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

+ CS(COMM) 727/2024 & I.A. 37524/2024, I.A. 45512/2024,
I.A.45513/2024, I.A. 46482/2024, I.A. 46543/2024, I.A. 47003/2024,
I.A. 47105/2024, I.A. 47106/2024, I.A. 48243/2024

TRIOLOGY SOLUTIONS PRIVATE LIMITEDPlaintiff
Through: Mr. Anshuman Upadhyay, Mr.
Naseem, Advocates (M:9990908544)
versus

FLIPKART INTERNET PRIVATE LIMITED & ORS.Defendants
Through: Ms. Shilpa Gupta, Mr. Naman
Tandon, Ms. Arushi Mann, Advocates
for D-1 (M:9811289656)
Mr. Vivek Ayyagari, Mr. Rishabh
Rao, Advocates for D-2
(M:7676612211)
Ms. Mishthi Dubey, Mr. Abhay Aren,
Advocates for D-3 (M:9897862900)
Ms. Disha Sharma, Advocate for D-4
(M:9899296222)
Ms. Surabhi Pande, Mr. Raghav
Goyal, Advocates for D-6
(M:9205464387)
Mr. Jatin Seth, Advocate for D-12 to
15
Mr. Akhil Solanki, Advocate for D-20
(M:9870127881, 7711881192)
Mr. Sagar Chandra, Mr. Upendra
Patel, Mr. Nikhil Sonker, Mr.
Lakshay Gunawat, Advocates for D-
22 (M:9958280082)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

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ORDER
17.12.2024



I.A. 47106/2024 (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 defendants, seeking exemption from filing clearer, with proper margins typed copies, vernacular and originals of certain documents.
2. Exemption is granted, subject to all just exceptions.
3. Defendants shall file clearer, with proper margins typed copies, vernacular and originals of documents, clear, and translated copies of the documents, on which the defendants may seek to place reliance, before the next date of hearing.
4. Accordingly, the present application is disposed of.

I.A. 48243/2024 (Application for condonation of delay in filing the written statement)

5. The present application has been filed on behalf of defendant no.2 seeking condonation of delay of 27 days in filing the written statement.
6. Learned counsel for the plaintiff submits that he has no objection to the present application.
7. Accordingly, delay of 27 days in filing the written statement by defendant no.2 is condoned.
8. The written statement is taken on record.
9. Noting the aforesaid, the present application is disposed of.

I.A. 47105/2024 (Application for condonation of delay)

10. The present application has been filed on behalf of the defendant nos. 12 to 15 seeking condonation of delay of 25 days in filing the written



statement.

11. Learned counsel for the plaintiff submits that he has no objection to the present application.

12. Accordingly, delay of 25 days in filing the written statement by defendant nos. 12 to 15 is condoned, and the written statement is taken on record.

13. Noting the aforesaid, the present application is disposed of.

I.A. 46543/2024 (Application for condonation of delay)

14. The present application has been filed on behalf of defendant no.4 seeking condonation of delay of 77 days in filing the written statement.

15. Learned counsel for the plaintiff submits that he has no objection to the present application.

16. Accordingly, delay of 77 days in filing the written statement by defendant no.4, is condoned and the written statement is taken on record.

17. Noting the aforesaid, the present application is disposed of.

I.A. 46482/2024 (Application for condonation of delay)

18. The present application has been filed on behalf of defendant no.3 seeking condonation of delay of 53 days in filing the written statement.

19. Learned counsel for the plaintiff submits that he has no objection to the present application.

20. Accordingly, delay of 53 days in filing the written statement by defendant no.3, is condoned and the written statement is taken on record.

21. Noting the aforesaid, the present application is disposed of.

I.A. 47003/2024 (seeking clarification of order dated 30th August, 2024)

22. The present application has been filed on behalf of defendant no.8 under Section 151 of CPC seeking clarification of the order dated 30th



August, 2024. Learned counsel for defendant no.8 submits that by way of the order dated 30th August, 2024, this court has passed the order in the following manner:

“xxx xxx xxx

33. Further, it is directed that the Plaintiff shall provide the list of URLs to the Defendant Nos 1 to 11. As and when such information is provided by the Plaintiff to the said defendants, the defendant nos 1 to 11 shall take appropriate steps to take down listings of defendant nos. 12 to 23, which amount to passing off counterfeit products of the plaintiff.

xxx xxx xxx”

23. Learned counsel for defendant no.8 submits that the plaintiff has, on three separate occasions, vide Email dated 08th October, 2024, 14th October, 2024 and 29th October, 2024, has contacted the defendant no.8, requesting to take down certain infringing URLs. She submits that while some of the URLs refer to defendant nos. 12 to 23, who are before this Court, other URLs pertain to third parties, who are not before this Court.

24. Learned counsel for the plaintiff at this stage submits that the other URLs pertain to the third parties who are John Doe, who have been discovered by the plaintiff after the passing of the order dated 30th August, 2024 by this Court.

25. Learned counsel for the plaintiff further submits that the plaintiff has impleaded defendant nos. 12 and 13 who are Welkin Skincare.

26. He further submits that various parties are selling counterfeit products and that name of the seller can be changed very quickly online.

27. Considering the aforesaid submissions made before this Court, liberty is granted to the plaintiff to file an affidavit with respect to various new websites, domain names, URLs which the plaintiff discovers. The said



affidavit shall be filed and listed before the learned Joint Registrar.

28. As and when such affidavit is filed by the plaintiff, the order dated 30th August, 2024, shall be extended to the said websites also.

29. With the aforesaid directions, the present application is disposed of.

CS(COMM) 727/2024

30. At the outset, learned counsel for defendant no. 22 puts in appearance and submits that the defendant no. 22 is ready to suffer a decree in terms of paragraph 67 (b) and (d) of the plaint.

31. He submits that defendant no.22 was an innocent adopter and was not aware about the rights of the plaintiff.

32. Learned counsel for defendant no.22 further undertakes that defendant no. 22 shall not use any trade dress or packaging or any mark, which is similar or deceptively similar to the plaintiff's mark.

33. Learned counsel for the plaintiff expresses satisfaction. However, he submits that in view of the infringing activity of the defendant no. 22, some nominal cost may be granted.

34. Accordingly, with the consent of the parties, decree is passed in favour of the plaintiff and against defendant no.22, in terms of paragraph 67 (b) and (d) of the plaint.

35. Defendant no.22 shall pay a cost of ₹ 1,00,000/- (Rupees One Lac) to the plaintiff, within a period of two weeks from today.

36. Let decree sheet be drawn up *qua* defendant no.22.

37. Learned counsel for defendant no.20 submits that defendant no.20 is also ready to suffer decree and has instructions to pay a cost of ₹ 1,00,000/- (Rupees One Lac).

38. Learned counsel for the plaintiff submits that he shall seek



instructions in that regard.

39. List before the Joint Registrar (Judicial) for completion of pleadings and further proceedings on 23rd January, 2025.

40. In view of the fact that decree has already been passed *qua* defendant no.22, let amended memo of parties be filed by the plaintiff, within a period of two weeks from today.

MINI PUSHKARNA, J

DECEMBER 17, 2024

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