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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CS(COMM) 838/2022 & I.A. No. 20435-20440/2022  
INFINITI RETAIL LIMITED ..... Plaintiff

Through: Ms. Kruttika Vijay and Mr. Sauhard  
Alung, Advocates.

versus

M/S CROMA -SHARE & ORS. .... Defendants

Through: None.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

% **05.12.2022**

**I.A. No. 20436/2022 (seeking exemption from serving advance copy of the suit paperbook to Defendants No. 1 to 4) and I.A. No. 20437/2022 (u/Section 80(2) of the CPC, 1908, seeking exemption from advance notice to Defendants No. 6 & 7)**

1. Exemption allowed, subject to all just exceptions.
2. The applications stand disposed of.

**I.A. No. 20438/2022 (seeking exemption from going through pre-institution mediation u/ Section 12A of the Commercial Courts Act, 2015)**

3. Having regard to the facts of the present case and in light of the judgement of Division Bench of this Court in ***Chandra Kishore Chaurasia v. R.A. Perfumery Works Private Ltd.***,<sup>1</sup> exemption from attempting pre-

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<sup>1</sup> Neutral citation: 2022/DHC/004454.

institution mediation is allowed.

4. Accordingly, the application stands disposed of.

**I.A. No. 20439/2022 (u/Order XI Rule 1 (4) of Commercial Courts Act, 2015 r/w Section 151 of the CPC, 1908, seeking leave to file additional documents)**

5. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.

6. Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the said Act.

7. Accordingly, the application stands disposed of.

**I.A. No. 20440/2022 (seeking exemption from filing clearer copies of certified, translated copies or documents with correct margins)**

8. Exemption is granted, subject to all just exceptions.

9. Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

10. Accordingly, the application stands disposed of.

**CS(COMM) 838/2022**

11. Let the plaint be registered as a suit.

12. Upon filing of process fee, issue summons to the Defendants by all permissible modes. Summons shall state that the written statement shall be filed by the Defendants within 30 days from the date of receipt of summons. Along with the written statement, the Defendants shall also file affidavit(s)

of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.

13. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendants, 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.


14. List before the Joint Registrar for marking of exhibits on 23<sup>rd</sup> January, 2023. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

15. List before Court for framing of issues on 27<sup>th</sup> March, 2023.

**I.A. No. 20435/2022 (u/Order XXXIX Rules 1, 2 and 7 r/w Section 151 of the CPC, 1908)**

16. The Plaintiff has filed the instant suit, *inter alia*, seeking permanent injunction restraining infringement of registered trademark, infringement of copyright, passing off, unfair competition, delivery up, rendition of accounts, damages, among other ancillary reliefs.

17. Plaintiff – registered proprietor of “INFINITI RETAIL LIMITED –

The future of retailing” [  ] and well-known trademark “CROMA”,<sup>2</sup> and its stylized variants, including *crōmā*,<sup>3</sup> is engaged in the business of sale of electronics/ appliances through retail stores as well as its website

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<sup>2</sup> As notified in Trade Marks Journal No. 1942 on February 24, 2020.

<sup>3</sup> hereinafter, “*Plaintiff’s registered marks*”.

www.croma.com. Defendants No. 1 to 4 are owners of domain names/ websites www.croma-share.com, www.croma-2.com, www.croma-1.com, and www.croma-3.com, respectively.<sup>4</sup>

18. The case of the Plaintiff, as set out in the plaint, is that in November, 2022, upon receipt of several complaints, it discovered that Defendants No. 1 to 4 are operating the infringing websites for defrauding people by taking money under the pretext of recruiting them for jobs at Plaintiff-company and for said purpose, are unauthorisedly using Plaintiff's registered trademarks on the infringing websites.

19. Ms. Kruttika Vijay, counsel for Plaintiff, explains that officials of Defendants No. 1 to 4 send messages to unsuspecting consumers through WhatsApp offering jobs at Croma. The consumers, who fall prey to this scam, are made to transfer money to bank accounts/ UPI IDs provided by said Defendants. The scheme of fraud, as mentioned in WhatsApp conversations annexed with the plaint, reads as under:

*“Let me explain to you how to make money here CROMA  
Your job here is to shop online, the merchant will give you the specified goods, you just need to pay the amount of the order, then the merchant will return your money right away with the commission up to \*50,000\* that you earned for helping them increase their sales. The whole process only takes a few minutes!  
but you need to use your own money to recharge your account to shop and complete the task. Minimum \*208rs\* and you can earn already.”*

20. Besides the above-noted, Defendants No. 1 to 4 have also divided the scheme into levels and the seed money to be spent by interested consumers increases at each level. Ms. Vijay states that victims have lost as much as Rs. 1,65,000/- under this scheme and due to continued usage of Plaintiff's registered marks and name and forged signatures of its CEO viz. Mr. Avijit

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<sup>4</sup> hereinafter collectively, “*infringing websites*”.

Mishra by Defendants No. 1 to 4 for commission of fraud, Plaintiff is suffering loss of goodwill.

21. Having examined the WhatsApp conversations of disgruntled consumers as well as screenshots of impugned websites displaying “Croma” (placed on record by Plaintiff), the Court is of the *prima facie* opinion that Defendants No. 1 to 4 have infringed Plaintiff’s registered marks. Plaintiff has gathered substantial goodwill and reputation in the market and has generated considerable revenue through its business operations in India. Plaintiff’s registered marks are well-known marks and if no *ex-parte* interim injunction is granted, Plaintiff will suffer an irreparable loss; balance of convenience also lies in favour of the Plaintiff and against Defendants No. 1 to 4.

22. Accordingly, following directions are being issued:

22.1 Till the next date of hearing, Defendants No. 1 to 4 or their partners, parties, or any such person acting for and on their behalf are restrained from:

a. offering for sale, advertising or in any manner dealing in goods/products under Plaintiff’s registered marks *viz.* “CROMA” [Cromā] and/or “INFINITI RETAIL LIMITED – The future of retailing”



[ ] or any other mark/ name which is identical to or deceptively similar to Plaintiff’s registered marks that would amount to passing off or cause detriment to Plaintiff’s reputation or misrepresent Defendants No. 1 to 4’s services as those of or associated with the Plaintiff, or would result in dilution of Plaintiff’s registered marks.

b. using or registering corporate names, domain names, including the

impugned websites viz. www.croma-share.com, www.croma-2.com, www.croma-1.com and www.croma-3.com or listings on social media websites or e-commerce sites or doing any other act amounting to infringement of Plaintiff's registered marks and its copyright.

22.2 Defendant No. 5 shall, during the pendency of the proceedings, lock and suspend operation of infringing websites/ domain names hosted by it, that contain Plaintiff's registered marks "CROMA" and "INFINITI RETAIL LTD." or any essential or deceptively similar features thereof, including, www.croma-share.com, www.croma-2.com, www.croma-1.com, and www.croma-3.com.

22.3 Defendant No. 5 shall also provide details of registration, including contact information, payment details and any other information, in its power and possession that would aid in disclosure of identity of registrants of impugned websites. Further, Defendant No. 5 shall also provide a list of all domain names registered in the names of Defendant Nos. 1 to 4 or owners of the impugned websites.

22.4 Defendant No. 6 – Department of Telecommunications, Ministry of Communications, Union of India and Defendant No. 7 – Ministry of Electronics and Information Technology, Union of India shall block access to the impugned websites [www.cromashare.com, www.croma-2.com, www.croma-1.com, and www.croma-3.com], during the pendency of the proceedings.

22.5 Defendants No. 17, 18, 19 and 20 [telecom service providers] shall temporarily suspend and disable the mobile numbers mentioned in paragraph 39 of the plaint. They shall also disclose the details of persons in whose names the said numbers are registered. KYC documents of such

persons shall be filed in a sealed cover before the Court within a period of four weeks from today.

22.6 Defendants No. 8, 9, 10, 11, 12, 13, 14, 15 and 16 [financial service providers] shall temporarily suspend and disable the UPI IDs mentioned in paragraph 38 of the plaint. They shall also disclose the details of holders of bank accounts associated with said UPI IDs. KYC documents of such persons shall be filed in a sealed cover before the Court within a period of four weeks from today.

23. Let compliance in terms of Order XXXIX Rule 3 of CPC be done within a period of one week from today.

24. List before the Court on 27<sup>th</sup> March, 2023.

**SANJEEV NARULA, J**

**DECEMBER 5, 2022**

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