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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 709/2021 & I.A. 17520/2021.**
GLOBAL CAR GROUP LTD. & ANR. Plaintiffs

Through: Mr. J. Sai Deepak, Mr. Mohit Goel,
Mr. Abhishek Kotnala, Mr. Karmanya
Dev Sharma, Mr. Aditya Goel, Mr.
Deepankar Mishra and Mr. R.
Abhishek, Advocates.

versus

MOHIT GOYAL & ANR. Defendants
Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **19.01.2022**
[VIA VIDEO CONFERENCING]


I.A. No. 17516/2021 (w/Order XXXIX Rules 1 and 2 r/w Section 151 of the Code of Civil Procedure, 1908, for ad-interim ex-parte injunction)



1. Mr. J. Sai Deepak, counsel for the Plaintiffs, submits that the Defendants have been served in terms of Affidavit of Service dated 4th January, 2022, enclosing therewith, the copies of the e-mail communications as well as courier receipts. Mr. Sai Deepak further emphasises that the Defendants have been given ample opportunity to appear and present their case before this Court. Even prior to the institution of the suit, the advance copy was served on the Defendants, and thereafter, the Court had issued summons.

2. Despite service, Defendants have chosen not to appear before this


Court. In these circumstances, the Court has proceeded to hear the application *ex parte*.

3. The present suit is filed to restrain Defendants from adopting and using the trademark/ tradename ‘Drivers24’ (word *per se*) and the ‘Drivers24’ Logo

‘’ – which is stated to be infringing and violative of its statutory and common law rights on its own marks *qua* (A) ‘Cars24’, ‘Auction24,’ ‘Funding24’, ‘Unnati24’ and ‘Bikes24’ [*hereinafter*, “24

Formative Word Marks”]; and (B) ‘’, ‘’,

‘’, ‘’, ‘’,

‘’, ‘’, and ‘’, [*hereinafter*, “24 *Formative Logo Marks*”].








4. Mr. Sai Deepak argues that Plaintiff No. 1 was incorporated in 2015 as an e-commerce company and is engaged through its subsidiaries across the globe and does not engage in any business activities directly. Plaintiff No. 1 is the owner/ registered proprietor of the said marks, as enumerated in paragraph no. 10 of the suit.

5. The suit also sets-out the sales turnover, attributable to Plaintiffs’ ‘24 Formative Marks’ in India, in paragraph no. 13 – which is stated to be approximately Rs. 30,000/- crores for the Financial Year 2019-20. Additionally, Plaintiffs have made substantial investments in advertising and promotional activities in India, details whereof, are cited in the suit.

6. The grievance of the Plaintiffs is that Defendants have adopted a mark which is deceptively similar to Plaintiffs’ registered marks. Mr. Sai Deepak

highlights that although Defendants originally filed an application seeking registration of its mark, however, subsequently the same was abandoned. Further, it has been pointed out that the colour combination used by Defendants in its mark is identical to the one of the Plaintiffs. On 9th July, 2021, a ‘cease and desist’ notice was issued, however, there was no response thereto from the Defendants, despite service.

7. Mr. Sai Deepak refers to the comparison of the two marks, to underscore the similarities, which for quick reference is culled out as under:


PLAINTIFFS’ MARK(S)	DEFENDANTS’ MARK(S)
Word Marks	
i. ‘Cars24’ ii. ‘Bikes24’ iii. ‘Funding24’ iv. ‘Auction24’ v. ‘Unnati24’	i. ‘Drivers24’
Composite Logos	
i.  ii.  iii.  iv.  v.  vi. 	i. 

8. Mr. Sai Deepak acknowledges that no one can claim any exclusive right(s) over the number “24”, however, he submits that in the instant case, it is a combination of the words – “Cars” and “24”, which put together, are distinctive to Plaintiffs. He submits that when the combination of such mark

is juxtaposed with that of the Defendants', it would clearly lead to a conclusion that the Defendants' mark is likely to cause confusion and association in the minds of consumers of average intelligence. Therefore, adoption of the infringing marks by the Defendants for identical business activities constitutes infringement under Section 29 of the Trade Marks Act, 1999, and also constitutes passing off, dilution of the Plaintiffs' goodwill and unfair competition.

9. The afore-noted contentions establish a *prima facie* case in favour of the Plaintiffs. The balance of convenience also lies in favour of the Plaintiffs and an irreparable loss would be caused in case the Defendants are not restrained by injunction. Accordingly, till the next date of hearing, the Defendants and anybody acting on their behalf, including their franchisees, business partners, subsidiaries etc., are restrained from selling, offering for sale, advertising, directly or indirectly dealing with any product or services under the infringing marks, namely – 'Drivers24' (word *per se*) and the



Drivers24 logo *i.e.*, '  ' or any other trademark/ tradename/ trade dress or logo/ device, which is identical or deceptively similar to the '24 Formative Marks' as set out in the suit, which would amount to infringement of Plaintiffs' registered trademarks and/ or passing off of the Plaintiffs or their services.

10. Further, the Defendants are directed to remove/ delete the social media accounts and listings on third-party e-commerce websites maintained under the infringing marks which are identical or deceptively similar to the Plaintiffs' '24 Formative Marks'. Defendants are also directed to suspend their mobile application and website "www.drivers24.in", as set-out in

paragraph 'e' of the prayers in the suit.

11. The compliance of this Order, if not done by the Defendants within a period of ten days from today, shall be carried by e-commerce platforms such as Just Dial, Twitter, LinkedIn, Instagram and Facebook.

12. This Order passed by the Court, shall be communicated by the Plaintiffs to the Defendants forthwith.

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13. List before the Joint Registrar on the date already fixed i.e., 07th March, 2022.

SANJEEV NARULA, J

JANUARY 19, 2022

as