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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 821/2023, I.As. 22633/2023, 22634/2023, 22635/2023, 22636/2023 & 22637/2023**

INTER IKEA SYSTEMS BV Plaintiff
Through: Ms. Shwetasree Majumder, Ms. Tanya Varma, Mr. Rohan Krishna Seth, Advs. (M. 9999845680)
versus

IKEA LUXURY FURNITURE Defendant
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **10.11.2023**

1. This hearing has been done through hybrid mode.

I.A.22636/2023 (for exemption)

2. This is an application filed by the Plaintiff seeking exemption from filing Original/certified/translated copies of documents with proper margins, etc. Original documents shall be produced/filed at the time of Admission/Denial, if sought, strictly as per the provisions of the Commercial Courts Act, 2015 and the DHC (Original Side) Rules, 2018.

3. Exemption is allowed, subject to all just exceptions. Accordingly, the application is disposed of.

I.A.22634/2023 (u/S 12A of the Commercial Courts Act)

4. This is an application filed by the Plaintiff seeking exemption from instituting pre-litigation mediation under Section 12A of the Commercial Courts Act, 2015. Considering the facts and circumstances of the case, the



Court is satisfied that in terms of the judgment of the Supreme Court in *Yamini Manohar v. T.K.D Keerthi (2023 LiveLaw (SC) 906)* the suit contemplates urgent interim relief. In these facts, the exemption under Section 12A is granted to the Plaintiff. Accordingly, the application is disposed of.

I.A.22637/2023 (for court fee)

5. The court fee is stated to have been filed and stamp is only to be received. Same be filed on record within two weeks.

6. Application is disposed of.

I.A.22635/2023 (for additional documents)

7. This is an application seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter, '*Commercial Courts Act*'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act and the DHC (Original Side) Rules, 2018.

8. Application is disposed of.

CS(COMM) 821/2023

9. Let the plaint be registered as a suit.

10. Issue summons to the Defendant through all modes upon filing of Process Fee.

11. The summons to the Defendant shall indicate that the written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendant shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.



12. Liberty is given to the Plaintiff to file the replication within 15 days of the receipt of the written statement. 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 any documents, the same shall be sought and given within the timelines.

13. List before the Joint Registrar for marking of exhibits on 11th January, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

14. List before Court on 2nd April, 2024.

I.A. 22633/2023 (u/O XXXIX Rules 1 & 2 CPC)

15. Issue notice in the application.

16. The present suit has been filed by the Plaintiff- Inter IKEA Systems BV seeking protection of the mark 'IKEA'. The Plaintiff is headquartered in the Netherlands, and is involved in the manufacture and sale of home furnishing products, accessories, bathroom and kitchen fittings, outdoor flooring, furnishing, home, office furnishing products *etc.*, under the trade mark 'IKEA'. The Plaintiff is a part of the IKEA group of companies which has two Indian companies called 'IKEA India Pvt. Ltd.' and 'IKEA Services India Pvt. Ltd.' which are operating in India for over 10 years now.

17. The case of the Plaintiff is that the mark 'IKEA' has been used by it since 1943 globally and since the year 2008 in India. The goods and services of the Plaintiff are promoted through the domain name www.ikea.com as also its India specific domain name www.ikea.in. The Plaintiff claims that after the mark 'IKEA' was coined in 1943 from the initial letters of the founder's surname. The Plaintiff initially started selling various traditional



household items and stationery items. However, over the years it has expanded and opened stores in Sweden, Norway and Denmark. In the 1970's it expanded into various others cities in Europe. The Plaintiff opened further stores in the U.S., Canada, Belgium, etc. in the 1980s.

18. IKEA Group has franchises all across the world including in Egypt, Qatar, UAE, Kuwait, Morocco, Jordon, Bahrain, Saudi Arabia, China (Hong Kong), Indonesia, Taiwan, Bulgaria, Cyprus, Greece, Malaysia, Singapore *etc.* The mark 'IKEA' is used both as a word mark and in the logo form by the Plaintiff in the following manner:



19. It is claimed by the Plaintiff that the mark 'IKEA' is a unique word over which it has statutory and common law rights. As per the plaint, the mark 'IKEA' is registered in over 85 countries and is also registered in India in a number of classes including classes 6, 20, 21 & 28. A list of the Plaintiff's marks are as follows:



S. No.	Registration No.	Dated	Trademark	Class
1.	343317	December 02, 1978	IKEA	20
2.	616434	January 12, 1994		20
3.	1523563	January 15, 2007	IKEA	21
4.	1523564	January 15, 2007	IKEA	42
5.	1523568	January 15, 2007	IKEA	35
6.	1523574	January 15, 2007		20
7.	1523580	January 15, 2007		42
8.	1523584	January 15, 2007		20
9.	2499130	March 20, 2013	IKEA	7

20. One important feature of the 'IKEA' registered mark in India is that it is also registered in the Hindi language, as shown above. The total sales revenues claimed by the Plaintiff for the year 2018 are over 38 billion Euros. The mark 'IKEA', as per the Plaintiff, is associated exclusively with the Plaintiff.

21. In the present suit, the Plaintiff's grievance is that the Defendant-IKEA Luxury Furniture is using the mark and name 'IKEA' and 'IKEA



LUXURY FURNITURE’ in Calicut Road, Thirissur, Kerala. The images of the shop as placed on record by the Plaintiff are set out below:



22. The Defendant is also using the mark ‘IKEA’ in respect of various furniture items as also on the inside hoardings in the shop, on the boxes of products etc. Some of the images bearing the mark ‘IKEA’ are also extracted below:





23. The Plaintiff addressed a legal notice dated 24th July, 2023 calling upon the Defendant to restrain from using the mark 'IKEA'. In reply dated 10th August, 2023, the Defendant deliberately denied using the said mark. It is submitted by Id. Counsel for the Plaintiff that subsequent to notice exchange, the Defendant modified the outer hoarding of its shop to 'KEA Luxury Furniture'. However, inside the shop, the Defendant continues to use the name/mark 'IKEA' in respect of its furniture.

24. The Court has perused the record and heard Id. Counsel for the



Plaintiff. It is clear from the reading of pleadings and documents that the mark/name 'IKEA' is an extremely well-known mark. The mark belongs to the Plaintiff, which is a Swedish company. It is clear that the Plaintiff's 'IKEA' mark and name deserves to be protected.

25. Considering the fact that the Defendant is using the mark for identical goods and products range, and targets the same consumer segment, as per the triple identity test, the present is a fit case for grant of an *ex-parte ad-interim* injunction. Balance of convenience lies in favour of the Plaintiff, and irreparable harm would be caused to the Plaintiff, if the Defendant is not restrained.

26. Despite the legal notice being communicated, the Defendant has failed to stop use of the mark 'IKEA'. Accordingly, the Defendant shall stand restrained from using the mark/name 'IKEA' or any other mark or name which is deceptively similar to the Plaintiff's mark 'IKEA', either as trademark or trade name on hoarding of store/shops including stationery, banners, handbills, promotional materials etc.

27. The Plaintiff is free to write to JustDial for taking down the page of the Defendant with the name 'IKEA Luxury Furniture'.

28. Compliance of Order XXXIX Rule 3 CPC be made within one week.

29. Reply to this application be filed within four weeks after service of the paper book.

30. List on the date fixed above.

PRATHIBA M. SINGH, J.

NOVEMBER 10, 2023/dk/dn