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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 635/2023**
KAPLAN, INC. Plaintiff

Through: Ms. Rima Majumdar, Mrs. Bindra
Rana, Ms. Riya Sardana & Ms. Tanya
Sharma, Advocates.
versus

GALAXY BOOK CENTRE & ORS. Defendant

Through: Ms. Kangan Roda, Advocate for D-2.
Mr. Ravi Kant Srivastav & Mr. Niraj
Kumar, Advocates for D-3 to 6.
Ms. Nipur Katyal, Ms. Kismat
Chauhan & Mr. Naved Ahmed,
Advocates for D-9.
Mr. Aditya Gupta & Mr. Sauhard
Alung, Advocates for D-10.
Mr. Tejas Kalia, Mr. Varun Pathak,
Ms. Anee Rana, Mr. Vishesh Sharma
& Ms. Prasadhi Agrawal, Advocates
for D-11.
Mr. Naman Joshi, Mr. Anirudh Singh,
Ms. Ritika Vohra & Mr. Guneet Sidhu,
Advocates for D-12.
Mr. Manikya Khanna & Ms. Kavya
Singh, Advocates for D-13.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
10.01.2024

I.A. 555/2024 (under Order 39 Rule 4 read with Section 151 CPC)

1. This application has been filed on behalf of defendant No. 11 (Meta



Platforms Inc.) seeking modification of interim order dated 13th September, 2023 passed by this Court. Para 31(iv) of the said order extracted as under:

“(iv) Defendants 10, 11, 12 and 13 are directed to take down, forthwith, from their respective platforms, any third party listing of the plaintiffs Kaplan Schweser range of books and study materials, forthwith, which is traceable to Defendants 1 to 9.”

2. Directions were passed to defendant Nos. 10-13 for taking down listings infringing plaintiff's registered trademark.
3. Counsel for defendant No. 11 states that, being an intermediary, they would not be in a position to monitor their platform consistently for determining whether any particular listing was infringing the rights of the plaintiff, as contended in this suit, and in respect to which directions were passed by the Court.
4. Counsel for defendant No. 11 has drawn attention to various orders passed by the Court in this regard relating to the duty of the intermediaries to deal with listings which are potentially infringing.
5. In view of these facts and circumstances, para 31(iv) of the said order will be now replaced with the following:

“That the plaintiff shall be permitted to address a written communication to defendant Nos. 10-13 in the event any listing of the said platforms is infringing their registered trademark as well as copy right in relation to the Kaplan Schweser range of books and study materials. Defendant Nos. 10-13 will take down the said listings unless they find that they are not infringing the plaintiff's rights as determined by the Court's order dated 13th September, 2023, in which case the said defendants are at liberty to respond to the plaintiff's communication giving reasons for the same. Plaintiff will consequently be at liberty to approach this Court for any



directions, if so desired”.

6. The application is accordingly disposed of with the aforesaid directions.

I.A. 556/2024 (Exemption under Section 141 of the CPC)

1. This application has been filed by defendant No. 11 for exemption to Meta Platforms, Inc. in filing duly apostilled version of its application.
2. Subject to the just exceptions, the said application is allowed, and is accordingly disposed of.

I.A. 23594/2023 (Order 1 Rule 10 (2) of CPC)

1. This application has been filed under Order 1 Rule 10 (2) of the Code of Civil Procedure, 1908 by defendant No. 12 for deletion from array of parties. Defendant No. 12 (India Mart) has stated that, pursuant to the direction passed on 13th September, 2023, they have to remove the infringing listings, and it may not be necessary to retain them as a defendant in the said suit.
2. Counsel for plaintiff has no objection to the same, subject to liberty being granted to the plaintiff to communicate to India Mart in case any infringing listings relatable to defendants Nos. 1 to 9 are made available by them.
3. In view of the same, the application is allowed. Defendant No. 12 be deleted from the array of parties. Liberty as sought by the plaintiff is granted.
4. It is made clear that, in the event any such communication is addressed to defendant No. 12 in relation to any future infringing listings, defendant No. 12 shall be at liberty to communicate, with reasons, a response to the plaintiff in case they do not agree to take down such infringing listings. In that event,



the plaintiff will be entitled to approach this Court with an appropriate application seeking any directions if so desired.

I.A. 17627/2023 (under Order 39 Rule 1 & 2 read with Section 151 of CPC)

1. Counsel for defendants Nos. 3-6 wish to file a response to the said application, they may do so within the next four weeks with a copy to the opposite side.
2. Rejoinder will be filed to the same, if so desired, before the next date of hearing.
3. Counsel for defendant No. 9 states that he does not wish to file a response.
4. Counsel for defendant no. 2 states that they are willing to settle the matter on acceptable terms with the plaintiff. Counsels for plaintiff and defendant no. 2 may collaborate and discuss any agreeable terms of settlement *inter se* which may be agreed to before the next date of hearing.
5. If a settlement is arrived at, liberty is granted to the parties to move an appropriate application before the Court. If such settlement is not arrived at, counsel for defendant No.2 seeks liberty to file a response to the said application, which may be done, before the next date of hearing.
6. No one appears on behalf of the defendants Nos. 7 to 8. They are also at liberty to file a response to the said application within the next four weeks.
7. List on 08th May, 2024.
8. Interim orders to continue.
9. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JANUARY 10, 2024/MR