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

+ CS(OS) 1966/2015

RIKHAB CHAND JAIN & ANR

..... Plaintiff

Through: Ms. Shilpi Jain Sharma, Adv.

Versus

AUDI AG

..... Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **21.07.2015**

IA No.13654/2015 (Exemption)

Allowed subject to just exceptions.

The application stands disposed off.

CS (OS) No.1966/2015

Issue summons through Ordinary Process, Speed Post and Courier, returnable before the Joint Registrar on 02.11.2015 for completion of pleadings.

IA No.13653/2015 (Stay)

Issue notice through Ordinary Process, Speed Post and Courier, returnable before the Court on 04.12.2015.

The plaintiffs claim to be the registered owner of the trademark T.T. The plaintiff No. 1 is the originator, bona fide adopter and prior user of the trademark T.T. in respect of various goods and services coming under different classifications of the Fourth Schedule to the Trade Marks Rules, 2002. The plaintiff No. 1 claims to have a fully integrated vertical chain from fibre to fashion and export textiles, agro-products, readymade garments, textile piece goods, hosiery items, yarns, edible foods, confectionaries, wind mill, sweets, hand tools, small machineries, cosmetic items, medical products, surgical aids, band aids, electronic and electrical apparatus, agricultural implements, bags, building materials etc. These items stated to be are available online and offline even in the remotest part of the country. It is claimed to be a well known multi product global brand in 65 countries; that "T.T." is registered in almost all Classes of the Schedule to the Trademarks Rules. The registered trademarks inter-alia, appear as under:

S.No	Title	Trade Mark No.	Class	S.No	Title	Trade Mark No.	Class	S.No	Title	Trade Mark No.	Class	S.No	Title	Trade Mark No.	Class
1.	T.T. Monogram in Golden Colour	522763 AS OF dt.12.01.1990	3	2.	T.T. Monogram	1664841 AS OF dt.14.03.2008	3	3	T.T. Monogram within Triangle	666075 AS OF 18.05.1995	4	4.	T.T. Monogram within Triangle	666076 AS OF 18.05.1995	5
5.	T.T. Monogram within Triangle	666078 AS OF 18.05.1995	7	6.	T.T. Monogram in Golden Colour	522768 AS OF 12.01.1990	8	7	T.T. Monogram within Triangle	666081 AS OF 18.05.1995	10	8.	T.T. Monogram in Golden Colour	522737 B AS OF 12.01.1990	10
9.	T.T. Monogram	432274 AS OF 14.01.1985	18	10	T.T. Monogram	522738 AS OF 12.01.1990	11	11	T.T. Monogram within Triangle	666082 AS OF 18.05.1995	11	12	T.T. Gangour	954242 AS OF 08.09.2000	16
13	T.T. Exports	612423 AS OF 23.11.1993	16	14	T.T. Monogram (in Golden Colour)	522752 AS OF 12.01.1990	17	15	T.T. Monogram	432272 AS OF 14.01.1985	17	16	T.T. Monogram within Triangle	666089 AS OF 18.05.1995	18
17	T.T. Monogram	432273 AS OF 14.01.1985	18	18	T.T. MONOGRAM IN GOLDEN COLOUR	522756 AS OF 12.01.1990	19	19	T.T. Monogram within Triangle	666090 AS OF 18.05.1995	19	20	T.T. Monogram within Triangle	666091 AS OF 18.05.1995	20
21	T.T. Monogram in Triangle	666104 AS OF 18.05.1995	22	22	T.T. MONOGRAM	432270 AS OF 14.01.1985	23	23	T.T. MONOGRAM IN GOLDEN COLOUR	508168 AS OF 04.04.1989	23	24	T.T.	897933 AS OF 14.01.2000	23
25	T.T.	1378406 AS OF 19.08.2005	23	26	Coco Tree	1271589 AS OF 10.03.2004	23	27	T.T. Cotton	1379227 AS OF 24.08.2005	23	28	T.T. Hindi	788631 AS OF 22.01.1998	23

The trademark is stated to be in use since 1968 and was first registered in 1970. Presently, the plaintiffs have 87 registrations. The plaintiffs have spent a sum of Rs.7,57,84,961.00 for the period April 2012 - March 2013 for promoting their brand and their turnover for the period April 2013 - March 2014 is Rs.7,54,57,26,494.00.

It is stated that in the month of May, 2015, the plaintiffs came to know that the defendants are using the plaintiffs' trademark T.T. to promote various products such as leather and imitations of leather goods made of animal skins, hides; products such as trunks and travelling bags, umbrellas, parasols and walking sticks, whips, harness and saddler, games and playthings, model cars, gymnastic and sporting articles, decorations for Christmas trees with T.T. trademark. They have annexed cash memos and invoices against purchase of articles from the defendants with T.T. brand marked upon them. Thus, the plaintiffs' claim that there is a clear infringement of their trademark.

This Court is of the view that the plaintiffs have made out a *prima facie* case for an *ex parte* ad interim injunction and in case such an order is not passed at this stage, irreparable prejudice would be caused to them. The balance of convenience too lies in favour of the plaintiffs.

In the circumstances till the next date of hearing, the defendant, its directors,

partners, servants, principals, agents, stockiest, associates are restrained from (i) manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in goods bearing the trademark 'T.T.' or any other trademark which is deceptively similar to the plaintiffs' trademark ; (ii) reproducing the same in any manner on the goods manufactured by the defendant or on stationary, letter heads, guarantee cards, packing materials used by the defendants; and (iii) dealing under the mark 'T.T.' which is visually and phonetically similar to the plaintiffs' trademark 'T.T.' so as to misrepresent their services as those of the plaintiffs and from doing any other things as may cause confusion or deception leading to passing off their services and business as those of the plaintiffs.

Compliance under Order XXXIX, Rule 3 of the CPC be done by the plaintiffs within three days.

Dasti, under signature of the Court Master.

NAJMI WAZIRI, J

JULY 21, 2015/acm