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

+ **CS(COMM) 1140/2024 with I.A. 48669/2024, I.A. 48670/2024, I.A. 48671/2024, I.A. 48672/2024, I.A. 48673/2024 and I.A. 48674/2024**

HCL CORPORATION PVT LTD

.....Plaintiff

Through: Mr. Neel Mason, Mr. Ankit Rastogi,
Mr. K. Y. Siddhant Vardhan,
Mr. Shivam Issar, Mr. Udit Tewari
and Mr. Nikhil Bharti, Advocates

versus

**HEALTHCARE HCL REFERENCE
LABORATORIES & ORS.**

.....Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **18.12.2024**

I.A. 48672/2024 (exemption from filing true typed copies of documents)

1. Allowed, subject to plaintiff filing true typed copies of original documents within four (4) weeks from today.
2. The application stands disposed of.

I.A. 48671/2024 (O-XI R-1(4) of the Commercial Courts Act)

3. The present application has been filed on behalf of the plaintiff seeking leave to file additional documents under the Commercial Courts Act, 2015.
4. The plaintiff is permitted to file additional documents in accordance with the provisions of the Commercial Courts Act, 2015 and the Delhi High



Court (Original Side) Rules, 2018.

5. Accordingly, the application is disposed of.

I.A. 48673/2024 (seeking exemption to file certain documents in CD/USB Pendrive)

6. This application has been filed on behalf of the plaintiff seeking permission to file documents in CD/USB Pendrive.

7. For the reasons stated in application, plaintiff is permitted to file documents in USB Pendrive.

8. The application stands disposed of.

I.A. 48674/2024 (u/s 149 of the CPC)

9. Mr. Neel Mason, counsel appearing on behalf of the plaintiff, submits that the requisite court fees shall be paid within two (2) weeks.

10. Statement of counsel is taken on record.

11. The application is disposed of.

I.A. 48670/2024 (u/s 12A of Commercial Courts Act, 2015)

12. As the present suit 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.

13. The application stands disposed of.

CS(COMM) 1140/2024

14. Let the plaint be registered as a suit.

15. Issue summons.

16. Summons be issued to the defendants through all modes. The summons shall state that the written statement(s) shall be filed by the defendants within thirty days from the date of the receipt of summons.



Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiff, without which the written statement(s) shall not be taken on record.

17. Liberty is given to the plaintiff to file replication(s), if any, within thirty days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiff, affidavit of admission/denial of the documents of the defendants be filed by the plaintiff.

18. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document, which is not in their power and possession, its detail and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

19. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

20. List before the Joint Registrar on 11th February, 2025 for completion of service and pleadings.

21. List before the Court on 25th March, 2025.

I.A.48669/2024 (u/O-XXXIX Rule 1 & 2 of Code of Civil Procedure, 1908)

22. The present suit has been filed seeking permanent injunction restraining the defendants from infringing the design, trademark, copyright of the plaintiff, along with passing off and other ancillary reliefs.

CASE SET UP IN THE PLAINT

23. The plaintiff is one of the promoter companies of the HCL Group of companies. In the year 1976, Hindustan Computers Limited was incorporated and the acronym “HCL” from Hindustan Computers Limited’s initials was adopted. It is contended that HCL Group stands as a pioneer in



the realm of next-gen technologies and has a collaboration with over 330 businesses and HCL Group's research and development section has played a pivotal role in enabling its clients to successfully launch more than 1000 products in the market.

24. The plaint asserts that the plaintiff is the registered proprietor of the trademark "HCL" (word mark) and formative variants which contain HCL as the dominant and prominent part in various classes, details of which have been tabulated in paragraph 16 of the plaint.

25. It is contended that since its adoption, the HCL Group has been continuously, exclusively and extensively using the trade mark "HCL" in a standalone manner or as part of various formative marks. The plaintiff is also a winner of several awards and accolades, details of which have been provided at pages 495 to 532 of the documents filed on behalf of the plaintiff along with the plaint.

26. In the year 2012, the mark "HCL" was adopted for healthcare as part of the domain name www.hclhealthcare.in. The sales figures of services under the "HCL" trademarks in the Information and Technology Sector and the Healthcare Sector have been provided in paragraph 12 of the plaint.

27. It is averred that the plaintiff also has registrations for healthcare services in class 44 for the word mark "HCL" as well as its formative variants which contain HCL as the dominant and prominent part, which are being reproduced below:



S. No.	Trade Mark	Class	Registration number	Date of Application	Valid upto
1.	HCL FOUNDATION [Word mark]	44	2914472	02/03/2015	02/03/2025
2.		44	2914485	02/03/2015	02/03/2025
3.		44	3075964	09/10/2015	09/10/2025
4.	HCL [Word mark]	44	2621305	30/10/2013	30/10/2033

All the aforesaid trademark registrations remain valid and subsisting.

28. It is the plaintiff's case that in July 2022 it came across the defendant no. 1's application for the word mark "HCL Healthcare" bearing Application No. 4909933 in Class 44 filed on 18th March, 2021, on a "proposed to be used" basis. A perusal of the application demonstrates that the defendant nos. 2 and 3 are the partners of the defendant no. 1. The said



application has been opposed by one of the licensees of the plaintiff, i.e. HCL Technologies Ltd.

29. Thereafter, the plaintiff's representative conducted a search on the records of the Trade Marks registry as well as the internet and came across 2 more trademark applications, details of which are reproduced hereinbelow:

Application No. and Mark	Class	Date of filing	User Claim	Current Status
3500071 	44	03/03/2017	Proposed to be used	Refused
4909932 	44	18/03/2021	Proposed to be used	Opposed

30. Out of the aforementioned applications, the Application No. 3500071 was filed in the name of the defendant no. 2 and the Application No. 4909932 was filed in the name of the defendant no. 1. It is to be noted that all the applications of the defendants are on a “*proposed to be used*” basis.

31. It is the case of the plaintiff that on conducting an internet search, the plaintiff's representative came across a website and social media pages of



the defendants, wherein the defendants were using such marks for healthcare services which are deceptively similar to “HCL” trademarks.

32. Accordingly, the plaintiff sent a ‘Cease and Desist’ notice dated 28th September, 2022 to the defendants. However, the defendants *vide* their response dated 3rd January, 2023 refused to comply with the plaintiff’s notice.

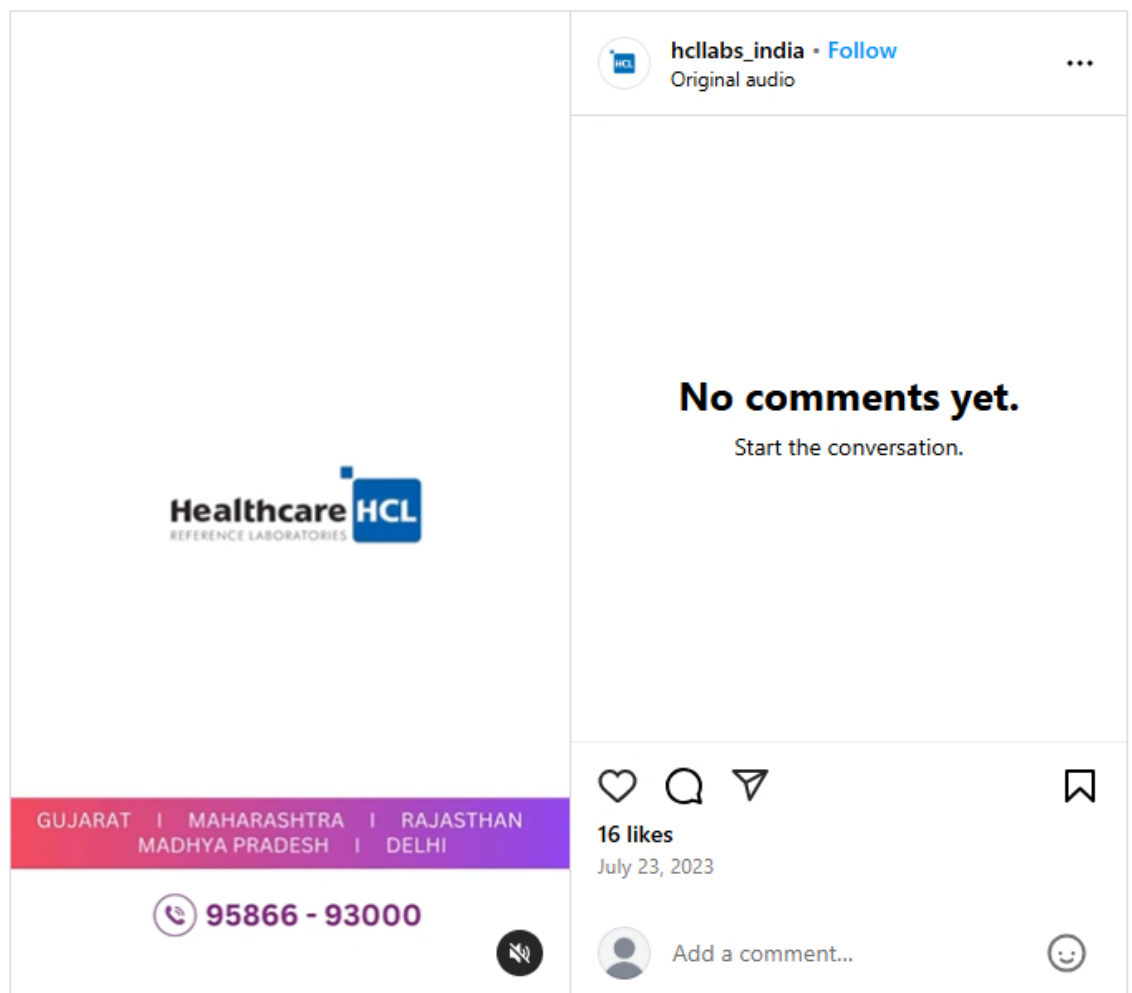
33. It is contended that around April-May 2023, it was noticed by the plaintiff’s representative that the defendant’s website www.healthcarehcl.com was no longer accessible. Around that time, in June 2023, to verify the defendants’ activities, the plaintiff’s representative engaged a local person to visit the defendants’ clinics in Surat, Gujarat.

34. Based on the visits by the local person, the plaintiff’s representative was made aware that the defendants were still using the mark “HCL”. Images evidencing the use of the impugned marks by the defendants as given in paragraph 27 of the plaint, are set out below:



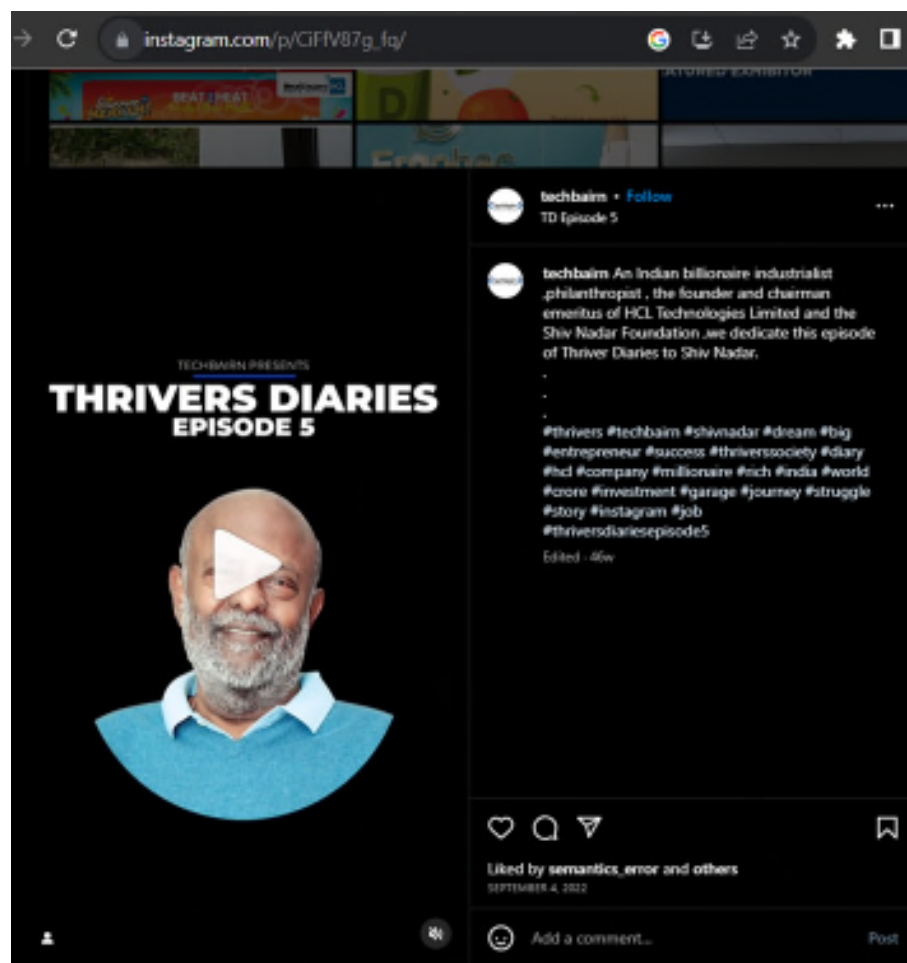


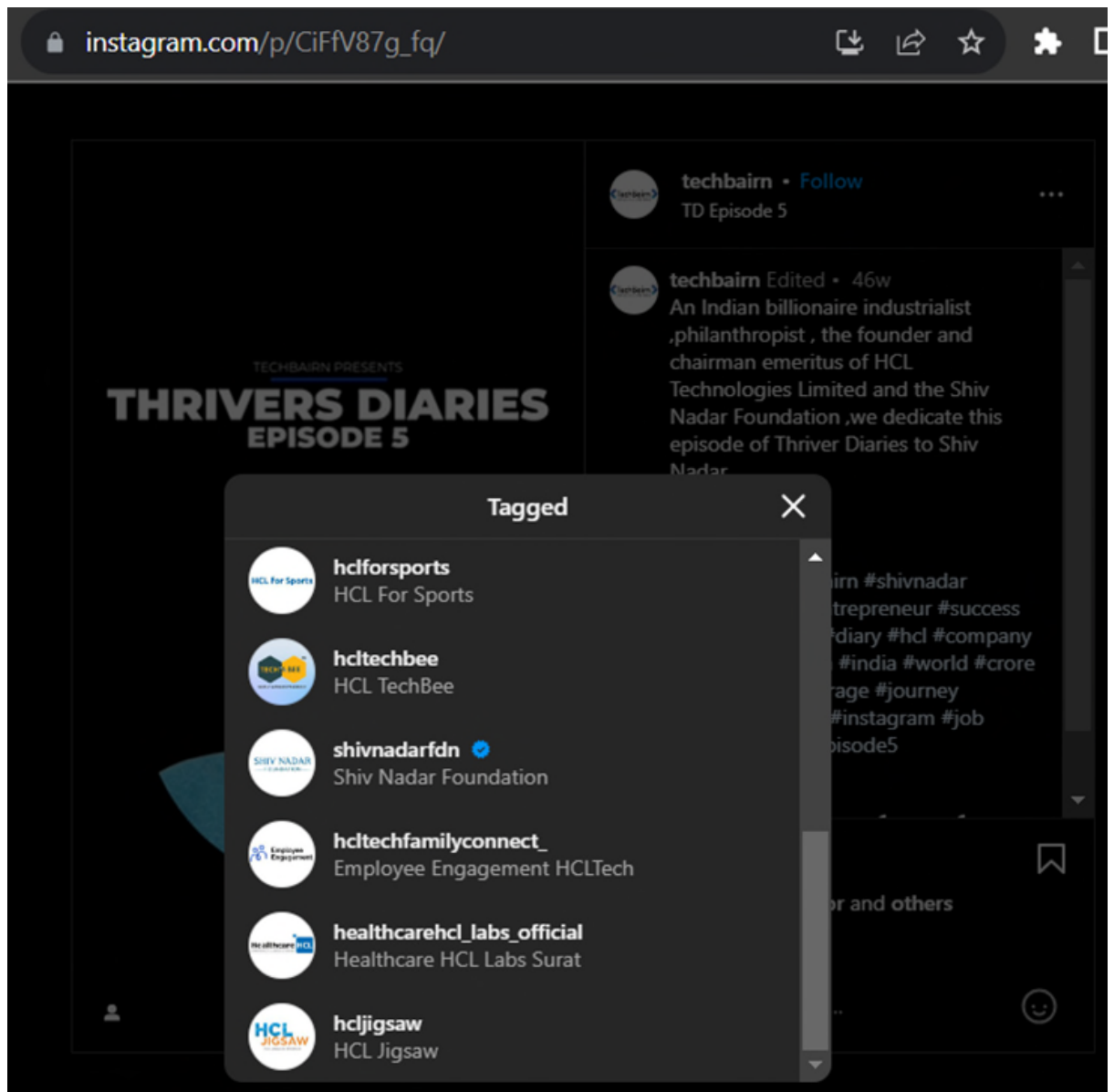
35. It is also contended that after perusing the defendants' social media pages, the plaintiff's representative became aware that the defendants were providing their services in Delhi. The same is evident from the Instagram post dated 23rd July, 2023 made by the defendants on their page "healthcarehcl_labs_official"(now known as hcllabs_india) accessible at <https://www.instagram.com/p/CvCtZP8ICEv/> wherein the defendants have posted that their services are available in several states including Delhi. A screenshot of the said post is reproduced hereinbelow:





36. It is the plaintiff's case that this is in fact a case of actual confusion between the plaintiff and the defendants, since third parties are assuming an association between the defendant no. 1 and the HCL Group. One such instance is evident from an Instagram post available at https://www.instagram.com/p/CiFfV87g_fq/, uploaded by a third-party account "techbairn" dated 4th September, 2022. The post is dedicated to the founder of the HCL Group, Mr. Shiv Nadar, wherein even the defendants' Instagram profile "healthcarehcl_labs_official"(now known as hcllabs_india) along with other official Instagram profiles belonging to the HCL Group has been tagged. Screenshots of the said post is reproduced hereinbelow:





37. It is averred that the defendants are aiming to strike a false association with the plaintiff in the market by using the mark “HCL” for their services, which is identical to the plaintiff’s “HCL” trade mark. The *mala fide* of the defendants is also evident from the fact that the defendants are not only using the “HCL” trademarks of the plaintiff but are also using it in the same colour combination of blue and white as used by the plaintiff. Given the



extensive use and especially the manner of use of “HCL” trademarks by the plaintiff, it is inconceivable that the defendants were not aware of the plaintiff’s use of “HCL” trademarks at the time of the alleged adoption of the impugned marks.

38. Based on the averments made in the plaint, the plaintiff has established its statutory as well as common law rights over the mark ‘HCL’. The mark being adopted by the defendants is deceptively similar to that of the plaintiff and in respect of identical goods.

39. On a *prima-facie* view, the unauthorized use of the trademarks ‘HCL’ by the defendants appears to be infringing the trademarks of the plaintiff. Balance of convenience is in favour of the plaintiff and against the defendants. Irreparable injury would be caused to the plaintiff if the defendants continue to use the impugned marks/labels. Prejudice would also be caused to the public as the marks/labels of the defendants are deceptively similar to that of the plaintiff and likely to cause confusion in the market.

40. The defendants have not appeared despite advance service on 13th December, 2024 by the plaintiff’s counsel on the email addresses hcldiagnosticssurat@gmail.com and healthcarehclanand@gmail.com which are available at the defendants’ Instagram Page titled “hcllabs_india” and Facebook Page titled “Healthcare HCL Reference Laboratories - Anand” respectively.

41. Issue Notice.

42. Notice be issued to the defendants *via* all permissible modes, including e-mail.

43. Reply(ies) be filed within four (4) weeks.

44. Rejoinder(s) thereto, if any, be filed within two (2) weeks thereafter.



45. Consequently, till the next date of hearing the defendants, their partners, employees, servants, agents, representatives and any other persons action for or on behalf of the defendants are restrained from marketing, selling, offering, providing goods or services or using in any other manner the mark “HCL” or any other mark containing “HCL” as its essential and prominent feature leading to infringement, passing off and dilution of plaintiff’s “HCL” trademarks.

46. The defendants are further directed to take down the URLs/links/posts or any other content made available by them pertaining to “HCL” mark including but not limited to URLs/links/posts as provided in paragraph 24, 27, 28, 29, 31 and 32 of the plaint which are reproduced hereinbelow:

- a. www.healthcarehcl.com
- b. <https://www.facebook.com/p/HCL-Diagnostic-Centre-100069497616850/>
- c. <https://www.facebook.com/healthcarehcl.labs>
- d. https://www.instagram.com/healthcarehcl_labs_official/
- e. https://www.youtube.com/channel/UC6Enp7GZ_9X5hVRNrk_mRcQ
- f. <https://www.facebook.com/healthcarehcl.labs>
- g. <https://www.facebook.com/profile.php?id=100069703118421>
- h. <https://www.facebook.com/profile.php?id=100086100980048>



- i. <https://www.facebook.com/healthcarehclofficialpage>
 - j. https://www.instagram.com/healthcare_laboratory_katargam/
 - k. <https://www.instagram.com/p/CvCtZP8ICEv/>
 - l. <https://www.instagram.com/p/CuYgt6bIw3q/>
 - m. <https://www.facebook.com/reel/871044164005196/>
 - n. <https://www.instagram.com/p/CposwINK5gH/>
 - o. <https://www.instagram.com/p/CuWSf0-JqB6/>
47. Compliance of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 (CPC) shall be filed within two (2) days from today.
48. List before the Joint Registrar on 11th February, 2025 for completion of service and pleadings.
49. List before the Court on 25th March, 2025.

AMIT BANSAL, J

DECEMBER 18, 2024
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