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

+ **CS(COMM) 209/2024**

GOOGLE LLC

..... Plaintiff

Through: Ms. Tanya Varma, Ms. Aishwarya,
Advocates.

versus

MR. P. RAJESH RAM & ORS

..... Defendants

Through: Ms. Mrinal Ojha, Ms. Debarshi Datta,
Ms. Tanya Chaudhary, Advocates for
D-6.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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12.03.2024

I.A. 5488/2024 (under Section 12A of the Commercial Courts Act, 2015 read with Section 151 Of Code of Civil Procedure, 1908)

1. As the present suit contemplates urgent interim relief, in light of the judgment of Supreme Court in *Yamini Manohar v. T.K.D. Krithi*,¹ exemption from attempting pre-institution mediation is granted.

2. Disposed of.

I.A. 5489/2024 (Order XI Rule 1(4) (as amended by the Commercial Courts Act, 2015) read with Section 151 of the Code of Civil Procedure, 1908 seeking leave to file additional documents)

3. This is an application seeking leave to file additional documents under

¹ 2023 SCC OnLine SC 1382.



the Commercial Courts Act, 2015.

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

I.A. 5490/2024 *(under Section 151 of the Code of Civil Procedure, 1908 seeking exemption from filing originals, clear copies and documents with proper margins)*

6. Exemption is granted, subject to all just exceptions.
7. The Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
8. The application stands disposed of.

CS(COMM) 209/2024

9. Let the plaint be registered as a suit.
10. Issue summons. Summons are accepted by Ms. Mrinal Ojha, counsel, for Defendant No. 6. Written statement on behalf of the said Defendant be filed within 30 days from today. Upon filing of process fee, issue summons to the remaining Defendants by all permissible modes. Summons shall state that the said Defendants shall file their respective written statement(s) within 30 days from the date of receipt of summons. Along with the written statement(s), 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.
11. Liberty is given to the Plaintiff to file replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), if any,



filed by the Plaintiff, affidavit(s) of admission/ denial of documents of the Defendants, be filed by the Plaintiff, without which the replication(s) 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.




12. List before the Joint Registrar for marking of exhibits on 14th May, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

13. List before Court for framing of issues thereafter.

I.A. 5487/2024 (under Order XXXIX Rule 1 & 2 read with Section 151 of the Code of Civil Procedure, 1908)

14. Ms. Tanya Verma, counsel for Plaintiff, presents the following facts and contentions:

14.1. The present suit pertains to Plaintiff's rights in the trademarks

“GOOGLE”, “”, “” [collectively, “Google trademarks”] and “GOOGLE PAY”, “GPAY” and “ Pay” [collectively, “GPay trademarks”].

14.2. The mark “GOOGLE” was conceptualized and adopted by Mr. Larry Page and Mr. Sergey Brin in the year 1997, and their primary website “www.google.com” was registered on 15th September, 1997. Shortly thereafter, the Plaintiff-company was incorporated on 04th September, 1998 in Delaware, USA for carrying on business in internet related services and products, which include advertising technologies, internet search, cloud computing, mobile and computer hardware, online payment services, freeware web browser and e-mail services under formative versions of the



trademark “GOOGLE”. Over time, the Plaintiff has expanded its commercial operations across the globe and is presently among the most popular search engines worldwide.

14.3. The Plaintiff is the registered proprietor of the Google trademarks in India in various classes, including 9, 38, 42, 35, 16, 25, 36 for *inter alia* computer hardware and software, advertising, books, manuals, telecommunication services. The Plaintiff also has multi-class registrations of GPay trademarks in respect of smart phones, digital payment services, online retail services etc. Plaintiff’s earliest registrations in India for the trademark “GOOGLE” and “GPAY” date back to 1999 and 2015, respectively. Particulars of Plaintiff’s registrations are set out in paragraph No. 14 of the plaint.

14.4. The Plaintiff also owns various domain names that are accessible in different countries. For India, the domain name/ website “www.google.co.in” was registered in Plaintiff’s name on 23rd June, 2003. In addition to the above, Plaintiff also has an extensive presence on various social media platforms, which have garnered significant followers/subscribers. The Plaintiff’s global repute can also be gauged from its revenue figures since the year 2012, as delineated in paragraph No. 16 of the plaint.

14.5. In light of the Plaintiff’s global recognition and reputation, the mark “GOOGLE” has been declared as well-known trademark in India.



14.6. In June, 2023 during a routine search, the Plaintiff discovered

applications for registration of the marks “





“” and “” in class 35 under Nos. 5555600,

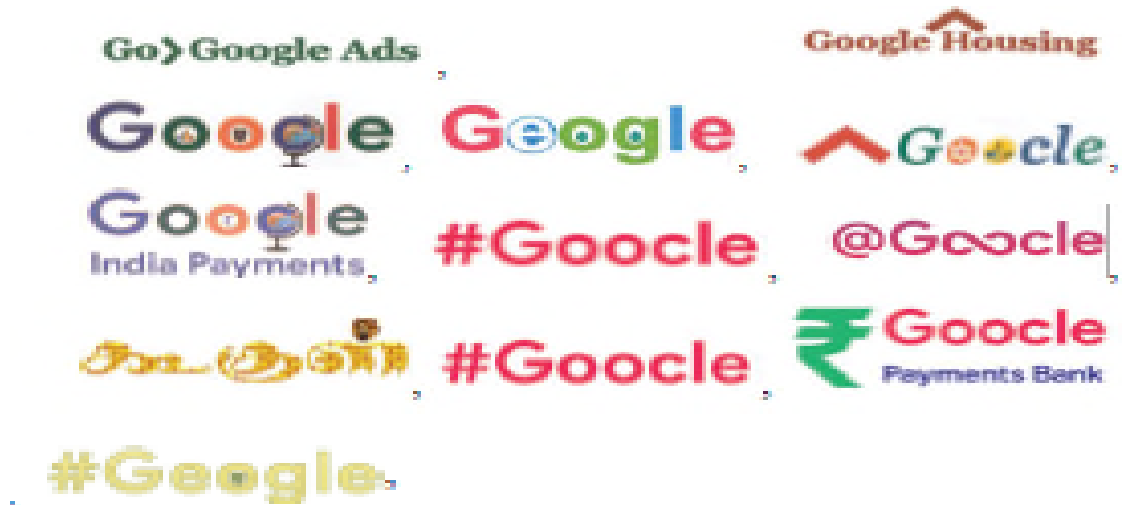

5509543 and 5421773, respectively, and for mark “” in class 36 under trademark application No. 5614785, all filed by Defendant No. 1. These applications are currently under objection by the Trademarks Registry and the Examination Reports issued thereto, cite the Plaintiff’s prior registrations.

14.7. Plaintiff initiated further investigation in the matter and learnt that Defendant No. 1, Mr. Perumal Rajesh Ram, is a partner of Defendants No. 2-5 namely, Google Housing LLP, Google Tamil News LLP, GIPAY Online Service LLP and Google Trade Payment LLP, which were incorporated in June-October, 2022. Defendant No. 1 is also the owner of several domain names that either subsume the Plaintiff’s “GOOGLE” trademark, or contain a deceptively similar mark “GOOCLE”. Further, Defendants No. 1 to 5 operate multiple accounts on several social networking websites using the username/ handle which incorporate the marks/ terms “GOOCLE”, “GEOGLE”, “GIPAY”.

14.8. The Plaintiff, through its legal representatives, issued a cease-and-desist notice to Defendant No. 1 on 26th June, 2023, in response where to, Defendant No. 1, firstly sought details regarding the relationship of Plaintiff and their legal representatives and subsequently, through communications dated 07th July, 2023 and 15th July, 2023, assured the Plaintiff that he had removed and destroyed all stationary, and would also be taking down all content bearing the “GOOGLE” trademark. However, he refused to cease the use of the impugned “GOOCLE” mark.



14.9. Pursuant to the above undertaking, the Plaintiff again undertook an internet search and found that only some of the infringing domain names had been taken down. Some of the domain names were still active and would redirect the user to another domain name with the “GOOCLE” trademarks. Plaintiff later discovered many other trademark applications of Defendant No. 1 for the following trademarks in classes 35:






14.10. This led to subsequent rounds of negotiations/ communications between Plaintiff and Defendant No. 1, but to no avail. Hence, the present suit.

14.11. Defendant No. 1 has used terms “GOOCLE”, “GOOGLE”, “GIPAY”, “GEOGLE”, that are deceptively similar to Plaintiff’s registered “GOOGLE” and “GPAY” marks, thus amounting to trademark infringement. In the context of domain names, the present case is a classic example of typo-squatting, which relies on mistakes or typos made by internet users at the time of entering a website address/ URL on the web browser, and is bound to create confusion in the minds of the consumers.

15. The Court has considered the afore-noted contentions. A comparison



of the impugned marks of Defendants No. 1 to 5, with the Plaintiff's trademarks, is as follows:

<i>Plaintiff's trademark</i>	<i>Impugned trademarks</i>
GOOGLE	GOO <u>Q</u> GLE
	GOO <u>C</u> LE
	GE <u>O</u> GLE
GPAY	G <u>I</u> PAY
	
	

16. As can be viewed from the above comparison chart, the impugned trademarks “GOOOGLE”, “GOOCLE”, “GEOGLE” and “GIPAY” are structurally and phonetically similar to the Plaintiff’s “GOOGLE” and “GPAY” trademarks, with the only difference being of replacement/addition of one alphabet. *Prima facie*, the impugned marks appear to be deceptively similar to the Plaintiff’s marks. The Defendants are utilising the impugned marks and domain names for online news, advertising, TV, banking and payment services, which also correspond to the Plaintiff’s scope of business operations, and is likely to cause confusion among the consumers. There is also merit in the Plaintiff’s contention that in case of a typographical error in entering the concerned URL/ domain name, a



potential user could be misled to the impugned website, which does not emanate from the Plaintiff. Such use of the impugned marks also appears to be detrimental to the distinctive character of Plaintiff's well-known trademark "GOOGLE". The use of the impugned marks thus, *prima facie* constitutes infringement of Plaintiff's registered trademarks.

17. In view of the above, the Court finds that the Plaintiff has made out a *prima facie* case in their favour and they will suffer an irreparable loss if an *ex-parte* ad-interim injunction is not granted to them. Balance of convenience also lies in favour of the Plaintiff and against Defendants No. 1 to 5.

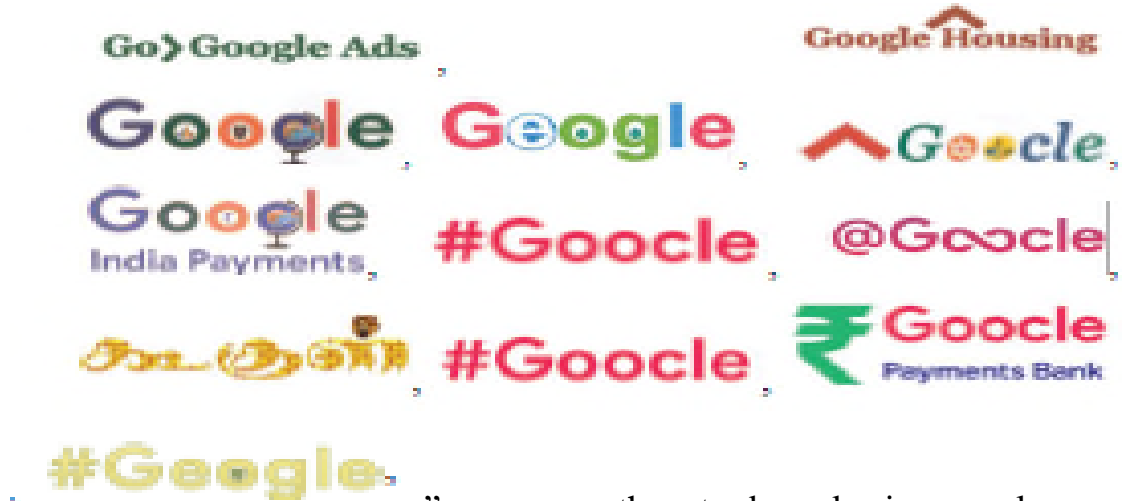
18. Ms. Verma submits that after the advance service of the paper-book on Defendant No. 1, the Plaintiff received an e-mail communication dated 06th March, 2024 enclosing therewith a list of "GOOCLE" domain names which were registered by Defendants No. 1 to 5. A copy of the e-mail communication along with the attachment have been handed across the board and are taken on record. In light of the said communication, Ms. Verma, has handed over consolidated list of domain names registered in the name of Defendants No. 1 to 5, which includes the domain names mentioned in paragraph No. 5 of the plaint and the freshly discovered domain names owned by Defendants No. 1 to 5. The said list is also taken on record. Ms. Verma accordingly makes a prayer for the interim directions to be issued against all the domain names mentioned in the consolidated list, which, for the sake of clarity, has been appended to the order as Annexure-A.

19. In view of the above, the following directions are issued:

19.1 Till the next date of hearing, Defendants No. 1 to 5, or anybody acting



on their behalf, are restrained from rendering, selling, offering for sale, advertising, broadcasting, or directly or indirectly dealing with any services under the marks “GOOGLE”, “GEOGLE”, “GOOCLE”, “GIPAY”,



” or any other trademark, in any language, representation or form, which is identical or deceptively similar to the Plaintiff’s Google and GPay trademarks, which amounts to infringement or passing off of Plaintiff’s Google and GPay trademarks.

19.2. Defendants No. 1 to 5 or anybody acting on their behalf are restrained from rendering, selling, offering for sale, advertising, broadcasting, directly or indirectly dealing any services under the impugned trade name “Goocle Housing LLP”, “Goocle Tamil News LLP”, “Gipay Online Services LLP” and “Goocle Trade Payments LLP” or any other trade name which is identical or deceptively similar to the Plaintiff’s “GOOGLE” or “GPAY” trademarks or trade name.

19.3. Defendants No. 6, 7 and 8 shall suspend and lock the domain names mentioned in Annexure-A to the order.

19.4. Defendants No. 1 to 5 shall also delete/ takedown the impugned online content, including their social media pages, bearing the marks “GOOCLE”,



“GEOGLE” and “GIPAY”.

20. Issue notice. Ms. Mrinal Ojha, counsel for Defendant No. 6, accepts notice. Reply, if any, be filed within four weeks from today. Rejoinder thereto, if any, be filed within two weeks thereafter.

21. Upon filing of process fee, issue notice to the remaining Defendants, by all permissible modes, returnable on the next date of hearing. Reply, if any, be filed within four weeks from the date of service. Rejoinder, if any, be filed within two weeks thereafter.

22. Compliance of Order XXXIX Rule 3 be done within one week from today.

23. List on 16th August, 2024.

SANJEEV NARULA, J

MARCH 12, 2024

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ANNEXURE-A
CONSOLIDATED LIST OF DOMAIN NAMES REGISTERED BY
THE DEFENDANTS

Domain Name	Domain Name Registrars (DNRs)	Date of registration
www.googlehousing.com	GoDaddy.com, LLC i.e., Defendant No. 6	21.03.2022
www.googleraja.com		21.03.2022
www.gooolehousing.com		23.04.2022
www.gogoogleads.com		22.03.2022
www.google.org		23.04.2022
www.mygoogle.com		05.05.2022
www.google.co.in		23.04.2022
www.google.store		09.10.2023
www.google.com.co		09.10.2023
www.google.news		10.09.2023
www.withgoogle.me	Key-Systems GmbH i.e., Defendant No. 7	06.04.2022
www.googlehouse.in		06.04.2022
www.googletamilnews.com	Squarespace Domains II LLC i.e., Defendant No. 8	19.07.2022
www.mygoogle.site		26.04.2022
www.mygoogle.homes		04.04.2022
www.google realestate.net		19.07.2022



www.mygoogle.business		26.04.2022
www.mygoogle.marketing		30.04.2022
www.mygoogle.news		10.07.2022
www.gooctamilnews.com		08.07.2023
www.gogooleads.com		08.07.2023
www.goooleindia.com		01.05.2022
www.gooole.site		18.07.2022
www.gipay.app		29.09.2022
www.goooleads.com		29.10.2022
www.gooole.app		28.07.2023
www.gooole.news		04.07.2023
www.gooolebank.com		13.07.2023
www.gooole.net		17.08.2023