



\$~48

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

+ CS(COMM) 1099/2024 & I.A. Nos. 47682/2024, 47683/2024,
47684/2024, 47685/2024

YATRA ONLINE LIMITED

.....Plaintiff

Through: Mr. Pravin Anand with Ms. Jaya Negi
and Ms. Yashi Agrawal, Advocates.
(M): 8076454840
Email: yashi@anandandanand.com

versus

MACH CONFERENCES AND EVENTS LIMITEDDefendant

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

%

09.12.2024

I.A. 47684/2024 (Exemption from filing 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 plaintiff, seeking exemption from filing clearer copies of documents with exact margins and/or which are on A4 size paper, typed-copies of handwritten documents, English translations and from filing originals of the relevant documents.
2. Exemption is granted, subject to all just exceptions.
3. Plaintiff shall file legible, clear, and translated copies of the documents, on which the plaintiff may seek to place reliance, before the next date of hearing.
4. Accordingly, the present application is disposed of.



I.A. 47685/2024 (Exemption from undergoing Pre-Institution Mediation)

5. 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.

6. 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.

7. Accordingly, the application stands disposed of.

I.A. 47683/2024 (Application seeking leave to file additional documents)

8. This is an application under Order XI Rule 1(4), read with Section 151 CPC, as amended by the Commercial Courts Act, 2015, seeking leave to file additional documents.

9. The plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

10. The application is disposed of, with the aforesaid directions.

CS(COMM) 1099/2024

11. Let the plaint be registered as suit.

12. 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.

13. 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.

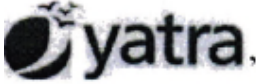
14. List before the Joint Registrar (Judicial) for marking of exhibits, on 29th January, 2025.

15. List before the Court on 29th April, 2025.

I.A. 47682/2024 (Application under Order XXXIX Rules 1 and 2 CPC)

16. The present suit has been filed for permanent injunction restraining infringement of trademark, passing off, misrepresentation, dilution, unfair competition, damages, rendition of accounts, delivery up etc.

17. Learned counsel appearing for the plaintiff submits that through the present suit, the plaintiff is seeking a decree of permanent injunction restraining infringement and passing off of the plaintiff's registered trademarks *inter alia* 'YATRA.COM', 'YATRA with DEVICE (Device)

i.e.,  , 'YATRA FREIGHT' and 'YATRA FREIGHT

(Device) i.e.,  , and passing off of the plaintiff's trade mark



‘YATRA’ by the defendant.

18. It is submitted that the plaintiff, i.e. Yatra Online Limited is the registered proprietor of the trade marks *inter alia* ‘YATRA.COM’, ‘YATRA



WITH DEVICE (Device) i.e. ‘YATRA FREIGHT’ and



‘YATRA FREIGHT (Device) i.e., wherein ‘YATRA’ forms the most dominant and essential feature of the said trademarks. The plaintiff adopted the trade mark ‘YATRA’ in the year 2005 as a part of its trade name and corporate name. In the year 2006, the plaintiff commenced use of the trade mark ‘YATRA’ for travel bookings and related services. In the year 2007, the plaintiff applied for various trade mark applications seeking registration for the mark ‘YATRA WITH DEVICE (Device) i.e.

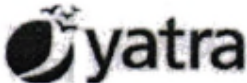


bearing registration nos. 1521727, 1521728, and 1521729 all in Class 39. The plaintiff also has several word mark registrations for the mark ‘YATRA.COM’ bearing registration nos. 2260822, 2260824, and 2260836 in Classes 38, 42, and 45. The plaintiff’s ‘YATRA’ formative trademarks are also being used by the plaintiff’s subsidiaries and group companies for travel related services and also for freight related services.

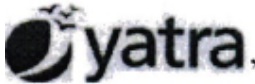
19. It is submitted that the defendant in the present suit has adopted deceptively similar trademarks ‘BOOKMYYATRA’/ ‘BOOKMYYATRA.COM’. As per the information received by the plaintiff through various online sources, the plaintiff has a credible apprehension to



believe that the defendant can anytime commence its business in identical services i.e. travel bookings and related services under the impugned trade mark ‘BOOKMYYATRA’/ ‘BOOKMYYATRA.COM’. Further, the defendant has also adopted the domain name using the impugned mark i.e. <bookmyyatra.com>. In this regard, a Comparative table showing the competing trademarks is reproduced as under:

PLAINTIFF’S REGISTERED TRADE MARK	DEFENDANT’S IMPUGNED MARKS
YATRA WITH DEVICE 	BOOKMYYATRA
YATRA.COM	BOOKMYYATRA.COM

20. It is submitted that in view of the plaintiff’s prior adoption and registration of the trademarks ‘YATRA.COM’, ‘YATRA WITH DEVICE

(Device) i.e.  , ‘YATRA FREIGHT’ and ‘YATRA

FREIGHT (Device) i.e.,  , wherein, ‘YATRA’ forms the most dominant and essential feature of the said trademarks and the long, extensive, and continuous use of the said trade marks in association with its travel bookings and related services, the adoption and use of the deceptively



similar marks/domain name by the defendant for identical services i.e., travel bookings and related services is necessarily deliberate, dishonest, and aimed at usurping the immense goodwill and reputation enjoyed by the plaintiff.

21. It is submitted that the plaintiff has extensively promoted its brand 'YATRA' and has spent substantial amounts of money every year towards the promotion, publicity, and advertisement of their business under the said trade mark/ trade name. The trademark 'YATRA' has been widely promoted by the plaintiff through print and media all of which enjoy a wide viewership, circulation, and readership all over India.

22. It is further submitted that the plaintiff also offers its travel bookings and related services through its mobile applications bearing the trade mark 'YATRA'. The said mobile applications can be downloaded for free from the 'Google Play Store' at https://play.google.com/store/apps/details?id=com.yatra.base&hl=en_IN and 'Apple App Store' at <https://apps.apple.com/in/app/yatra-flights-hotels-cabs/id730234679>. The plaintiff also has a formidable presence on various social media platforms. The plaintiff has an official Facebook account at www.facebook.com bearing the user name 'YATRA.COM'. The said page has approximately 2.3 million followers as on the date of filing of the present suit. The plaintiff also has an official 'X' account at www.x.com bearing the user name '@YATRAOFFICIAL'. The plaintiff also has an official Youtube page at www.youtube.com under the username 'YATRA.COM'. The plaintiff has approximately 12K subscribers to its official Youtube channel as on the date of the filing of the present suit. The plaintiff has an official Instagram page on www.instagram.com under the



user name 'YATRADOTCOM'. The plaintiff has approximately 98.2K followers to its official Instagram account as on the date of filing of the present suit.

23. It is submitted that the plaintiff has invested an enormous amount of time, effort, and money through its website 'www.yatra.com' and other means to promote and advertise its travel bookings and related service under its trade mark/ trade name 'YATRA' which are consequently been identified solely with the services rendered by the plaintiff. The table showing the yearly expenditure spent in marketing and business promotion, by the plaintiff, as given in the plaint, is reproduced as under:

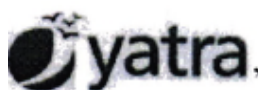
MARKETING AND BUSINESS PROMOTION EXPENDITURE FOR
'YATRA'

YEAR	AMOUNT (IN RUPEES IN CRORES)
FY 2006-2007	8.10
FY 2007-2008	31.63
FY 2008-2009	21.81
FY 2009-2010	39.40
FY 2010-2011	59.25
FY 2011-2012	72.14
FY 2012-2013	72.27
FY 2013-2014	83.88
FY 2014-2015	121.96
FY 2015-2016	147.93
FY 2016-2017	227.23
FY 2017-2018	403.35
FY 2018-2019	429.74
FY 2019-2020	163.06
FY 2020-2021	87.70
FY 2021-2022	142.38
FY 2022-2023	315.98
FY 2023-2024	351.27



24. It is further submitted that the plaintiff has made extensive use of the trade mark 'YATRA' to market its travel bookings and related services that the said marks are exclusively identified with the plaintiff. Further the plaintiff has an unmatched reputation in their field of activity. Further, ever since its adoption, the plaintiff has extensively and continuously used the trademark 'YATRA' in an uninterrupted manner so as to have amassed considerable sales under the trade mark, which has caused sufficient secondary significance to be attributed to the mark and to cause the same to be taken to exclusively connote the services and/or business of the plaintiff. It is submitted that the plaintiff conducted an online search of the word 'Yatra' on the Search Engine 'Google' at www.google.com and found that the first few posts which appear upon the said Google Search are either of the plaintiff or are related to the plaintiff company. Hence, it is evident that the word 'Yatra' has acquired a secondary significance which is directly associated with the plaintiff's goodwill and reputation.

25. It is submitted that the plaintiff exercises strong common law rights in the said trademark over and above the statutory rights vested in the trade marks 'YATRA.COM', 'YATRA with DEVICE (Device) i.e.,



, 'YATRA FREIGHT' and 'YATRA FREIGHT (Device)



i.e., and any misuse of the identical or deceptively similar mark to sell competing services will not only be likely to deceive the average consumer of imperfect recollection, but will also cause heavy losses



to the plaintiff.

26. It is submitted that recently in the month of November, the plaintiff came across a document dated 26th October, 2024 bearing the subject 'Transcript of the Analysts/ Investor's Meet held on 22nd October, 2024 on the official website of Bombay Stock Exchange (BSE) Limited at www.bseindia.com. The said document contains a transcript of a question and answer session with the Chairman and Managing Director of the defendant company, Mr. Amit Bhatia, which was conducted during the said 'Analysts/ Investor's Meet' dated 22nd October, 2024.

27. It is further submitted that upon reviewing the said Transcript dated 26th October, 2024, the plaintiff was shocked to know that the defendant is at a preparatory stage for launching a portal/website under the name 'BOOK MY YATRA'.

28. It is submitted that from the said transcript that the said portal would be a Business-To-Consumer (B2C) segment of the defendant company and the defendant is presently working on setting up a separate team of people to manage the said venture of the defendant. It is submitted that the defendant's proposed business venture under the portal/name 'BOOK MY YATRA' comprises of the plaintiff's trade mark 'YATRA' in entirety. As already stated above, the plaintiff is also engaged in providing B2C travel bookings and related services through its online portals and the plaintiff is also engaged in the MICE business segment. Hence, the defendant's 'BOOK MY YATRA' portal would not only cause extreme customer confusion, but would also lead to dilution of the plaintiff's trademark 'YATRA'.

29. It is submitted that upon conducting further online research, the plaintiff was shocked to come across a website www.bookmyyatra.com. The



plaintiff conducted a search on the official website of 'Whois Lookup' at www.whois.com and found that the said domain name was registered on 26th January, 2017, however it was last updated on 30th August, 2024. The plaintiff also found that the details of the registrant on the Whois record were masked.

30. It is further submitted that it is evident from the above information that the defendant has applied for trade mark applications for the mark 'BookMyYatra', which is visually and conceptually similar to the plaintiff's trade mark 'YATRA' and subsumes the plaintiff's trade mark 'YATRA' in its entirety. Furthermore, the defendant has also applied for trade mark applications seeking registration for the trade mark 'BookMyYatra.com' which is visually and conceptually similar to the plaintiff's registered trade mark 'YATRA.COM' and subsumed the plaintiff's registered trade mark 'YATRA.COM' in its entirety by only prefixing 'Bookmy' to 'Yatra/Yatra.com'.

31. It is submitted that the defendant's trade mark application bearing application no. 6503437 for the mark 'BookMyYatra.com' and the defendant's trade mark application bearing application no. 6503438 for the mark 'BookMyYatra' are for services namely, *'Travel reservations, Travel services, Travel organization, Travel consultancy, Travel arrangements, Travel information, Travel reservation, Travel booking agencies, Travel information services, Travel arrangement services'*. It is submitted that the said services for which the impugned trademarks 'BookMyYatra.com'/'BookMyYatra' have been applied for by the defendant for the purpose of seeking a trade mark registration, are identical to the services which are provided by the plaintiff.



32. It is submitted that the said adoption and use by the defendant is not a mere coincidence and that the defendant clearly had prior knowledge about the plaintiff's marks 'YATRA'/ 'YATRA.COM'. Such an adoption by the defendant is in bad faith, clearly done with an intention to harp on the reputation and goodwill created by the plaintiff due to their long and extensive use of the marks 'YATRA'/ 'YATRA.COM' and the quality of services associated with the said marks. By virtue of such deceitful adoption of the defendant, the plaintiff is bound to suffer dilution, diminution, weakening and eventual erosion of the goodwill, reputation and the positive associations linked to its 'YATRA'/ 'YATRA.COM' marks.

33. It is further submitted that the defendant's adoption in bad faith of impugned marks containing the plaintiff's trademarks 'YATRA'/ 'YATRA.COM' for identical services, is clearly with an intention of targeting the plaintiff's customers and disrupting its market. Given the fact that the plaintiff's trademark 'YATRA'/ 'YATRA.COM' are well-known, and that the plaintiff is one of the leading players in the online tour and travel booking and related services industry, it is unfathomable that the defendant has not been aware that the trade mark 'YATRA'/ 'YATRA.COM' are proprietary to the plaintiff. Such an adoption of the impugned marks by the defendant cannot be a mere co-incidence but a well-planned move to cash upon their good will and reputation in the market.

34. It is submitted that when the defendant's services are likely to cater to the same consumer base, and they are not only bound to cause confusion, but will also induce consumers and members of the trade into falsely believing that the defendant has a direct nexus or affiliation with the plaintiff. The general public and members of the trade may be led to



presume that the defendant has been granted a license or authorization by the plaintiff to conduct its business of tour and travelling related services and/or is in a business association with the plaintiff; and/or the business of the defendant, has been endorsed by the plaintiff.

35. It is submitted that the plaintiff verily believes that there is a real and tangible possibility that the defendant would start to render its travel booking and related services under the impugned marks 'BOOKMYYATRA'/ 'BOOKMYYATRA.COM' anytime soon as is evidently clear from the defendant's transcript dated 26th October, 2024; the 'Draft Red Herring Prospectus' bearing the date 08th July, 2024; and the defendant's trade mark applications for the impugned marks 'BookMyYatra' and 'BookMyYatra.com' which have been filed on 'proposed to be used' basis. The defendant is already infringing the plaintiff's registered trademarks 'YATRA.COM', 'YATRA with DEVICE



(Device) i.e., , 'YATRA FREIGHT' and 'YATRA

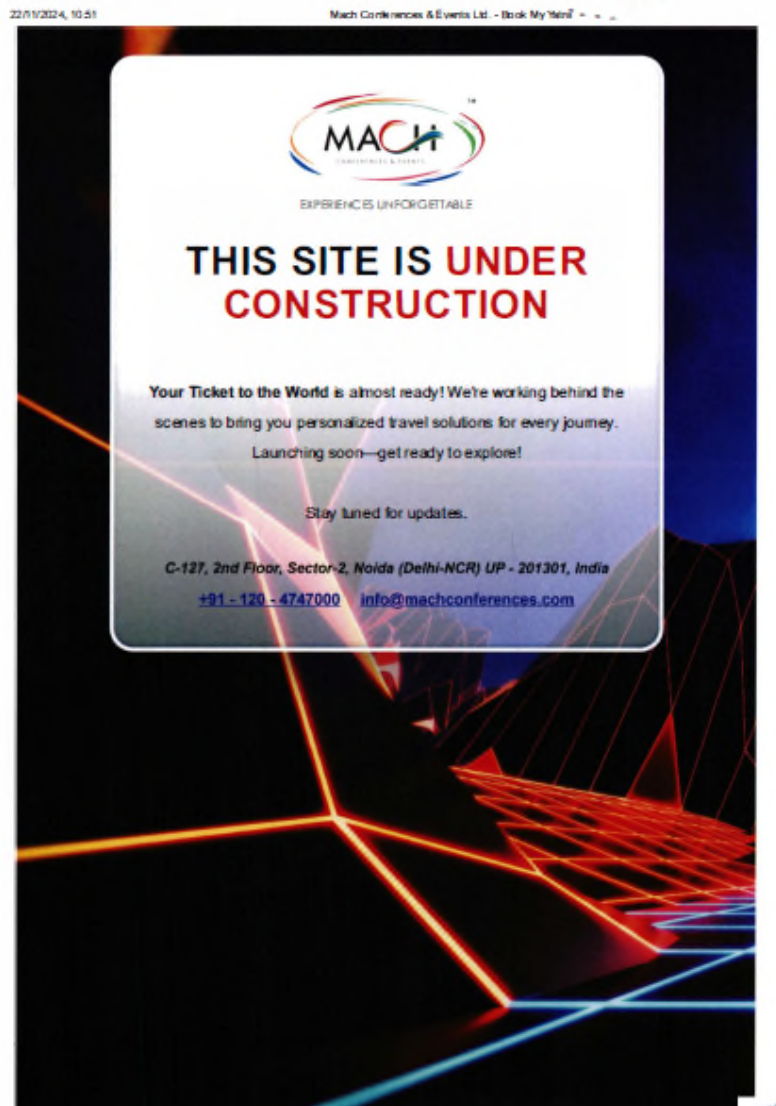


FREIGHT (Device) i.e., and has also launched its website at www.bookmyyatra.com which is presently under construction. However, the defendant has further potential to infringe and pass off the plaintiff's registered trademarks once the defendant commences actual business transactions under the impugned marks. This action is, therefore, *quia timet* with respect to passing off.

36. Learned counsel appearing for the plaintiff has drawn the attention of



this Court to the document folder to submit that the defendant is yet to launch its site, as the site of the defendant is shown as under construction. The document of the defendant in this regard is reproduced hereunder:-



37. Learned counsel appearing for the plaintiff also draws the attention of this Court to the transcript of the conversation at the Investors Meet, wherein, the defendant has confirmed that they are yet to launch its site.

38. Learned counsel appearing for the plaintiff submits that though earlier



the plaintiff had obtained registration with no exclusive right for Yatra, however, subsequently, registrations have been obtained for the wordmark Yatra, without the said disclaimer. The registration with TM Application no. 2260822 dated 03rd January, 2012, is reproduced as under:-

31

(NOT FOR LEGAL USE)

As on Date : **22/11/2024**
Status : **Registered**

[View Registration Certificate](#)
[View TM Application](#) | [View Additional Representation Sheet](#) | [View Examination Report](#)

TM Application No.	2260822
Class	38
Date of Application	03/01/2012
Appropriate Office	DELHI
State	HARYANA
Country	India
Filing Mode	Branch Office
TM Applied For	YATRA.COM
TM Category	TRADE MARK
Trade Mark Type	WORD
User Detail	Proposed to be used
Certificate Detail	Certificate No. 1382346 Dated : 25/10/2016 Notified in Journal No : 1770
Valid upto/ Renewed upto	03/01/2032
Proprietor name	(1) YATRA ONLINE PVT. LTD Body Incorporate
Proprietor Address	1101-1103, TOWER-B, IITH FLOOR, UNITECH CYBER PARK, SEC-39, GURGAON HARYANA
Email Id	
Agent name	ANAND AND ANAND.[295]
Agent Address	B-41, NIZAMUDDIN EAST, NEW DELHI - 110 013.
Goods & Service Details	[CLASS : 38] TELECOMMUNICATIONS
Publication Details	Published in Journal No. : 1748-0 Dated : 06/06/2016

[PRINT](#)

[PR Details](#)

[Correspondence & Notices](#)

[Uploaded Documents](#)

[EXIT](#)

WARNING/DISCLAIMER: THE DATA OF TRADE MARKS REGISTRY IS UNDER THE PROCESS OF DIGITISATION, IF ANY DISCREPANCY IS OBSERVED IN THE DATA PLEASE CONTACT OR SUBMIT AT APPROPRIATE TRADE MARKS REGISTRY ALONGWITH SUPPORTING DOCUMENTS. THIS WILL HELP IN UPDATION OF ELECTRONIC RECORDS.

39. Learned counsel appearing for the plaintiff further submits that with respect to similar names being adopted by other parties like Fashion Yatra,

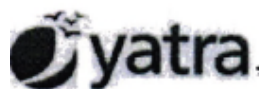


Pro-Yatra, Divine Yatra, Power Yatra etc., the same were challenged by the plaintiff. Upon challenge by the plaintiff, the application for registration of the said mark, were abandoned by the third parties, thereby, recognising the mark of the plaintiff Yatra for tour and travel services.

40. This Court further notes that advance service of the present plaint has been done upon the defendant. Despite advance service, none appears for the defendant.

41. Considering the submissions made before this Court, 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, balance of convenience also lies in favour of the plaintiff, and against the defendant.

42. Accordingly, till the next date of hearing, the defendant its partners, directors, proprietors, subsidiaries, affiliates, franchisees, officers, servants, agents distributors, stockists, representatives, licensees and anyone acting for or on its behalf directly or indirectly, as the case may be, are restrained from selling, advertising, manufacturing, mentioning on their websites or any third party website, dealing in any manner whatsoever, including as a part of its trade name and also as part of its domain name/website <BOOKMYYATRA.COM> or otherwise using, the marks 'BOOKMYYATRA' and 'BOOKMYYATRA.COM' amounting to infringement, passing off, misrepresentation, unfair competition, dilution and tarnishment of the plaintiff's trade marks 'YATRA.COM', 'YATRA



with DEVICE (Device) i.e., , 'YATRA FREIGHT' and



‘YATRA FREIGHT (Device) i.e., and also passing off of the plaintiff’s trade mark ‘YATRA’.

43. Issue notice to the defendant by all permissible modes upon filing of the Process Fee, returnable on the next date of hearing.
44. Let reply be filed within a period of four weeks.
45. Rejoinder thereto, if any, be filed within two weeks, thereafter.
46. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of one week.
47. List before the Court on 29th April, 2025.

MINI PUSHKARNA, J

DECEMBER 9, 2024

C