaint is liable to be rejected, primarily under two grounds. *Firstly*, that there is a non-exhaustion of the compulsory pre-mediation under *Section 12A* of the Commercial Court Act, 2015, and *secondly* that this Court does not have territorial jurisdiction to adjudicate the captioned suit.

3. While dealing with the issue of non-exhaustion of the compulsory pre-mediation under *Section 12A* of the Commercial Court Act, 2015, this Court finds that subsequent to the plaintiff becoming aware of the infringing activities of the defendant, the plaintiff issued a cease-and-

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desist notice dated 10.10.2023 to the defendant, which though was received but was not replied. In fact, in the same month itself, the defendant telephonically demanded INR 5,00,00,000/- [USD 601,833] to cease the use of the impugned mark. This, *prima facie*, shows the utter bad faith/ malicious intent of the defendant, which prompted the plaintiff to institute the present suit. This, under the facts and circumstances involved, was a case which called for extreme measures to be taken with no reference to pre-litigation mediation proceedings.

4. In any event, it is a settled position of law that mere delay in bringing action of the present nature is not sufficient to defeat the grant of injunction, particularly, wherein it is involving a continuous cause of action and where it is evident that dishonesty is obvious/ apparent from the plaint. Reliance in this regard is placed upon ***Midas Hygiene Industries (P) Ltd. v. Sudhir Bhatia***¹ and also finds support in ***M/s. Bengal Waterproof Limited v. M/s. Bombay Waterproof Manufacturing Company and Anr.***², wherein it has been held that the ongoing infringement of a registered trademark creates and gives rise to a recurring/ continuous cause of action for the trademark holder to initiate action.

5. Qua the issue of this Court not having the territorial jurisdiction to adjudicate the captioned suit, it is evident from the website i.e. “www.telusacademy.com” of the defendant that they have a worldwide presence across the Globe, including within the precincts of this Court. The said website is indeed an interactive one and is accessible in New

¹(2004) 3 SCC 90

²1997 (1) SCC 99



Delhi by prospective clients, which enables any user/ party to interact *via* emails/ social media *inter alia* to engage with the defendant regarding their services. Being in the line of services as they are, the defendant is there with the sole intention to engage in a commercial transaction for gains, as implied *qua* the services provided on the said internet website.

6. In view of the above, reliance is placed upon the judgment of the Division Bench of this Court in ***Banyan Tree Holding (P) Limited v. A. Murali Krishna Reddy & Anr.***³ holding that while deciding the question of territorial jurisdiction under *Section 20(c)* of Code of Civil Procedure, 1908 *qua* universally accessible website, the Court has to be satisfied that there is an intention to conclude a commercial transaction in the forum state and the said intention ought to be present and derived from the plaint. Similarly, in ***Johnson & Johnson (P)Ltd. v. Mr. Abbireddi Satish Kumar & Ors***⁴ it is held that if the website can be accessed at the time of filing the suit, the court shall have territorial jurisdiction and the same has to be present and has to be inferred from the plaint. Therefore, in light of the present factual matrix, the existence of an interactive websites makes a valid cause of action and the matter herein clearly comes within the ambit/ territorial jurisdiction of this Court to adjudicate the captioned suit.

7. Accordingly, the present application is dismissed.

I.A. 34947/2024-Stay and I.A. 46202/2024-Order XXXIX Rule 4 CPC

8. Learned counsel for the parties seek, and are granted, four weeks to file their respective written synopsis not exceeding five pages, giving a chronological list of dates and events and relevant documents, if any,

³CS (OS) No.894/2008

⁴ CS (COMM) 801/ 2023 dated 04.02.2024



alongwith duly highlighted judgments setting out the propositions of law therein, they wish to rely upon.

9. Renotify on 16.09.2025.

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10. Renotify on 16.09.2025.

SAURABH BANERJEE, J

MAY 26, 2025/Ab