



2025:DHC:3938



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

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*Date of decision: 13<sup>th</sup> May, 2025*+ **CS(COMM) 199/2020 with I.A. 45773/2024****AKTIEBOLAGET VOLVO & ORS..... Plaintiffs****Through: Mr. Karan Kamra, Ms. Vaishali Mittal and Mr. Siddhant Chamola, Advocates.****versus****MANTIS TECHNOLOGIES PVT. LTD. & ORS. .... Defendants****Through:****CORAM:****HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present suit has been filed by the plaintiff seeking relief of permanent injunction restraining the defendant from infringing and passing off the trade mark of the plaintiff, in respect of the mark 'VOLVO' along with other ancillary reliefs.

**BRIEF FACTS**

2. The plaintiff no.1 ['AB Volvo'], plaintiff no.2, ['Volvo Trademark Holding AB'] and plaintiff no.3 ['Volvo Car Corporation'] (hereinafter collectively referred to as the "Plaintiffs"), are companies incorporated under the laws of Sweden having their core business in transportation and automotive sector.

3. Plaintiff no.1 is a world leader in heavy commercial vehicles such as trucks, buses, and construction equipment, as well as in drive systems for marine and industrial applications. Plaintiff no.1 is stated to have established



2025:DHC:3938



a flagship company, namely Volvo Auto India Pvt Ltd., in India in 1996. Plaintiff no.1 has executed a global deed of assignment in favour of Plaintiff no.2, who became the subsequent proprietor of the plaintiffs' 'VOLVO' trademarks and subsequently licensed the same to plaintiffs no.1 and 3 to use the trademark 'VOLVO' in relation to their respective businesses.

4. Plaintiff no.3 produces and distributes a premium range of cars that includes sedans, wagons, sports-wagons, cross country cars and SUVs with the mission to be the world's most progressive and desired premium car brand with a strong commitment to safety, quality and the environment. Plaintiff no.3 launched two car models, i.e., Volvo S80 and Volvo XC90, in India in September 2007 and carries on business in India through its subsidiary, Volvo Auto India Pvt Ltd.

5. Both the plaintiffs no.1 and 3 manufacture goods and provide related services throughout the world under the trademark and trade name 'VOLVO'.

6. The plaintiffs are stated to have commercially launched their first 'VOLVO' bus in India in the year 2001 and have, over time, introduced technological advancements that have developed the transportation economy and redefined bus technology in India. Furthermore, the plaintiffs are also stated to have created a diverse array of 'VOLVO' merchandise goods which include stationery, bags, watches, clothing, and a range of other accessories which also enhance the brand visibility of the plaintiffs' trademark, trade name and house mark 'VOLVO'.

7. The plaintiffs are the registered domain name holders of the website, [www.volvo.com](http://www.volvo.com). It is stated that the website provides an online gateway to interested consumers and members of the trade about various business





2025:DHC:3938



activities and initiatives undertaken by the plaintiff group of companies. The plaintiffs are also registrants of the domain names, www.volvobuses.in, www.volvotrucks.in, www.volvocars.com and www.volvoce.com which specifically cater to customers in India.

8. Plaintiff no.1 is stated to have adopted the trademark/corporate name 'VOLVO' on 5<sup>th</sup> May, 1915.


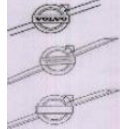


9. The plaintiffs have secured numerous registrations for the 'VOLVO' and 'VOLVO' formative trade marks in various classes in India. The details of trade marks registration owned by the plaintiffs are given in paragraph 9 of the plaint, and the same are set out below:

S. No.	Trademark	Registration No.	Class
1.	VOLVO	763291	4
2.	VOLVO PENTA	1384891	4
3.	 VOLVO (device)	1404133	4, 7
4.		3249588	4, 7
5.	VOLVO	361886	12
6.	VOLVO	763280	12
7.	VOLVO	1240074	35
8.	VOLVO	1240071	37



2025:DHC:3938



9.	 VOLVO (device)	1404133	12, 35 & 37
10.		1930763	12
11.		3249588	12, 35 & 37
12.		3251273	12, 35 & 37

10. The plaintiffs' trade mark 'VOLVO' has been recognized as a well-known trade mark in India by the Trademarks Registry pursuant to the judgment delivered by the Division Bench of the Bombay High Court in *Aktiebolaget Volvo v. Volvo Steel Ltd.* [1998 PTC (18) 47].

11. It is averred in the plaint that the plaintiffs spend a substantial amount of money every year towards the promotion, publicity, and advertisement of their business under the trade mark/trade name 'VOLVO'. It is stated that, in 2017, the promotional expenses incurred by the plaintiff no.1 globally were around 1,449 million SEK. It is further averred in the plaint that the worldwide promotional expenses undertaken by the plaintiff no. 3 for the same period was 9,279 million SEK.

12. It is stated in the plaint that the plaintiffs have sold 571,577 cars under the trade mark 'VOLVO' globally, whereas in India, the sales of cars under the VOLVO trade mark/ name were around 2029 cars in the year 2017.



2025:DHC:3938



13. Defendants no.1 to 8 are entities engaged in the business of providing travelling facilities, bus logistics services and operating distribution platforms, websites to offer their services to the consumers. Through their services, the defendants actively reference the plaintiffs' VOLVO trademarks.

13.1. Defendant No. 1, Mantis Technologies Private Limited, is a company that operates a comprehensive platform for bus and logistics providers, facilitating distribution between Online Travel Agencies (OTAs), travel agents, affiliates, and corporate entities, extending to e-commerce platforms for end consumers. Defendant no.1 is the registrant and holder of domain names through which defendant no. 4 to defendant no. 6 and defendant no. 8 conduct website operations. Defendants no.2 and 3 are the directors of defendant no.1.

13.2. Defendant no. 4 is involved in the travel industry as a travel agent and travel booking website. Defendant no.4 provides services to consumers, including "VOLVO TOURS and PACKAGES." Defendant No. 4 operates the domain names [www.himachalbustours.com](http://www.himachalbustours.com) and [www.himachalvolvotravel.com](http://www.himachalvolvotravel.com), and conducts business operations from addresses in Delhi.

13.3. Defendant No. 5, Mr. Nipun, through his proprietorship concerns, M/s Himachal Tourist Bus and M/s City Lands Travel, is involved in the travel industry as a travel agent and travel booking website. Defendant no.5 provides various services to consumers, including those involving VOLVO buses. Defendant no.5 operates the domain names [www.himachaltouristvolvobus.com](http://www.himachaltouristvolvobus.com), <http://www.himachaltouristbuses.com/>,



2025:DHC:3938



[www.citylandstravel.com](http://www.citylandstravel.com), and [www.citylandtravels.in](http://www.citylandtravels.in), and conducts business operations from Delhi.

13.4. Defendant no.6, Mr. Amrik Singh Vapral, through his proprietorship concern, M/s ADTC Lemon Bus Service and M/s Baba Deep Singh Travels, is involved in the travel industry as a travel agent and travel booking website. Defendant no.6 provides services to consumers, including those involving VOLVO buses. Defendant no.6 operates the domain names [www.adtcvolvobusservice.com](http://www.adtcvolvobusservice.com), <http://www.adtclemonbus.com>, and [www.haribhawanitravels.in](http://www.haribhawanitravels.in), and conducts business operations from Delhi.

13.5. Defendant no.7, M/s Golden Temple Volvo and M/s Golden Temple Express Volvo, is also involved in the travel industry as a travel agent and travel booking website. Defendant no.7 provides services to consumers, including those involving VOLVO buses. Defendant no.7 operates the domain <http://www.volvobusticket.com> and <http://www.volvobusticket.in>, and conducts business operations from Delhi and Amritsar. Defendant no.7 has also applied for trademark bearing number 3430435 in class 39 for the mark 'Golden Temple Express Volvo'. Defendant no.7 is also using the



mark for providing its services.

13.6. Defendant no. 8, M/s Himachal Volvo Bus Service, is involved in the travel industry as a travel agent/travel booking website. Defendant no.8 provides services to consumers, including the provision through VOLVO buses. Defendant no. 8 operates the domain <http://www.himachalvolvobusservices.com> and carries out business



2025:DHC:3938



operations from Delhi. Defendant no.8 uses the mark/logo 'HIMACHAL



VOLVO BUS SERVICE/ for providing its services.

13.7. Defendants no.10, 11 and 12 are domain name registrars of the websites used by the aforesaid defendants.

14. Upon discovering the aforesaid activities, the plaintiffs carried out investigation. Thereafter, the plaintiffs issued cease and desist notices to the defendants, demanding that they discontinue their use of the VOLVO trademark. In response, defendant no.1 denied any infringement and disclaimed responsibility for the actions of the bus operators (defendants no. 4 to 6), while defendant no.7 did not respond to the notices.

15. Accordingly, the plaintiff filed the present suit seeking to restrain the defendants from carrying on their infringing activities.

#### **PROCEEDINGS IN THE SUIT**

16. The matter came up before this Court for the first time on 29<sup>th</sup> June 2020. *Vide* the said order, an *ex-parte ad-interim* injunction was granted by the predecessor bench of this Court, restraining the defendants 1, 4 to 6 and 8 from using the plaintiffs' name/trademarks 'VOLVO' trade mark as part of their website, domain name, email address and trade name. Further, defendants no.10 and 11 were directed to suspend the impugned domains.

17. On 7<sup>th</sup> August 2020, the court allowed the application for deletion of defendant no.9 from the present suit and impleaded defendant no.12 as a party in the suit.

18. On 27<sup>th</sup> August 2020, the predecessor bench modified the order dated





2025:DHC:3938



29<sup>th</sup> June 2020 and extended the injunction *mutatis mutandis* in respect of defendant no.7. Further, the application for amendment of the plaint was allowed, and the parties were referred for mediation.

19. On 21<sup>st</sup> July 2023, the defendant no.2 was deleted from the array of parties as the said defendant had resigned from the defendant no.1 company.

20. On 28<sup>th</sup> August 2023, the present suit was decreed *qua* defendants no.1 and 3 on the basis of settlement arrived at in the mediation proceedings.

21. On 19<sup>th</sup> September 2023, the matter was listed before the Joint Registrar to ascertain the service of the remaining defendants. In the said order, it has been noted that the defendants no.5, 7, 11 and 12 were served on 22<sup>nd</sup> September 2020, 26<sup>th</sup> September 2020, 19<sup>th</sup> September 2020, and 22<sup>nd</sup> September 2020, respectively.

22. On 16<sup>th</sup> October 2023, the Joint Registrar noted that the defendants no.6 and 8 had been served through WhatsApp on 12<sup>th</sup> October 2023.

23. On 30<sup>th</sup> April 2024, the matter was decreed *qua* defendant no.4 on the basis of settlement arrived at between the parties.

24. Since none had been appearing on behalf of defendants no.5, 6, 7, 8, 10, 11 and 12, this Court on 26<sup>th</sup> September 2024, closed the right of the said defendants to file a written statement and directed the said defendants be proceed against *ex-parte*.

25. On 21<sup>st</sup> November 2024, this court issued notice in the application filed by the plaintiff under Order XXXIX Rule 2A of the CPC, against the defendant no.7. This court directed the defendant no.7 to be physically present in court on the next date of hearing and directed to file an affidavit giving exact details of the revenue that they have generated by making sales of their services by using the mark 'VOLVO'.





2025:DHC:3938



26. Since none had appeared on behalf of defendant no.7 despite the direction passed, this Court on 18<sup>th</sup> February 2025 issued bailable warrants for the production of the proprietor of defendant no.7. However, the same could not be executed.

### **ANALYSIS AND FINDINGS**

27. I have heard the submissions of counsel for the plaintiff and also perused the material on record.

28. The plaint has been duly verified and is also supported by the affidavit of the plaintiff. In view of the fact that no written statement has been filed on behalf of the defendants no. 5, 6, 7, and 8, all the averments made in the plaint have to be taken to be admitted. Further, since no affidavit of admission/denial has been filed on behalf of the defendants no. 5, 6, 7, and 8 in respect of the documents filed with the plaint, in terms of Rule 3 of the Delhi High Court (Original Side) Rules 2018, the same are deemed to have been admitted. Therefore, in my opinion, this suit does not merit trial, and the suit is capable of being decreed in terms of Order VIII Rule 10 of CPC.

29. From the averments made in the plaint and the evidence on record, the plaintiff has been able to prove that it is the registered proprietor of the 'VOLVO' marks.

30. The plaintiff has also filed several documents in support of its contentions, including but not limited to advertisement expenses, extracts from the plaintiffs' websites, and actions taken to prevent third parties from illegally adopting and misusing the plaintiffs' trade mark 'VOLVO' in India, establishing goodwill and reputation.

31. A perusal of the plaint reveals that the defendants are engaged in the identical services (travel and tourism-related services) with the identical



2025:DHC:3938



customer segment (tourists). The use of the 'VOLVO' marks by the defendants is clearly aimed at confusing the consumers and inducing a false impression that the defendants and plaintiffs are connected with each other. The use of the mark 'VOLVO' by the defendants in relation to identical services dilutes the distinctiveness of the mark. The unauthorised use of the 'VOLVO' marks by the said defendants is deliberate, unjustified, and intended solely to capitalise on the plaintiff's established goodwill.

32. Based on the discussion above, a clear case of infringement of trademark is made out. The defendants no. 5, 6, 7, and 8 have taken unfair advantage of the reputation and goodwill of the plaintiff's trademarks.

33. Defendants no.5, 6, 7, and 8 have deliberately misled unwary consumers into believing that they are associated with the plaintiffs by dishonestly adopting the plaintiffs' registered trademarks in their trade names, device marks, and domain names, without offering any plausible justification. The manner in which the trademark 'VOLVO' is used in relation to the defendants' services is such that consumers are likely to assume an association or commercial connection between the defendants and the plaintiffs, resulting in confusion regarding the origin of the defendants' services. Accordingly, the plaintiffs have made out a clear case of passing off.

34. Since the defendants no. 5, 6, 7, and 8 has failed to take any requisite steps to contest the present suit, despite having suffered an ad interim injunction order, it is evident that they have no defence to put forth on merits.

35. Counsel for the plaintiff also presses for a decree on the aspect of damages and costs.



2025:DHC:3938



36. It is a settled principle of law that while awarding damages, the court has to adopt a stringent approach where the infringement is deliberate and *mala-fide*. In *Koninlijke Philips N.V. & Anr. v. Amazestore & Ors*<sup>1</sup>, a Coordinate Bench of this Court outlined principles for awarding proportionate damages on the basis of the degree of *mala-fide* conduct.

37. In *Cartier International A.G. v. Gaurav Bhatia*<sup>2</sup>, while granting the damages in case where defendants were selling counterfeit watches and did not appear to contest the suit filed by the plaintiff, a Coordinate Bench of this Court has observed that a defendant who deliberately avoids court proceedings should not be allowed to benefit from such evasion as that would be unfair to a defendant who submits account records and is held liable for damages, while one who evades proceedings escapes liability due to the absence of financial records.

38. The aforesaid principles would be squarely applicable in the present case. In the present case, the defendants no. 5, 6, 7, and 8 did not appear before the Court, despite service of summons and continued to make profits and cause losses to the plaintiffs. In the affidavit dated 5<sup>th</sup> November 2024, filed on behalf of the investigator hired by the plaintiff, the investigator has stated and provided photographs evidencing that the defendant no.7 has been using 'VOLVO' marks in its trade name, social media pages, etc. It is pertinent to note that the defendant no.7 has wilfully flouted the orders passed by this Court and failed to appear despite the issuance of bailable warrants. Thus, in my view, the defendants have wrongfully gained

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<sup>1</sup> 2019 SCC OnLine Del 8198

<sup>2</sup> 2016 SCC OnLine Del 8



2025:DHC:3938



substantial financial benefits from the unauthorised use of the ‘VOLVO’ marks.

39. In *Hindustan Unilever Limited v. Reckitt Benckiser India Limited*<sup>3</sup>, a Division Bench of this Court outlined the principle of ‘*rough and ready calculations*’ for awarding damages.

40. Taking into account the entire facts and circumstances presented in this is a fit case, where damages and costs should be awarded.

### **RELIEF**

41. In view of the foregoing analysis, a decree is passed in favour of the plaintiff and against the defendants no.5, 6, 7, and 8 in terms of the prayer clauses 88 (a) (i) to (iii) of the plaint.

42. In terms of relief sought in prayer clause 88 (b), a decree is passed directing defendants no.10, 11, and 12 to transfer the domain names given therein, in favour of the plaintiffs, subject to plaintiffs fulfilling the necessary requirements.

43. Insofar as the relief of damages and costs sought in prayer clauses 88 (e) and (f) of the plaint is concerned a decree is passed awarding damages and costs in favour of the plaintiff and against defendants no. 5, 6, 7, 8, 10, 11, and 12 in the following manner:

Defendants	Amount awarded
Defendant no.5	Rs.50,000
Defendant no.6	Rs.50,000
Defendant no.7	Rs.2,00,000
Defendant no.8	Rs.50,000

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<sup>3</sup> ILR (2014) 2 Del 1288



2025:DHC:3938



44. Counsel for the plaintiff does not press for the remaining reliefs.
45. Let the decree sheet be drawn up.
46. All pending applications stand disposed of.

**AMIT BANSAL, J**

**MAY 13, 2025/R**