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

+ **CS(COMM) 317/2025**

DOMINOS IP HOLDER LLC & ANR.

.....Plaintiffs

Through: Mr. Shantanu Sahay, Ms. Imon Roy
and Ms. Vareesha Irfan, Advs.

Versus

M/S. DOMNICS PIZZA & ORS.

.....Defendants

Through: Mr. Abhay Pratap Singh, Ms. Mitali
Umat, Advs. for D-17.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **28.05.2025**

I.A. 9096/2025 (*for exemption*)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

I.A. 9095/2025 (*for Additional documents*)

3. *Vide* the present application under *Order XI Rule 1(4)* read with *Section 151* of the CPC, the plaintiffs seek leave of this Court to file additional documents.
4. The plaintiffs will be at liberty to file additional documents at a later stage, *albeit*, after initiating appropriate steps, strictly as per the provisions of the Commercial Courts Act, 2015 read with *Section 151* of the CPC and the Delhi High Court (Original Side) Rules, 2018.
5. Accordingly, the present application stands disposed of.

CS(COMM) 317/2025

6. *Vide* the present plaint, the plaintiffs seek grant of permanent

injunction restraining the defendants from infringement of trademark, passing off, dilution, tarnishment, and damages against the defendants.

7. Let the plaint be registered as a suit.

8. Issue summons.

9. Learned counsel for the defendant no.17 accepts summons. He seeks and is granted *thirty days* to file written statement. The said written statement be filed by the defendant no.17 along with affidavit of admission/ denial of documents of the plaintiffs, without which the written statement shall not be taken on record.

10. Upon filing of the process fee, issue summons of the suit to the remaining defendants through all permissible modes returnable before the learned Joint Registrar on 18.08.2025.

11. The summons shall state that the written statement(s) be filed by the defendants within a period of *thirty days* from the date of the receipt of the summons. Written statement(s) be filed by the defendants along with affidavit(s) of admission/ denial of documents of the plaintiffs, without which the written statement(s) shall not be taken on record.

12. Replication(s) thereto, if any, be filed by the plaintiffs within a period of *fifteen days* from the date of receipt of written statement(s). The said replication(s), if any, shall be accompanied by with affidavit(s) of admission/ denial of documents filed by the defendants, without which the replication(s) shall not be taken on record within the aforesaid period of *fifteen days*.

13. If any of the parties wish to seek inspection of any document(s), the same shall be sought and given within the requisite timelines.

14. List before the learned Joint Registrar for marking exhibits of

documents on 18.08.2025. It is made clear that if any party unjustifiably denies any document(s), then it would be liable to be burdened with costs.

15. The plaintiff, in terms of the last order dated 08.04.2025, has taken appropriate steps for serving the defendants in advance, however, though the defendant nos.1, 2 to 6, 8 and 12 to 17 have been served but defendant nos.7 and 9 to 11 are unserved.

16. In fact, learned counsel for the plaintiffs submits that the plaintiffs have also tried serving the defendants through currier, since none of them were appearing before the Delhi High Court Mediation and Conciliation Centre (**DHCMCC**). Before DHCMCC also, defendant nos.1, 5, 8 and 12 to 14 have been served, however, defendant nos.2 to 4, 6, 9 to 11 and 15 are not served.

17. Learned counsel for the plaintiffs also submits that all the defendants herein are carrying on business in a surreptitious manner where serving them on the premises as given in the memo of parties is not possible, particularly, since they are operating through online portals where the addresses given are oftenly fictitious.

I.A. 9094/2025 (*Stay*)

18. The plaintiffs, by way of the present application, seeks an *ad interim injunction* restraining the defendants from using the marks/ names “Domnic’s”, “Dominic”, “Dominic’s”, “Domnik”, “Daminic”,

“Daminic’s”, , , , ,
 or any other identical/ deceptively similar mark thereby

violating plaintiffs' registered trademarks "*DOMINO'S*",



19. As per pleadings, the plaintiff no.1/ Domino's IP Holder LLC is a Limited Liability Corporation incorporated under the laws of the state of Delaware, USA. It is a subsidiary of Domino's Pizza LLC and owns and manages intellectual property of Domino's Pizza LLC. Plaintiff no.1 and Domino's Pizza LLC are part of the Domino's Pizza group of companies which also includes Domino's Pizza International Franchising Inc., to which the plaintiff no.1 licenses its trademarks and other intellectual property in order to carry out the group's franchising operations.

20. The plaintiff no.2/ Jubilant Food Works Limited (formerly known as Domino's Pizza India Limited) has the exclusive rights to operate Domino's franchises under a Master Franchise Agreement with Domino's Pizza International Franchising Inc in India. Plaintiff no.2 is also responsible for assisting plaintiff no.1 in enforcement of various Intellectual Property Rights in India.

21. It is pleaded that DOMINO'S was founded in the year 1960 in the State of Michigan, USA, by Tom Monaghan and his brother James when the brothers purchased "Dominick's Pizza", a pizza store owned by Mr. Dominick DiVarti in Ypsilanti, Michigan, USA. In 1965, after the brothers purchased two more restaurants, the name was changed from Dominick's to Domino's Pizza. Since then, the plaintiffs have expanded its worldwide operations to over 90 countries and currently operates more

than 21,000 stores all over the world with a presence in every inhabited continent in the world.

22. For over last five decades, the plaintiffs have been continuously and uninterruptedly using the trademarks “Domino’s”, “Domino’s Pizza”,



. In fact, the plaintiffs have also, upon application, been granted registration in India for the trademarks



under *Class(es)* 29, 30, 39, 42 and 43; the details of the said registrations are enumerated in paragraph 27 of the plaint. Moreover, the plaintiffs have asserted their rights over the mark “DOMINICK”, as it was previously adopted by them as also citing the cases of ***Dominos IP Holder LLC & Anr. v. Ms. Dominick Pizza & Anr.*** (CS(COMM) 587/2022), ***Dominos IP Holder LLC & Anr. v. M/SDominic Pizza & Ors.*** (CS(COMM) 357/2024), wherein this Court has recognized the plaintiffs’ right over the said mark.

23. In furtherance thereof, by virtue of extensive sales and promotion, the aforesaid trademarks of the plaintiffs have acquired a formidable reputation all over the country and the plaintiffs have earned huge profit therefrom.

24. The defendant nos.1 to 15 are various entities who have unauthorizedly adopted trade names/ marks “Domnic’s”, “Dominic”, “Dominic’s”, “Domnik”, “Daminic”, “Daminic’s”, which are

deceptively similar and phonetically identical, to plaintiff no. 1's erstwhile trade name, namely "*Dominick's Pizza*" which was used by it from 1960 to 1965.

25. The defendant no.16 is Zomato, and the defendant no.17 is Swiggy, both of whom are online food aggregators, and on whose online platforms most of the other defendants have listed themselves. The defendant no.18 is "John Doe" who is/ are conducting similar infringing activities and whose identities are currently not known.

26. In and around January 2025, the plaintiffs learned through market sources that the defendant nos.1 to 15 had unauthorizedly adopted the impugned marks which were phonetically and visually similar to the plaintiffs' registered trademarks and the erstwhile trade name of the plaintiff no.1. Upon preliminary search, it was revealed that defendant nos.1 to 15 were running restaurants and outlets listed on the platforms of defendant nos.16 and 17's. On further investigation, it was revealed that the defendants no.1 to 15 were franchises of one unknown entity, which runs operations for "*Dominic*", "*Dominic's*", "*Daminic*", "*Daminic's*" and "*Domnik*".

27. Since defendants nos.1 to 15 have unlawfully adopted a phonetically, visually and deceptively similar mark to those of plaintiffs', with the dishonest intent of deceiving consumers and diverting the plaintiffs' customers to their establishments, the plaintiffs are constrained to institute the captioned suit wherein the present application has been filed.

28. This Court has heard the submissions advanced by the learned counsel for the plaintiffs and have also gone through the pleadings as also

perused the documents on record.

29. Based on what is before this Court, given hereinbelow is the comparative table of the competing marks of the parties:-

Plaintiffs' Marks	Impugned Marks
<div data-bbox="421 551 759 663" data-label="Text"> <p>DOMINICK'S PIZZA</p> </div> <div data-bbox="416 730 764 925" data-label="Image"> </div> <div data-bbox="456 976 724 1178" data-label="Image"> </div> <div data-bbox="469 1225 716 1621" data-label="Image"> </div>	<div data-bbox="1003 562 1326 600" data-label="Text"> <p>DOMNIC'S PIZZA</p> </div> <div data-bbox="1019 636 1310 674" data-label="Text"> <p>DOMNIK PIZZA</p> </div> <div data-bbox="1015 710 1315 748" data-label="Text"> <p>DOMINIC PIZZA</p> </div> <div data-bbox="999 804 1331 842" data-label="Text"> <p>DOMINIC'S PIZZA</p> </div> <div data-bbox="999 880 1331 918" data-label="Text"> <p>DAMINIC'S PIZZA</p> </div> <div data-bbox="971 954 1358 992" data-label="Text"> <p>M/S. DOMINIC PIZZA</p> </div> <div data-bbox="983 1050 1347 1088" data-label="Text"> <p>DOMINICK'S PIZZA</p> </div> <div data-bbox="1062 1133 1259 1328" data-label="Image"> </div> <div data-bbox="1054 1373 1275 1628" data-label="Image"> </div>

30. In view of the foregoing comparison, it is *prima facie* evident that the marks of the defendants are deceptively similar and phonetically identical to the plaintiff no.1 erstwhile trade name “Dominick’s Pizza”.






The defendants have either wholly copied the plaintiffs' mark or have just removed the letter 'K' from the plaintiffs' mark 'Dominick', and have minor alterations such as addition or subtraction of the letter 'i', or 's', or replacement of the letter 'o' with 'a', so as to come close to plaintiffs' trademarks and ride on their goodwill. Moreover, the impugned marks are also deceptively similar to plaintiffs' presently registered mark and consumers of average intelligence and imperfect recollection are likely to associate the defendants' product with that of the plaintiffs'. Furthermore, the defendants operate in the same line of business as that of the plaintiffs, they would have been aware of the plaintiffs' trademarks, considering its long-standing and continuous use. Under such circumstances, there exists no justifiable reason for the defendants to adopt the impugned marks that are similar to those of the plaintiffs.





31. Relevantly, since the present dispute involves edible products, this Court is of the view that the threshold for establishing deceptive similarity is lower than that applied in other cases. In essence, any confusion between such products, if allowed to continue, can lead to disastrous consequences on human health. Therefore, this Court has to adopt a more cautious and stringent approach for judging the likelihood of confusion and to exercise greater care.

32. Considering the aforesaid facts and circumstances, the plaintiffs are thus *prima facie* entitled for protection as sought by them against the defendants since the *balance of convenience* lies in their favour and they will incur *irreparable loss and injury* if an *ex parte ad interim injunction* is not granted in their favour.

33. Accordingly, till the next date of hearing, the defendant nos.1 to 15 ,

its proprietors, partners, directors, officers, servants, agents, franchisers and all others acting for and on their behalf are restrained from advertising, selling, offering for sale, marketing etc. any product, packaging, menu cards and advertising material, labels, stationery articles, website or any other documentation using, depicting, displaying in any manner whatsoever, the marks/ names “Domnic’s”, “Dominic”,

“Dominic’s”, “Domnik”, “Daminic”, “Daminic’s”, , , , ,  or any other mark identical/ deceptively similar to that of the plaintiffs’ trademarks

“DOMINO’S”, , , ,  or its derivatives/ formatives so as to not infringe the plaintiffs’ intellectual property rights in any manner whatsoever.

34. Further, the defendant nos.16 and 17 are directed to delist, takedown, suspend the impugned listings from its Mobile Application, Website and/ or any other platform, as enumerated in paragraph 45 of the plaint and reproduced hereinbelow:

Sl. No.	Defendants	URL
1.	M/s. Domnic's Pizza M/s. Domnik Pizza (Defendant No. 2)	SWIGGY https://www.swiggy.com/city/chandigarh/dominics-pizza-sector-19-zirakpur-rest880755 ZOMATO https://www.zomato.com/chandigarh/domnik-pizza-1-chandigarh-road-zirakpur/order;
2.	M/s. Domnik Pizza M/s. Dominic's Pizza (Defendant No. 3)	SWIGGY https://www.swiggy.com/city/chandigarh/domnik-pizza-north-mohali-rest987855 https://www.swiggy.com/city/chandigarh/dominics-pizza-north-mohali-rest987859
3.	M/s. Domnic's Pizza M/s. Dominic Pizza M/s. Dominic's Pizza (Defendant No. 5)	SWIGGY https://www.swiggy.com/city/chandigarh/dominic-pizza-mohali-phase-5-mohali-rest534845; https://www.swiggy.com/city/chandigarh/dominics-pizza-phase-5-rest423016
4.	Daminic's Pizza (Defendant No. 6)	SWIGGY https://www.swiggy.com/city/chandigarh/dominics-pizza-sector-46-rest376358

Sl. No.	Defendants	URL
5.	M/s. Dominic's Pizza (Defendant No. 7)	SWIGGY https://www.swiggy.com/city/chandigarh/dominics-pizza-darpan-green-kharar-new-aman-city-hospital-road-rest613973
6.	M/s. Dominic Pizza M/s. Daminic Pizza (Defendant No. 8)	SWIGGY https://www.swiggy.com/city/chandigarh/dominic-pizza-sector-40-rest74462 ZOMATO https://www.zomato.com/chandigarh/dominic-pizza-sector-40;
7.	M/s. Daminic Pizza (Defendant No. 9)	SWIGGY https://www.swiggy.com/city/chandigarh/dominic-pizza-north-mohali-balongi-kharar-rest402075; ZOMATO https://www.zomato.com/chandigarh/dominic-pizza-4-kharar-road-mohali;
8.	M/s. Daminic Pizza/ M/s. Dominic Pizza (Defendant No. 11)	ZOMATO https://www.zomato.com/chandigarh/dominic-pizza-3-kharar-road-mohali
9.	M/s. Daminic Pizza (Defendant No. 12)	SWIGGY https://www.swiggy.com/city/chandigarh/daminic-pizza-sector-19-rest136632 ZOMATO https://www.zomato.com/chandigarh/daminic-pizza-sector-19/order
10.	M/s. Daminic Pizza (Defendant No. 13)	ZOMATO https://www.zomato.com/chandigarh/daminic-pizza-nayagaon-nayagaon/order
11.	M/s. Daminic Pizza (Defendant No. 14)	ZOMATO https://www.zomato.com/chandigarh/daminic-pizza-sector-5-panchkula/order

Sl. No.	Defendants	URL
12.	M/s. M/s. Dominic Pizza (Defendant No. 15)	SWIGGY https://www.swiggy.com/city/chandigarh/dominic-pizza-guru-teg-bahadur-nagar-greater-mohali-rest893592

35. Issue notice.

36. Learned counsel for the defendant no.17 accepts notice. He seeks and is granted four weeks to file reply. Rejoinder thereto, if any, be filed within two weeks thereafter.

37. Upon filing of process fee, issue notice to the remaining defendants through all permissible modes, including through *email*, returnable before the Court on 17.09.2025.

38. Reply be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

39. The provisions of *Order XXXIX Rule 3* of the CPC be complied with within one week.

40. List before Court on 17.09.2025.

SAURABH BANERJEE, J

MAY 28, 2025/bh