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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 216/2018 & I.A. 13273/2014**
LUXOTTICA GROUP S. P. A & ANR

..... Plaintiffs

Through: Mr. Rishabh Gupta, Advocate

versus

MIFY SOLUTIONS PRIVATE LIMITED AND ORS

..... Defendants

Through: Ms. Anshu Kapoor, Director Mily
Solutions Pvt. Ltd.(through VC)

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
16.05.2024

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1. Counsel for plaintiff has handed up an application *vide* diary No. E-1509317/2024 under Order XXIII Rule 3 of Code of Civil Procedure, 1908 (“CPC”) by the parties, however, the same is not on record. The same is directed to be placed on record.
2. The Court has perused the application which is signed by authorised signatories on behalf of plaintiff and defendant no.1.
3. The authorised signatory of defendant no.1, Ms. Anshu Kapoor, is present through VC and confirms the terms of settlement. The application is supported by an affidavit of authorised signatories of the parties as well.
4. Defendant no. 2, Mr. Ashish Paliwal, has since passed away.
5. Defendant no.3 has been proceeded *ex parte*.



6. The terms of settlement as executed between plaintiff and defendant no.1 are reproduced as under:

“3. That during course of proceedings, the Plaintiff and the Defendant has agreed to settle the matter and have entered a compromise on the following terms and conditions:

a. That the Defendant acknowledges the proprietary rights of the Plaintiff in the trade mark/label **RAY BAN/**
 and various formative trademarks/labels owned by the Plaintiff (hereinafter referred to as the Plaintiff's “**said trademarks/labels**”). A list of the Plaintiffs trademarks is reproduced below:

Trade Mark	Applicati on no.	Cla ss	Status	Date of Applicati on	Disclaim er/ Conditio ns
RAY-BAN	115796	09	Register ed	05/12/19 45	NIL
	711144	09	Register ed	11/04/19 96	NIL
RAY-BAN	1007549	03	Register ed	04/05/20 01	NIL



RAY-BAN	517284	14	Registered	22/09/1989	NIL
RAY-BAN	1007550	14	Registered	04/05/2001	NIL
RAY-BAN	1007551	16	Registered	04/05/2001	NIL
RAY-BAN	504509	25	Registered	30/01/1989	NIL
RAY-BAN	504511	16	Registered	30/01/1989	NIL
	5741231	35	Registered	28/12/2022	NIL
	5741232	35	Registered	28/12/2022	NIL
RAY-BAN VISIONARY AWARD	1528008	99 [16, 25, 41]	Registered	05/02/2007	NIL
	2111705	09	Registered	08/03/2011	NIL
	1007552	18	Registered	04/05/2001	NIL

This is a digitally signed order.

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b. In addition to the above, the Defendant also acknowledges the proprietary rights of the Plaintiff in the various other trademarks and labels owned by the Plaintiff. A list of the trademarks owned by the Plaintiff in addition to the said trademark/labels are annexed with the present Application (*hereinafter the term “said trademarks/labels” shall deem to include all trademarks included the List of Trademarks/Labels*)

c. That the Defendant also acknowledge the Plaintiff’s Copyright in the artworks of the Plaintiff involved in the Plaintiff’s said trademarks/labels (*the term said trademarks/labels shall hereinafter refer to and include the Plaintiff’s artworks/copyrights involved*);

d. That the Defendant undertake not to adopt and/or use the impugned trademark/label **RAY BAN/**  or any other word/mark/logo which may be identical with and/or deceptively similar to the Plaintiff’s said trademarks/labels in relation to any goods or services, including at any time in the future;

e. That the Defendant undertake not to oppose or challenge any trademark/copyright application and/or registration of the Plaintiff in its said trademarks/labels;



f. That the Defendant further undertakes to bear the cost of proceedings incurred by the Plaintiff in connection with the present case amounting to Rs. 2,00,000 (Rupees Two Lakh, equivalent to USD 2,400 approx.). In that regards the Defendant has already handed over to the Plaintiff a Demand Draft for Rs. 2,00,000/-, details of which are reproduced below for the ready reference of this Hon'ble Court:

S. N o.	DD No.	Amoun t (Rs.)	Date	Dra wn On
1.	0327 74	2,00,00 0/-	30.04.2 024	HD FC Ban k

g. That the Defendant have no objection if the suit is decreed in terms of prayer contained in Para 41 (a) (i) to (iii) of the Plaint. The said paras of the Plaint are being reproduced below for the ready reference of this Hon'ble Court:

“41. Under the facts and circumstances of the present case, the Plaintiff most respectfully prays that this Hon'ble Court may kindly be pleased to pass a decree in favour of Plaintiff and against the Defendants detailed as hereunder :-

(a) For a decree of permanent injunction restraining the



defendants by themselves as also through their individual proprietors/partners, agents, representatives, distributors, assigns, heirs, successors, stockists and all others acting for and on their behalf from manufacturing, marketing, purveying, supplying, using, selling, soliciting, exporting, displaying, advertising on the online marketplace or by any other mode or manner dealing in or using the Plaintiffs said trade mark RAYBAN and or any other word/mark which may be identical with and/or deceptively similar word/mark to the plaintiffs said trade mark RAYBAN on the impugned website www.kaunsa.com or any other website in relation to the business of sunglasses , eyewear and related/allied products and from doing any other acts or deeds amounting to or likely to:

- (i) Infringement of Plaintiffs registered Trade mark RAYBAN.*
- (ii) Passing off and violation of the Plaintiff s rights in the Plaintiff s said Trade Mark RAYBAN.*
- (iii) Infringement or otherwise violating by way of passing off the Plaintiff s copyrights in the Plaintiffs said Trade Mark RAYBAN.”*

h. That the above-mentioned terms and conditions of the compromise shall be binding on all the parties, their representatives, heirs, assignees, agents, successors etc., as the case may be.



i. In the event that Defendant fails to fulfil one or more of its obligations under this Settlement Agreement:

i. The Plaintiff shall have the right to cancel this Settlement Agreement fully or partially; and

ii. The Defendant will furnish a forfeit, without any further notice or demand required, an immediate payable penalty in the amount of Rs. 5,00,000/- (Rupees Five Lakhs only) for any breach without limiting or precluding the rights of the Plaintiff to additionally claim from the Defendant any damage which Plaintiff has incurred or may incur as a result of the trademark infringements.

4. That the Defendant No. 1 has informed the Plaintiff that the Defendant No. 2, who was one of the directors of the Plaintiff, has passed away on 23.06.2021. The Plaintiff herein agrees that since the dispute is being amicably settled with the Defendant No. 1, the Plaintiff shall not press the suit against the legal heirs of the Defendant No. 2.

5. That the terms of this settlement are strictly executed in confidence and shall be binding between the Plaintiff and Defendant and cannot be used by any third party to claim/conduct/connive use/infringement of the Intellectual Property Rights of the Plaintiff. In conformity thereof, the



Defendant undertakes that it shall keep the terms and conditions of this settlement extremely confidential and not divulge it to any third party, violating which the Defendant shall be liable to pay Rs. 5,00,000/- (Rupees Five Lakhs Only) to the Plaintiff within one week, without any negotiations.”

7. It is stated by counsel for plaintiff that they have received a demand draft as noted in para 3(f) of the terms of settlement.
8. Accordingly, as per the terms of settlement, decree is passed in terms of prayer contained in para 41(a) (i) to (iii) of Plaint.
9. Let decree sheet be drawn up in the above terms.
10. Parties will be bound by the terms of settlement.
11. In view of the settlement between the parties, plaintiff shall be entitled to 50% of refund of the Court fees, through counsel for plaintiff.
12. Registry is directed accordingly.
13. The suit is disposed of accordingly. Pending applications, if any, are rendered infructuous.
14. Order be uplaoded on the website of this Court.

ANISH DAYAL, J

MAY 16, 2024/RK/na

[Click here to check corrigendum, if any](#)