

Jyothy Labs Limited vs Gautam Kumar & Anr on 26 August, 2025

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+CS (COMM) 893/2025

JYOTHY LABS LIMITED P

Through: Mr. Pravin Anand, Mr. Achuthan Sreekumar, Ms. Jaya Negi, Mr. Ro Bansal, Ms. Yashi Agarwal & Mr. Swastik Bisarya, Advocates

Versus

GAUTAM KUMAR & ANR. Defend

Through: None.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% 26.08.2025 IA No.20841/2025 (O-XI R-1(4) of the Code of Civil Procedure, 1908)

1. The present Application has been filed on behalf of the Plaintiff under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 ("CPC") as applicable to Commercial Suits under the Commercial Courts Act, 2015 ("CC Act") seeking leave to place on record additional documents.

2. The Plaintiff is permitted to file additional documents in accordance with the provisions of the CC Act and the Delhi High Court (Original Side) Rules, 2018.

3. Accordingly, the Application stands disposed of. IA No.20842/2025 (Exemption)

4. Exemption is allowed, subject to all just exceptions.

5. The Application is disposed of.

I.A. No.20843/2025 (Exemption from Pre-institution Mediation)

6. This is an Application filed by the Plaintiffs seeking exemption from pre-institution Mediation under Section 12A of the CC Act.

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7. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in Yamini Manohar v. T.K.D. Krithi, 2023 SCC OnLine SC 1382, exemption from the requirement of pre-institution Mediation is granted.

8. The Application stands disposed of.

I.A. No.20844/2025 (Extension of time to file Court Fees)

9. The present Application has been filed by the Plaintiff under Section 149 read with Section 151 of the CPC, seeking exemption from payment of Court Fees at the time of the filing of the Suit.

10. Considering the submissions made in the present Application, time of four weeks is granted to file the Court Fees.

11. The Application stands disposed of.

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12. Let the Plaint be registered as a Suit.

13. Issue Summons to the Defendants through all permissible modes upon filing of the Process Fee.

14. The Summons shall state that the Written Statement(s) shall be filed by the Defendants within 30 days from the date of the receipt of Summons. Along with the Written Statement(s), the Defendants shall also file an Affidavit of Admission / Denial of the documents of the Plaintiff, without which the Written Statement(s) shall not be taken on record.

15. Liberty is granted to the Plaintiff to file Replication(s), if any, within 30 days from the receipt of the Written Statement(s). Along with the Replication(s) filed by the Plaintiff, Affidavit(s) of Admission / Denial of the documents of Defendants be filed by the Plaintiff, without which the Replication(s) shall not be taken on record.

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16. In case any Party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

17. If any of the Parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.

18. List before the Joint Registrar on 15.10.2025 for completion of service and pleadings.

IA No.20840/2025 (U/O XXXIX R-1&2 CPC)

19. The Plaintiff has filed the present Suit seeking an order of permanent injunction restraining impairment and tampering of goods, infringement of registered Trade Marks and copyright, passing off, dilution and tarnishment of Trade Marks and copyright, unfair trade practise, unfair competition, disparagement, false trade description, damages, rendition of accounts, delivery up, etc.

20. The Plaintiff is in the business of inter alia marketing and selling various household essentials.

21. Both the Defendants are engaged in the business of manufacturing and selling spying cameras and other digital equipment and gadget.

22. The learned Counsel for the Plaintiff made the following submissions before this Court:

22.1. Among the various products marketed and sold by the Plaintiff, the mosquito repellent machine & bottle / refill, marketed and sold under the brand 'MAXO GENIUS MACHINE' ("Subject Product") constitutes the Plaintiff's flagship product. The Subject Product is sold under their registered Trade Mark 'MAXO' ("Subject Trade Mark") in the artwork forming part of the Subject Product's Trade This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 Dress ("Subject Trade Dress"). The Subject Product was launched in the market in the year 2000 and has been continuously and uninterruptedly been used by the Plaintiff since then. The Subject Product is sold in India through both online and offline channels. The photographs of the Subject Product as appearing in the Application are reproduced below:

22.2. In the year 2009, the Plaintiff, with an intention of expanding its reach amongst consumers through new products, launched a repellent formulation for protection from all blood sucking insects and mosquitos in the form of the Subject Product offering the market first of its kind 'fit in all machines' refills containing the mosquito repellent liquid.

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22.3. In the financial year 2018-19, the Plaintiff introduced an advance variant of the Subject Product that automatically shifts mode between high (attack) and low (protect) periodically throughout the night, in line with mosquito intensity. To strengthen the market position and visibility of the said product, the Plaintiff collaborated with celebrities for promoting the same. The Plaintiff has spent large amounts of money in promoting their MAXO branded products and have also made huge sales turnover for the above-mentioned product sold by it under its mark and brand MAXO over the years. 22.4. Since 18.07.2000, the Plaintiff has also obtained multiple trademark

registrations for the Subject Trade Mark in Classes 5, 7, 9, 11 and 21. The Plaintiff also has the below reproduced copyright registration in India over the artwork forming part of their MAXO A- GRADE product's trade dress which was obtained by the Plaintiff vide registration No. A-149826/2023 dated 14.12.2023.

22.5. The Plaintiff has also obtained the below mentioned design registrations for the shape and configuration of the variants of their bottle / refill containing the mosquito repellent liquid and the same are This is a digitally signed order.

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Sl. No.	Design No.
1.	332182 - 001
2.	375296 - 001
3.	375295 - 001

22.6. Both the Defendants engaged in the business of inter alia manufacturing and selling spying cameras are promoting the same on social media platforms such as www.youtube.com by unauthorizedly using the Subject Trade Mark and by unauthorizedly tampering with the Plaintiff's MAXO branded products bearing the Subject Trade Dress and design elements.

22.7. In May 2025, the Plaintiff came to know that Defendant Nos. 1 and 2 are marketing and selling spy cameras by fitting them inside the Plaintiff's MAXO branded mosquito repellent machine along with the bottle / refill, containing the mosquito repellent liquid, in the Subject Trade Dress ("Infringing Products"). Thereafter, the Plaintiff deputed an Investigator to conduct an online investigation on the Defendants and to purchase the Infringing Products from the Defendants. The investigation conducted on the Defendants confirmed that the Defendants are impairing and unlawfully selling the Infringing Products.

22.8. Defendant No. 1 is promoting the Infringing Product on his YouTube channel '@smarsofficial8875'. Defendant No. 1 is also selling the Infringing Products through their listing on the e-commerce platform www.amazon.in and also through his own website at www.smars.in. Screenshots of Defendant No. 1's listings This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 on Amazon and on his website as appearing in the Application are reproduced below.

22.9. The Investigator further made a purchase of Defendant No. 1's Infringing Product from his website at www.smars.in on 20.05.2025 and made a payment of € 2,999/- against the same. The screenshots of the order confirmation on Defendant No. 1's website and of the payment

confirmation on Paytm as appearing in the Application is reproduced below:



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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 22.10. The Infringing Product which was purchased from Defendant No. 1's website at www.smars.in got delivered at the investigator's New Delhi address on 21.05.2025. Photographs of the same as appearing in the Application are reproduced below:

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 22.11. The picture of the of the Infringing Product that is displayed on Defendant No. 1's website bears the mark ' '.

However, the product that was actually being sold by Defendant No. 1 and which was received by the Investigator in New Delhi bore the Subject Trade Mark and Subject Trade Dress. This is indicative of the fact that the infringing and illegal activities that are being carried out by the Defendants are intentional and deliberate as they know that in the event the Subject Trade Mark and Subject Trade Dress is displayed on his website, the Plaintiff may come to know about it and may take appropriate legal action.

22.12. Defendant No. 2 is also selling the Infringing Products on e-commerce platforms such as www.amazon.in and www.flipkart.in. Screenshots of the Defendant No. 2's listings on the said e-commerce platforms as appearing in the Application is reproduced below:

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 22.14. The Infringing Product of Defendant No. 2 which was purchased from Amazon was delivered at the Investigator's New Delhi address on 21.05.2025. Photographs of the same as appearing in the Application are reproduced below:

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 22.15. The Investigator also purchased the Infringing Product from Defendant No. 2's listing on Flipkart on 20.05.2025 and made a payment of ₹3,425/- via UPI. The screenshots of the order confirmation on Flipkart and of the payment confirmation on Paytm as appearing in the Application is reproduced below:

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 22.16. The Infringing Product of Defendant No. 2, which was purchased from Flipkart was delivered at the Investigator's New Delhi address on 22.05.2025. Photographs of the same as appearing in the Application are reproduced below:

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 22.17. Defendant No. 2 also has an interactive website at www.spyimporter.in wherein any person who is based out of New Delhi can place an order for the Infringing Product from Defendant No. 2's website and get the same delivered to their address in New Delhi.

22.18. Therefore, it is evident that the Defendants have not legitimately used the Subject Product after purchasing the same from the market. The manner in which the Subject Product has been put to commercial use by the Defendants shows the ill intention of giving an impression to general public that the Defendants have been authorized by the Plaintiff to do so. The intention of the Defendants is to play a fraud upon unwary consumers. The Defendants have deliberately put to use the plastic body of the Subject Product with the Subject Trade Mark embossed and visible on it, and unauthorizedly used the Subject Trade Mark on their Spy Camera and also packaged the same in the Subject Trade Dress.

22.19. The misappropriation of the Subject Trade Mark, copyrights and Subject Trade Dress by the Defendants amount to false trade This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 description as it induces the consumers and members of trade to falsely believe that the Defendants have a direct nexus or affiliation with the Plaintiff; or the Defendants have been granted a license to use the Subject Trade Mark and the Subject Trade Dress or the business of the Defendants has been endorsed by the Plaintiff. 22.20. Defendant Nos. 1 and 2 have impaired the condition of the Subject Product and completely changed the functionality of the same which was never intended. Defendant Nos. 1 and 2 are marketing and selling the Infringing Products in such a manner that any consumer might assume that the same have originated from the Plaintiffs. Therefore, Defendant Nos. 1 and 2 cannot plead the principle of exhaustion and say that their infringing act is covered under Section 30 (2) (d) of the Trade Marks Act, 1999 ("Act").

22.21. Section 30(4) of the Act also carves an exception to Section 30(3) and stipulating that Section 30(3) of the Act shall not apply when there exist legitimate reasons for the proprietor to oppose further dealings in such product where the condition of the product has been changed or impaired after they have been put on the market by the registered proprietor. The Subject Product has been materially impaired and tampered with. There is no correlation at all between the intention of the Plaintiff behind selling the Subject Products, i.e., to be used as a mosquito repellent device and the intention with which the Defendants tampered with the same and selling it for spying purposes. Therefore, the Defendants' act of selling the Infringing Product in the market after tampering and making material alterations to the Subject Product, amounts to an infringement of the Subject Trade Mark under This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 Section 30(3) read with Section 30(4) of the Act. If such a thing were to happen and the Defendants' infringing products were to be used illegally for breaching someone's privacy, the aggrieved individual will only hold the Plaintiff liable as it is the Plaintiff's product bearing the Plaintiff's mark and brand 'MAXO' which he / she would see in front of him / her.

22.22. The Plaintiff is not a company that is involved in any sting operations or espionage activities that may have a direct impact on the personal lives of the citizens of our country. If any person's personal life and liberty is invaded through the use of the Infringing Product, they will blame the Plaintiff associating the Infringing Product with the Plaintiff as the same bears the Subject Trade Mark and Subject Trade Dress. Such actions will also dilute the distinctiveness, goodwill, reputation and popularity that the Plaintiff and the Subject Product enjoy in the market.

22.23. The Defendants' act of selling Infringing Product and misrepresenting the Plaintiffs' 'MAXO' branded mosquito repellent product as brand-new Spy Cam products originating from Defendants is without any authorization or approval from the Plaintiff. The Defendants, therefore, by their acts of refurbishing / tampering with the Plaintiff's 'MAXO' branded mosquito repellent product misrepresent, inter alia, the source and quality of the said products and are therefore committing passing off as well as giving a false trade description of such products. Such conduct causes not only confusion among consumers but ultimately damaging the Plaintiff's reputation and goodwill and exposing the Plaintiff to various This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 liabilities and consequences for no fault of theirs. 22.24. The Defendants' activities also have the effect of disparaging the Subject Trade Mark and such activities will also injure the Plaintiff in their business and trade leading to loss of business. The fraudulent and illegal activities of the Defendants are causing and will continue to cause incalculable harm and injury to the business, goodwill and reputation associated with the Subject Trade Mark, Subject Trade Dress and Subject Product.

22.25. The Plaintiff are suffering loss of distinctiveness, uniqueness, and exclusivity attached to Subject Trade Mark, Subject Trade Dress and Subject Product by reducing their capacity to identify and distinguish the business of the Plaintiff as originating from a particular source, independent of the presence or absence of a likelihood of confusion, mistake, or deception. The immediate consequence of such unlawful activity is erosion of the confidence of the public in the Plaintiff's brand.

22.26. All profits earned by the Defendants in pursuance of their infringing activities are the Plaintiff's losses and amount to unjust enrichment of the Defendants. The balance of convenience clearly tilts in favor of the Plaintiff and against the Defendants. It is also apparent that grave prejudice, irreparable harm and injury will be caused to the Plaintiff if the present Application is not allowed. However, no prejudice will be caused to the Defendants in case the present application is allowed.

23. Having considered the submissions, pleadings and material placed on record, the Plaintiff has made out a prima facie case warranting the grant of This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 an ex-parte ad interim injunction. The material placed on record, demonstrate that the Defendants

have impaired and tampered with the Subject Product, while continuing to use and misappropriate the Subject Trade Mark and the Subject Trade Dress. The activities of the Defendants amount to alteration and misrepresentation of origin. The deliberate concealment of the Subject Trade Mark and Subject Trade Dress on online listings and the delivery of altered products bearing the Subject Trade Mark indicates mala fides. Needless to say, the Infringing Products can be used for illegal and immoral activities. If such conduct were to continue unchecked, it would expose the Plaintiff to unwarranted liabilities and cause irreparable injury to the reputation built over the years. The balance of convenience is, therefore, also in favour of the Plaintiff and against the Defendants.

24. Accordingly, till the next date of hearing it is directed as under:

i. The Defendants, their assignees in business, associates, affiliates, franchisees, licensees, distributors, dealers, stockists, retailers and agents are restrained from dealing in the Infringing Products containing spy cameras embedded inside the Plaintiff's MAXO branded mosquito repellent machine along with the bottle / refill, containing the mosquito repellent liquid and / or any other product bearing the Subject Trade Mark 'MAXO' and / or any other deceptively similar mark thereto amounting to infringement of the Subject Trade Mark 'MAXO' and infringement of the Plaintiff's registered copyrights A- 149826/2023 dated 14.12.2023 subsisting in the Subject Trade This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 01/09/2025 at 21:54:58 Dress , and including of the Plaintiff's various other 'MAXO' branded products and their respective packaging and are further directed to remove from their websites www.smars.in and www.spyimporter.in listings, offers for sale and advertisements relating to the Infringing Products ensuring that no further listings, offers for sale or advertisements of Infringing Products are made available on the said websites.

ii. The Plaintiff is directed to communicate this Order to the platforms Amazon and Flipkart who shall disable access to the URLs set out below within 72 hours of receipt of copy of this Order:

a. <https://www.amazon.in/smars-Mosquito-Camera-Security->

R e c o r d i n g / d p / B o C Z 1 6 T D P W b .
<https://www.amazon.in/SAFETYNET-Repellent-Camera-Detection->

S u r v e i l l a n c e / d p / B o F 1 Y K D 1 P 9 c .
<https://www.flipkart.com/safety-net-spy-camera-4k-hidden-32gb->

[built-memory-live-audio-video-security/p/itm8cbb553df49eo](https://www.flipkart.com/safety-net-spy-camera-4k-hidden-32gb-built-memory-live-audio-video-security/p/itm8cbb553df49eo) This is a digitally signed order.

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25. Let the Reply to the present Application be filed within four weeks after service of pleadings and documents. Rejoinder thereto, if any, be filed before the next date of hearing.

26. The compliance of Order XXXIX Rule 3 of the CPC be done within two weeks.

27. List before the Court on 17.12.2025.

TEJAS KARIA, J AUGUST 26, 2025 'gsr' This is a digitally signed order.

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