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

+ CS(COMM) 920/2024 with I.A. 42821/2024
WOW MOMO FOODS PRIVATE LIMITEDPlaintiff
Through: Mr. Ankur Sangal, Mr. Ankit Arvind,
Mr. Shashwat Rakshit and Ms. Amrit
Sharma, Advocates.

versus
WOW MOM FOODS & ANR.Defendants
Through: Ms. Bhawna, Advocate

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

% **ORDER**
22.11.2024

**CS(COMM) 920/2024 with I.A. 42821/2024 (u/O XXXIX Rules 1 and 2
CPC)**

1. The present suit has been filed seeking permanent injunction restraining the defendants from infringing the trademarks of the plaintiff, passing off their goods as those of the plaintiff, along with other ancillary reliefs.
2. Notice in the present application was issued on 21st October, 2024 and was accepted on behalf of the defendants by their counsel in Court. At the request of the counsel, the defendants were given two weeks' time to file reply.
3. Today, a new counsel Ms. Bhawna appears on behalf of the defendants and states that she has recently been engaged in the case and seeks time to file reply.
4. It appears that the intent of the defendants was to seek an adjournment by engaging a new counsel two days before the hearing and not filing a

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reply.

5. The case set up in the plaint is that the plaintiff is the registered proprietor of the trademark  / “WOW! MOMO” and other “WOW!” formative marks. The aforesaid mark was adopted by the plaintiff through its predecessors in the year 2008 in respect of food products.

6. It is stated in the plaint that the plaintiff has over 600 outlets across 30 cities in India. The trademark “WOW!” is an essential and significant feature in almost all the trademarks of the plaintiff. Some of the “WOW!”

series of marks as given in paragraph 8 of the plaint are , , , , , , , , , , ,  and .

7. In paragraph 11 of the plaint, the plaintiff has given the details of its trademark registrations for its “WOW!” formative marks. The earliest claim of use of the mark is 16th June, 2008. A list of the plaintiff’s registered trademarks in various classes is set out below:

TRADE MARK	REG. NO.	CLASS	USER DETAILS	DATE OF REG.	STATUS
	4665757	29	16-06-2008	21-09-2020	Registered
	2014802	30	16-06-2008	27-08-2010	Registered
	2014803	43	16-06-2008	27-08-2010	Registered



	2831211	35	16-06-2008	22-10-2014	Registered
	2831212	43	16-06-2008	22-10-2014	Registered
WOW DIMSOMS	3301059	35	16-06-2008	04-07-2016	Registered
WOW DIMSOMS	3301060	43	16-06-2008	04-07-2016	Registered
WOW DIMSOMS	3301061	30	16-06-2008	04-07-2016	Registered
	4665744	29	16-06-2008	21-09-2020	Registered
	4665746	32	13/09/2015	21/09/2020	Registered
	5291474	35	16-06-2009	19-01-2022	Registered
	5291475	43	16-06-2009	19-01-2022	Registered
	5412947	32	16/06/2008	18-04-2022	Registered
	5412948	43	16-06/2008	18-04-2022	Registered
	5321648	30	28-11-2018	09-02-2022	Registered



	5412950	43	28-11-2018	18-04-2022	Registered
	5412949	32	28/11/2018	18-04-2022	Registered
	5510349	29	12-04-2021	29-06-2022	Registered
	5510350	30	12-04-2021	29-06-2022	Registered
WOW MOMO INSTANT	5510352	29	12-04-2021	29-06-2022	Registered
WOW MOMO INSTANT	5510353	30	12-04-2021	29-06-2022	Registered
	5667535	9	Proposed to be used	02-11-2022	Registered
	5667537	39	Proposed to be used	02-11-2022	Registered

All the aforesaid registrations remain valid and subsisting.

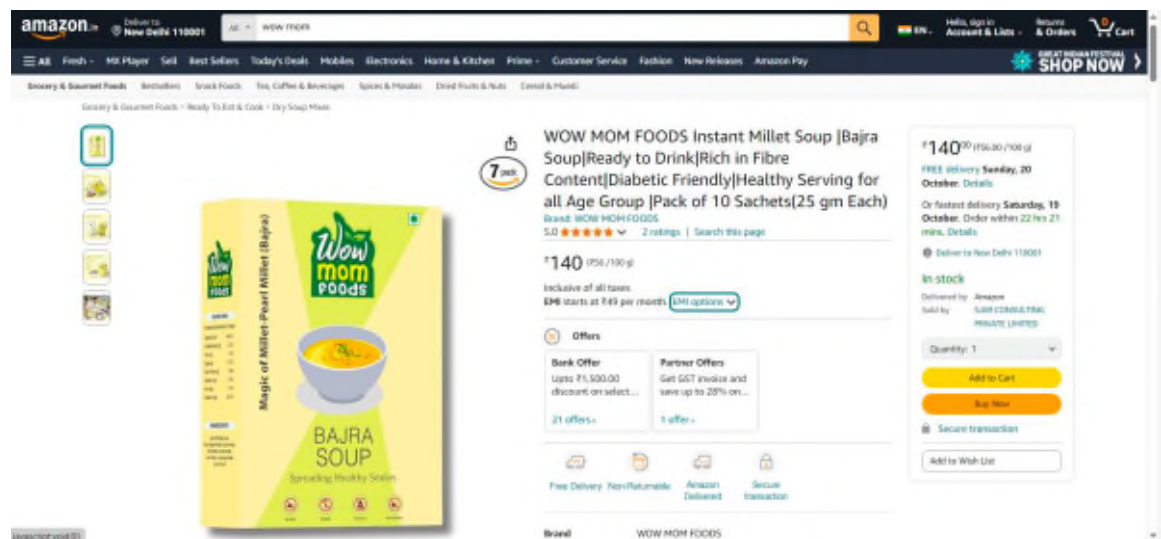
8. It is also averred in the plaint that the plaintiff has registered its domain name/website, www.wowmomo.com on 28th July, 2013.

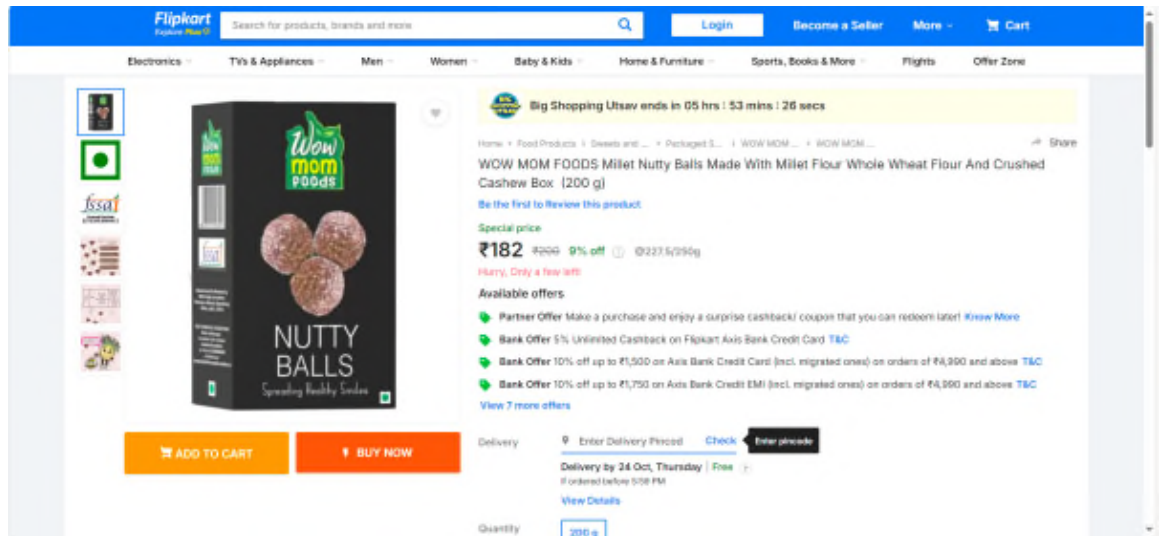


9. In paragraph 15 of the plaint, the plaintiff has provided the sales turnover of the plaintiff's products under the "WOW!" formative trademarks from 2008 to 2024. The sales turnover of the plaintiff in the year 2023-2024 was Rs.453 Crores (approx.).

10. The plaintiff has also provided its advertisement and promotional figures for the products and services under the "WOW!" formative trademarks in paragraph 18 of the plaint. As a result, the "WOW!" trademarks of the plaintiff enjoy immense reputation and goodwill among consumers.

11. In October, 2024, the plaintiff came across the products of the defendants on various e-commerce platforms bearing the impugned trademarks "WOW MOM"/ "WOW MOM FOODS" for manufacture and sale of food products under Class 30. Screenshots of some of these listings as given in paragraph 28 of the plaint are set out below:





12. A comparison of the plaintiff's trademarks/ trade name and the defendants' trademarks/ trade name is given in the table below:

Plaintiff's Trade Mark/Trade Name	Defendants' Trade Mark/Trade Name
WOW! MOMO	WOW MOM
WOW!	WOW
WOW MOMO FOODS	WOW MOM FOODS

13. It is stated in the plaint that the defendants are also running a website "https://wowmomfoods.in/." Furthermore, the defendant no.2 has filed a trademark application for the impugned trademark/trade name "WOW



MOM FOODS"/ bearing Application No.5734386 in the last week of November, 2023, to which the plaintiff has filed a notice of opposition.

14. On perusal of material placed on record, this Court finds that a *prima*



facie case to grant *ex-parte ad-interim* injunction in favour of the plaintiff and against the defendants, is made out. Balance of convenience is in favour of the plaintiff and against the defendants. Irreparable injury would be caused to the plaintiff if the defendants continue to use the impugned trademarks/trade name.

15. Consequently, till the next date of hearing, the defendants, their proprietors, partners or directors, as the case may be, its principal officers, servants, distributors, dealers, licensees and agents, and all others acting for an on behalf of the defendants, are restrained from selling, offering for sale, advertising, directly or indirectly dealing in any goods and services under the trade marks/trade name “WOW MOM”/ “WOW MOM FOODS” or any other mark(s) which may be identical to or deceptively similar with the plaintiff’s trademarks “WOW!/ “WOW! MOMO”/ “” and other “WOW” formative trademarks.

16. Further, the defendants are directed to take down the website/domain name <https://wowmomfoods.in> as well as all the e-commerce listings including but not limited to Amazon and Flipkart under the trademarks/trade name “WOW MOM”/ “WOW MOM FOODS”.

17. Let the reply be filed within four (4) weeks.

18. Rejoinder thereto, if any, be filed within two (2) weeks thereafter.

19. List on 19th February, 2025.

AMIT BANSAL, J

NOVEMBER 22, 2024

Vivek/-