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

+ **CS(COMM) 470/2024 & I.A. 30819/2024, I.A. 30820/2024, I.A. 30821/2024, I.A. 30822/2024, I.A. 30823/2024**

**BLACKHOLE RETAIL (THROUGH ITS PARTNER MR
SHAHZAD ANWAR)Plaintiff**

Through: Mr. Varshesh Khurana, Advocate
versus

MS POOJADefendant
Through: Mr. Junaid Alam, Advocate
(M:8860888011)

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

ORDER
23.10.2024

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1. The present suit has been filed for permanent injunction, restraining the defendant from passing off counterfeited goods and services, infringement and dilution of trademark, damages, rendition of accounts and delivery up of goods, etc.
2. When the matter was listed for hearing on 29th May, 2024, learned counsel for the defendant had appeared on advance notice and submitted that the impugned marks shall not be used by the defendant and that the same had been applied only for '*proposed to be used basis*'.
3. Parties were referred to mediation, however, the mediation between the parties failed.
4. Learned counsel for the defendant submits that the defendant is ready to settle the matter and give an undertaking before this Court that the defendant has never used the trade mark/ trade name 'KILLATO' and



‘WEIRDWOLF’.

5. He further undertakes that the defendant shall never use the trade mark ‘KILLATO’ and ‘WEIRDWOLF’.

6. At this stage, learned counsel for the plaintiff draws the attention of this Court to the following applications filed by the defendant:

a. For registering the device mark ‘KILLATO’ vide application no. 6150880 dated 16th October, 2023 under Class 9;

b. For registering the device mark ‘KILLATO’ vide application no. 6150881 dated 16th October, 2023 under Class 11;

c. For registering the device mark ‘KILLATO’ vide application no. 6150882 dated 16th October, 2023, under Class 21;

d. Application for the word mark ‘WEIRDWOLF’ vide application no. 6150879 dated 16th October, 2023 under Class 11.

7. Learned counsel for the defendant submits that the defendant shall withdraw both the aforesaid applications, and shall not use either the mark ‘KILLATO’ or ‘WEIRDWOLF’.

8. Accordingly, the following directions are issued:

I. The present suit is decreed in terms of Para 50 (a) and (b) of the prayer clause in the plaint.

II. The defendant shall withdraw the trade mark applications, bearing no. 6150880 under Class 9 dated 16th October, 2023 for the device mark ‘KILLATO’, application bearing no. 6150881 under Class 11 dated 16th October, 2023 for the device mark ‘KILLATO’, application bearing no. 6150882 under Class 21 dated 16th October, 2023 for the device mark ‘KILLATO’ and application bearing no. 6150879 under Class 11 dated 16th October, 2023 for the word mark



‘WEIRDWOLF’, from the Trademark Registry.

- III. The defendant shall move appropriate applications for withdrawal of the aforesaid applications before the Trade Mark Registry, within a period of four weeks from today.
- IV. The Trademark Registry is directed to process the withdrawal applications of the defendant expeditiously.
- V. The defendant shall also withdraw their rectification applications, opposing the registered trademark of the plaintiff.
9. Decree sheet be drawn up.
10. The Registry is directed to supply a copy of the present order to the Office of the Controller General of Patents, Designs and Trade Marks of India, on E-mail Id: llc-ipo@gov.in, for compliance.
11. The present suit, along with pending applications, stands disposed of.

MINI PUSHKARNA, J

OCTOBER 23, 2024

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