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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 231/2025 & I.A. 6726/2025, I.A. 6727/2025, I.A. 6728/2025, I.A. 6729/2025, I.A. 6730/2025, I.A. 6736/2025
DOMINOS IP HOLDER LLC & ANR.Plaintiffs

Through: Mr. Pravin Anand, Mr. Shantanu Sahay and Ms. Imon Roy, Advocates
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versus

M/S DOMINIC PIZZA & ORS.Defendants
Through: None.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
12.03.2025

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I.A. 6728/2025 (Exemption from filing original and certified copies of documents)

1. The present is an application under Section 151 of the Code of Civil Procedure, 1908 ("CPC"), on behalf of the plaintiffs, seeking exemption from filing original, certified copies, clearer copies, translated copies, left side margins, electronic documents, etc.
2. Exemption is granted, subject to all just exceptions.
3. Plaintiffs shall file legible, clear, and translated copies of the documents, on which the plaintiffs may seek to place reliance, before the next date of hearing.
4. Accordingly, the present application is disposed of.



I.A. 6729/2025 (Exemption from undergoing Pre-Institution Mediation)

5. The present is an application under Section 12A of the Commercial Courts Act, 2015, read with Section 151 of CPC, seeking exemption from undergoing Pre-Institution Mediation.

6. Having regard to the facts of the present case and in the light of the judgments of Supreme Court in the case of *Yamini Manohar Versus T.K.D. Keerthi*, 2023 SCC OnLine SC 1382, and Division Bench of this Court in *Chandra Kishore Chaurasia Versus RA Perfumery Works Private Ltd.*, 2022 SCC OnLine Del 3529, exemption from undergoing Pre-Institution Mediation is granted.

7. Accordingly, the application stands disposed of.

I.A. 6736/2025 (Exemption from advance service to the defendants)

8. The present is an application under Section 151 CPC, seeking exemption from advance service to the defendant nos. 1 to 5.

9. The plaintiffs seek urgent interim relief. Therefore, in the peculiar facts and circumstances of this case, exemption from effecting advance service upon the defendants, is granted.

10. For the reasons stated in the application, the same is allowed and disposed of.

I.A. 6727/2025 (Application seeking leave to file additional documents)

11. This is an application under Order XI Rule 1(4), read with Section 151 CPC, as amended by the Commercial Courts Act, 2015, seeking leave to file additional documents.

12. The plaintiffs, if they wish to file additional documents at a later stage, shall do so strictly as per the provisions of Commercial Courts Act,



2015 and the Delhi High Court (Original Side) Rules, 2018.

13. The application is disposed of with the aforesaid directions.

I.A. 6730/2025 (Application seeking extension of time for filing Court Fees)

14. The present application has been filed under Section 149 read with Section 151 CPC, seeking extension of time for filing Court Fees.

15. Learned counsel appearing for the plaintiff submits that the requisite Court Fees shall be filed today itself.

16. Noting the aforesaid, the present application is disposed of.

CS(COMM) 231/2025

17. Let the plaint be registered as suit.

18. Upon filing of the Process Fee, issue summons to the defendant by all permissible modes. Summons shall state that the written statement be filed by the defendant within thirty days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the plaintiffs' documents, without which, the written statement shall not be taken on record.

19. Liberty is given to the plaintiffs to file replication within thirty days from the date of receipt of the written statement. Further, along with the replication, if any, filed by the plaintiffs, an affidavit of admission/denial of documents of the defendant, be filed by the plaintiffs, without which, the replication shall not be taken on record. If any of the parties wish to seek inspection of the documents, the same shall be sought and given within the timelines.

20. List before the Joint Registrar (Judicial) for marking of exhibits on 14th May, 2025.



21. List before the Court on 2nd September, 2025.

I.A. 6726/2025 (Application under Order XXXIX Rules 1 and 2 CPC)

22. The present suit has been filed on behalf of the plaintiffs for permanent injunction restraining infringement of trademark, passing off, dilution of trademarks, trade name, rendition of accounts of profit, damages, etc.

23. It is submitted that founded in 1960 in the State of Michigan, USA, Tom Monaghan and his brother James, purchased a pizza store named, “Dominick's Pizza”.

24. It is submitted that in 1965, after the brothers purchased two more restaurants, the name was changed from Dominick's to Domino's Pizza. The proprietary logo of the plaintiffs consists of two parts, the upper part is two red square boxes depicting dominos with three dots, and the lower part is a blue domino with the name of the restaurant. The logo has 3 dots as they symbolize the three restaurants which were the inception of Domino's. The logos of the plaintiffs' brand are reproduced as under:



25. It is submitted that Domino's today is one of the world's leading pizza and fast food restaurant chains. Over the years, it has 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. Domino's had global retail sales of nearly \$ 18.9 billion for the



trailing four quarters ending on 8th September, 2024. For over five decades now, plaintiffs have been using the trademarks Domino's, Domino's Pizza,

the domino devices  and the distinctive red and blue color combination for its widespread and extensive operations around the world.

26. It is submitted that furthermore, the plaintiffs have a considerable online presence across the world, including, in India where they operate a website at the domain name www.dominos.co.in. The plaintiffs began accepting online orders for their various stores in the year 2007 and the service has been available in India since 2011. The plaintiffs' India operations also enjoy a huge social media following and have over 6.6 million followers on Facebook, over 600,000 followers on Instagram and over 24,04,000 followers on Twitter/X. The plaintiffs have also made available their mobile App which has a cumulative over 50 million downloads.

27. It is further submitted that, the first adoption of term "Domino's" by the plaintiffs is arbitrary as it has no meaning or significance in relation to pizza or fast food restaurants and is therefore inherently distinctive and exclusively associated as the trademark and trade name of the plaintiffs. Owing to the aforesaid, coupled with the widespread publicity and the prior adoption and extensive use of the trademarks "Domino's" and "Domino's Pizza" and the red and blue color scheme the plaintiffs has exclusive rights under common law to use the said marks and to prevent misuse of the same by any third party.



28. It is submitted that, therefore, the use of the Domino's trademarks, as well as the mark "DOMINICK" in a deceptively similar manner by any third party in respect of any goods or services, including, but not limited to fast food restaurant services, especially, pizza restaurants are bound to cause confusion and deception in the minds of the consumers and members of the trade. The use of a trademark identical or deceptively similar to the plaintiffs' will contravene the public recognition and association of the Domino's trademarks with the plaintiffs and with the recognition of the plaintiffs as the proprietor of the marks.

29. It is submitted that the defendant nos. 1 to 5 in the present matter are various entities who have unauthorizedly adopted trade names and marks being "Dominic" and defendant no. 5 has adopted a deceptively similar tradename 'Domindo' to that of plaintiffs' current trademark. The impugned trade name and marks, by just removing the letter 'K' from the term 'dominick', is deceptively similar and phonetically identical to plaintiff no. 1's erstwhile trade name, namely "Dominick's Pizza" which was used by the plaintiffs from 1960 to 1965. Such impugned Dominic trade-names are also deceptively similar to that of plaintiffs' registered Domino's trademarks. Further, the impugned Dominic trade-names have been adopted without any license or permission from the plaintiffs.

30. It is submitted that the plaintiffs in early 2025, from market sources, received information that there are entities which are violating the registered trademarks of the plaintiffs and have adopted the erstwhile name of the plaintiff no. 1, being 'DOMINIC', which the plaintiffs believe are being operated by same group or by various groups that are commonly linked as they have taken franchisee from one and same entity.



31. It is submitted that upon preliminary search, the plaintiffs discovered that such entities, which are phonetically identical to plaintiffs' erstwhile tradename and have tradenames, which are visually deceptively similar to the plaintiffs, are enlisted with defendant no. 6, i.e., Zomato and defendant no. 11, i.e., Swiggy. As per analysis, such listings are easily enabled due to the prompts provided by Zomato and Swiggy once the 1st three (3) to five (5) letters of plaintiffs tradename and mark, which are 'DOM' 'DOMI' 'DOMIN' are typed on their search bars. Such enlisting are specifically done to target semi-literate and persons of average intelligence, who are aware of plaintiffs' brand DOMINOS, however, may not be tech savvy or privy with English language or have technological barrier in using mobile Applications. Thus, it is submitted that their aim is to gain an unfair advantage by attracting customers who believe they are ordering from the plaintiffs' establishment.

32. It is further submitted that while most of the entities are running physical outlets with some tradename/ mark, but have deliberately listed themselves online with a name that is identical to plaintiffs erstwhile name, or deceptively similar to plaintiffs current tradename and trademark, so as to gain maximum momentum and reach to consumers via Swiggy and Zomato, as they are very well aware that enlisting themselves with their actual tradenames will not get such attention and momentum in online food ordering business. Such actions are evidently deliberate and *mala fide*, as such perpetrators are evidently aware that by using the impugned names physically in public is violative of the rights of the plaintiffs and will attract the attention of the plaintiffs and the law enforcement authorities. Such perpetrators, under the garb of online businesses, are misusing the facilities



available online by Zomato and Swiggy, as their identities and actions are not visible online. Moreover, some entities even fail to provide FSSAI numbers to Zomato and Swiggy so as to evade identification.

33. It is submitted that the defendant nos. 1 to 5 have unauthorizedly adopted impugned Dominic tradenames which are deceptively similar to that of plaintiffs' registered trademarks. Such activities of the defendants, amount to infringement of the plaintiffs' statutory rights as per Section 29 of the Trade Marks Act, 1999. A comparison of the of the marks adopted by the defendants that infringe the plaintiffs' rights and marks are given below:

Plaintiffs' Trade Marks	Defendant No. 1-5's Trade Names/ Marks
	Defendant No. 1 – DOMINIC PIZZA
DOMINICK'S PIZZA	Defendant No. 2- DOMINIC PIZZA
	Defendant No. 3- DOMINIC PIZZA
Registered TradeMark no. 463304, 572312, 1238053, 1238054, 2145011	Defendant No. 4- DOMINIC PIZZA
	Defendant No. 5- DOMINIC PIZZA
	Defendant No. 5- DOMINDO PIZZA
DOMINO'S	DOMINDO
	Defendant No. 5

34. It is further submitted that defendant nos. 6 and 7's act of listing the restaurants of defendant no. 1 to 5 bearing impugned Dominic trade names that is deceptively similar to that of the plaintiffs, amounts to infringement of plaintiffs' rights in and to its registered trademarks.



35. It is submitted that the defendant nos. 1 to 5's act of listing the restaurants, bearing impugned Dominic trade names which are phonetically, visually and verbally similar and identical to plaintiffs' erstwhile name "Dominick Pizza" as the prominent part of their tradenames/trademarks thereof including the listings of defendant nos. 1 to 5, on their food ordering and delivering App/website, amounts to infringing of plaintiffs' rights in and to its registered trademarks.

36. It is submitted that, by using the trademarks/tradenames phonetically, visually and verbally similar/ identical to plaintiffs' erstwhile name "Dominick Pizza", as well as the deceptively similar name 'Domindo Pizza' in connection with a fast-food restaurant, the defendant nos. 1 to 5 are guilty of duping the general public.

37. In the above circumstances, the plaintiffs have demonstrated a *prima facie* case for grant of injunction and, in case, no *ex-parte ad-interim* injunction is granted, the plaintiffs will suffer an irreparable loss. Further, balance of convenience also lies in favour of the plaintiffs, and against the defendants.

38. Accordingly, till the next date of hearing, the following directions are issued:

I. Defendant nos. 1 to 5, its proprietors, partners, directors, officers, servants, agents, franchisers and all others acting for and it 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 "Dominic Pizza", 'Domindo



DOMINIC PIZZA

Pizza’,  **DOMINIC PIZZA** or any other mark, which is identical or deceptively similar to the plaintiff’s registered marks, in any manner whatsoever, amounting to infringement of the plaintiffs trademarks; or so as to cause confusion or deception leading to passing off of the defendant nos. 1 to 5’s products and services, as those of the plaintiffs; or so as to cause dilution or tarnishment of the plaintiff’s trademark and packaging.

II. Defendant nos. 6 and 7 are directed to de-list the impugned listings, as below:

Sl. No.	Defendants	URL
1.	M/s. Dominic Pizza (Defendant No. 1)	ZOMATO https://www.zomato.com/chandigarh/dominic-pizza-2-kharar-road-mohali https://www.zomato.com/chandigarh/dominic-pizza-sunny-enclave-mohali SWIGGY https://www.swiggy.com/city/chandigarh/dominic-pizza-civil-hospital-road-greater-mohali-rest548741
3.	M/s. Dominic Pizza (Defendant No. 3)	SWIGGY https://www.swiggy.com/city/chandigarh/dominic-pizza-north-mohali-rest987858
4.	M/s. Dominic Pizza (Defendant No. 4)	SWIGGY https://www.swiggy.com/city/chandigarh/dominic-pizza-zirakpur-lohgarh-rest228184
5.	M/s. Dominic Pizza M/s. Domindo Pizza (Defendant No. 5)	ZOMATO https://www.zomato.com/chandigarh/dominic-pizza-dhakoli-zirakpur SWIGGY https://www.swiggy.com/city/chandigarh/rs-domindo-pizza-shiv-mandir-road-zirakpur-rest668710

39. Issue notice to the defendants by all permissible modes upon filing of the Process Fee, returnable on the next date of hearing.

40. Let reply be filed within a period of four weeks.

41. Rejoinder thereto, if any, be filed within two weeks, thereafter.



42. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of two weeks.

43. List before the Court on 2nd September, 2025.

MINI PUSHKARNA, J

MARCH 12, 2025

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