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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 359/2021 & I.A. 23982/2023**
LOUIS VUITTON MALLETIER Plaintiff

Through: Mr. Pravin Anand, Mr. Dhruv Anand,
Ms. Udit Patro, Ms. Sampurnaa
Sanyal, Ms. Nimrat Singh and Mr.
Dhananjay Khurana, Advs.

versus

M/S CAPICHINO/CAPTURE & ORS. Defendants

Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
14.02.2024

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I.A. 23982/2023

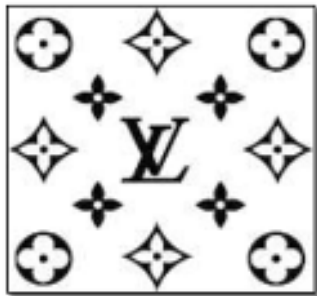
1. This application has been filed under Order VIII Rule 10 CPC on behalf of the plaintiff for judgment against defendant Nos.4 & 6-10 in light of the fact that defendant No.4 has been proceeded *ex-parte* (*vide* order dated 09th September, 2022); and the right to file written statement of defendant Nos.6-10 stands closed (*vide* order 19th September, 2023).
2. Mr. Pravin Anand, Counsel for the plaintiff further states that the suit has been decreed and settled *qua* defendant Nos.1, 2, 3 and 5 *vide* order dated 09th September, 2022.
3. The plaintiff had filed this suit seeking permanent injunction restraining infringement of trademarks, copyright, passing off, dilution,



tarnishing, damages, delivery up etc. against the defendants in respect of counterfeit products of the plaintiff (such as footwear, bags, valets, bags etc.) being sold/traded by the defendants. It was alleged that the counterfeit products used unauthorisedly various registered trademarks of the plaintiff, in particular the ‘LOUIS VUITTON’ wordmark as well as the intertwined ‘LV’



mark and the ‘TOILE MONOGRAM’ being and



. Registrations with respect to the same marks are noted as under and are set out in annexure A of the plaint, reproduced as under:



Trademark	Reg. No.	Date	Class	Goods
	441452	8. 8. 1985	18	Luggage of all kinds falling in class 18, leather and imitations of leather and goods made of these materials and not included in other classes, animal skins, hides, trunks and travelling bags, umbrellas, parasols and walking sticks, whips, harness and saddlery, all being goods included in class 18
 (Toile monogram)	441453	8. 8. 1985	18	-Do-
LOUIS VUITTON	441451	8. 8. 1985	18	-Do-
LOUIS VUITTON	448228	15.1.1986	14	Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery forks and spoons), jewellery, precious stones, horological and other chronometric instruments and parts and fittings thereof included in class 14.
LOUIS VUITTON	448229	15.1.1986	25	Clothing including boots, shoes and slippers



 (LV Flower pattern)	1335385	31.1.2005	9, 14, 18 and 25	Spectacles, sunglasses and spectacle cases (Class 9); Jewellery including rings, key-ring, buckles, ear rings, cuff links, bracelets, charms, brooches, necklaces, tie pins, ornamental pins, medallions, horological and chronometric instruments and apparatus including watches, watch cases, alarm clocks, jewellery boxes of precious metals, their alloys or coated therewith (Class 14); Leather and imitations of leather, traveling bags, traveling sets (leatherwear), trunks and valises, garment bags for travel, vanity-cases (not fitted), rucksacks, shoulder bags, handbags, attache-cases, briefcases, pouches, pocket wallets, purses, key-holders, card holders, umbrellas (Class 18); clothing and underwear including sweaters, t-shirt, suits, hosiery, belts (clothing), scarves, neck ties, shawls, waistcoats, skirts, raincoats, overcoats, suspenders, trousers, jeans, pullovers, frocks, jackets, winter gloves, dressed gloves (clothing), tights, socks, bathing suits, bath robes, pajamas, night dresses, shorts, pocket squares (clothing), high heeled shoes, low-heeled shoes, sandals, boots, slippers, tennis shoes, headgear (Class 25)
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 (Toile monogram)	448235	15.1.1986	25	-Do-
	448231	15.1.1986	14	Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery forks and spoons), jewellery, precious stones, horological and other chronometric instruments and parts and fittings thereof included in class 14.
 (Toile monogram)	448234	15.1.1986	14	-Do-
 (Damier pattern)	861145	15.6.1999	25	Clothing, underwear and other garments, including sweaters, shirts dress bodies, corsets, suits, waistcoats, waterproof clothing, skirts, coats, trousers, pullovers, dresses, clothing jackets, shawls, scarves sashes for wear, ties, pocket handkerchiefs for wear (clothing), braces, clothing gloves, clothing belts, stockings, tights, socks bathing suits, bath robes, footwear, headgear for wear included in class 25.



 (LV Flower pattern)	1335386	31.1.2005	9, 14, 18 and 25	-Do-
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4. Counsel for the plaintiff has, however, submitted that trademarks have well-known status and have been recognised by this Court *inter alia* in the following orders:

- i) Order dated May 6, 2009 in ***Louis Vuitton Malletier v. Abdul Salim and Ors.***, CS (OS) No. 90 of 2006;
- ii) Order dated March 31, 2014 in ***Louis Vuitton Malletier v. Arif Khatri and Ors.***, CS (OS) No. 270 of 2014;
- iii) Order dated August 20, 2015 in ***Louis Vuitton Malletier v. Manoj Khurana and Ors.***, CS (OS) No. 1668 of 2013 [2015 (64) PTC 559 (Del)].

5. An *ex-parte* injunction was issued by this Court on 06th August, 2021 which was made absolute on 28th March, 2023.

6. In view of the above facts and circumstances, there being no response from defendant Nos.4 & 6-10, it is a fit case for pronouncing a judgment against the said defendants.

7. Accordingly, a decree be passed in terms of Prayers (i), (ii) and (iii) of para 53 of the plaint as under:

“i. Decree of permanent injunction restraining the Defendants, their partners, if any, officers, servants, agents, distributors, stockists and representatives from importing, manufacturing, warehousing, selling and/or offering for sale, advertising, directly or indirectly dealing, in any manner, in any goods, bearing the registered trademarks “LOUIS VUITTON”, “LV” logo, Toile monogram pattern, Damier pattern and/or LV Flower pattern or any similar trademark amounting to an



infringement of registered Trademarks Nos. 441451, 448228, 448229, 441452, 448230, 448231, 448235, 448234, 441453, 861145, 1335385 and 1335386;

ii. Decree of permanent injunction restraining the Defendants, their partners, if any, their officers, servants, agents, distributors, stockists and representatives from importing, manufacturing, warehousing, selling and/or offering for sale, advertising, directly or indirectly dealing, in any manner, in any goods, bearing the trademarks “LOUIS VUITTON”, the “LV” logo, the “Toile monogram” pattern, the Damier pattern and/or the LV Flower patterns or any similar trademark or doing any other act amounting to passing off of the Defendants’ products as those of the Plaintiff;

iii. Decree of permanent injunction restraining the Defendants, their principal officers, servants, agents, their affiliates, subsidiaries, distributors, and all others acting for and on their behalf from using trademarks, patterns, labels, logos or devices, which are identical or deceptively or confusingly similar to the Plaintiff’s trademarks “LOUIS VUITTON”, the “LV” logo, the “Toile monogram” pattern, the Damier pattern and/or the LV Flower patterns (the said trademarks) or any similar trademarks so as to misrepresent the quality/ origin of their goods and from taking unfair advantage of the Plaintiff’s reputation and goodwill in the said trademarks or any similar trademark thereby causing dilution and tarnishment of the Plaintiff’s abovementioned trademarks.”

8. As regards the issue of damages and costs, counsel for the plaintiff has pointed out to various amounts which have been settled with defendant Nos.1-3 & 5 which are noted in para 4 of the order dated 09th September, 2022.
9. Accordingly, in consonance with the same, partial costs and damages are awarded against defendant Nos.4 & 6-10 of Rs.50,000/- each, to be paid to the counsel for the plaintiff, within a period of eight weeks.
10. Decree sheet be drawn up accordingly.
11. Suit i.e. CS(COMM) 359/2021 is disposed of. Pending applications



are rendered infructuous.

12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 14, 2024/MK/ig