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

+ CS(COMM) 276/2026

CLOUD WELLNESS PVT LTD & ANR.Plaintiffs

Through: Mr. Harshit Tolia, Senior Advocate
with Mr. Rahul Khandelwal, Mr.
Abhijit Chakarvaty, Mr. Utkarsh Jindal
and Hanghvi Tolia, Advocates.

versus

SPA DE SOLEIL INCDefendants

Through: None.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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20.03.2026

I.A. 7300/2026 (Additional Documents)

1. The present application has been filed on behalf of the plaintiffs 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 plaintiffs are 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.

I.A. 7299/2026 (Pre-Institution Mediation)

4. This is an application filed by the plaintiffs seeking exemption from instituting pre-Institution Mediation under Section 12A of the CC Act.
5. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar vs. T.K.D. Keerthi: (2024) 5 SCC 815*, exemption from the requirement of pre-institution



Mediation is granted.

6. The application stands disposed of.

I.A. 7301/2026 (Exemption)

7. This is an application filed on behalf of the plaintiffs under Section 151 of CPC seeking exemption from filing uncertified/dim/illegible documents along with the captioned suit.

8. Exemption allowed, subject to just exceptions. However, true typed/translated/clear copies of the documents with proper margins be filed within four weeks with an advance copy to the defendant.

9. The application stands disposed of.

I.A. 7298/2026((Order XXXIX Rules 1 & 2, CPC)

10. Present application has been filed on behalf of the plaintiffs under Order XXXIX Rules 1 & 2 of CPC, 1908 seeking *ex-parte ad-interim* injunction against the defendant.

11. Plaintiff no.1 is a company incorporated under the provisions of the Companies Act, 2013 having its registered office in Ahmadabad, Gujarat. The Plaintiff no.2 is a single firm and also a Director in the plaintiff no.1. Plaintiffs state that they are engaged in the business of manufacturing and sale of cosmetic and cleaning products like soaps, perfumes, skin care and hair care preparations, dermatological formulations, personal care items etc.

12. Plaintiff no.2 is a registered proprietor of the trademark "DERMATOUCH" which was adopted and used since 01.04.2017. The trademark and its formative marks were registered in the year 2020-21 with the user date as 01.04.2017 in Class-3 in respect of acne products, anti-aging products, skin glow products, hair fall control products, dry scalp products, moisturizers, stretch mark products, anti-shaping products, pigmentation products, blackhead products, pore care products, cleansing products, pore cleansers, de-tanning products, and allied and cognate goods. The registrations



of plaintiffs with the Trade Marks registry as enumerated in para 4 is reproduced hereunder:-

Application No.	Class	Trademark	Date of Registration	User date
4916331	3	DERMATOUCH PROFESSIONAL	22/03/2021	01/04/2017
4916308	3	 DERMATOUCH SCIENCE BEHIND THE BEAUTY	22/03/2021	01/04/2017
4643216	3	DERMATOUCH	06/09/2020	07/11/2019
4916309	3	 DERMATOUCH SCIENCE BEHIND THE BEAUTY	22/03/2021	01/04/2017
4916332	3	DERMATOUCH PROFESSIONAL	22/03/2021	01/04/2017

13. The artwork of the trademark “DERMATOUCH” was developed by the plaintiff through its designer Mr. Meet Shah and the various designs developed over the years are pictographically depicted in para 7 of the plaint. The same is extracted hereunder:-





14. The plaintiff claims substantial turnover commencing from the year 2021-22 pegged at Rs.2,87,98,420/- to Rs.95,03,13,144/- for the years 2025-26 (upto December, 2025) makes it clear that the plaintiff has acquired substantial goodwill and reputation in the market in respect of goods pertaining to Class-3 manufactured and offered for sale under the trademark “DERMATOUCH”. Plaintiff also claims to have acquired a substantial digital presence and consumer following across various social media platforms including around 341,000 subscribers on YouTube, 166,000 followers on Instagram and 18,000 followers on Facebook. The plaintiff’s products are also stated to be available on various e-commerce platforms as enumerated in para 10 of the plaint, is reproduced hereunder:-

S.No.	E-commerce Website
1	Amazon
2	Amazon SA
3	Amazon UAE
4	Blinkit
5	Firstcry
6	Flipkart
7	Foxy
8	Jio Mart
9	Kindlife
10	Maccaron
11	Meesho
12	Myntra
13	Noon
14	Nykaa
15	Pharmaeasy
16	Popclub
17	Purplle
18	RK World
19	Smytten
20	Snapdeal
21	Swiggy Instamart
22	Tata Cliq
23	Zepto



15. That apart, the high quality and excellence of the products of the plaintiff under the said trademark have been recognized through various awards, honours and achievements in the last many years. Some of such awards are set out in para 11 of the plaint, which is extracted hereunder:-



16. The plaintiff also asserts to have incurred substantial expenditure on advertisement, publicity and marketing over the last many years to purely build and promote its trade name. The expenses towards such promotion was Rs.89,37,536/- in the year 2022 and touched Rs.35,06,52,561/- in the year 2025-26 (upto December 2025). Plaintiff claims to have developed immense goodwill and reputation under the trademark “DERMATOUCH” and has used the said mark continuously, uninterruptedly, extensively and widely in the market to such an extent that the general public exclusively associates the mark “DERMATOUCH” with the plaintiffs alone.

17. Plaintiff claims that the mark “DERMATOUCH” is distinctive to the plaintiff and is capable of distinguishing the goods of the plaintiff from those of the others. Plaintiff alleges that the defendant company is a US based entity engaged in the business of skincare and cosmetics. The defendant is stated to have filed a rectification application against the plaintiff’s registered mark and has also simultaneously filed a trademark application bearing no. IRDI5231217 on 19.10.2021 on a “proposed to be used basis”. It is also stated that the mark of the defendant is a ‘device mark’. According to the plaintiff this is an indicator

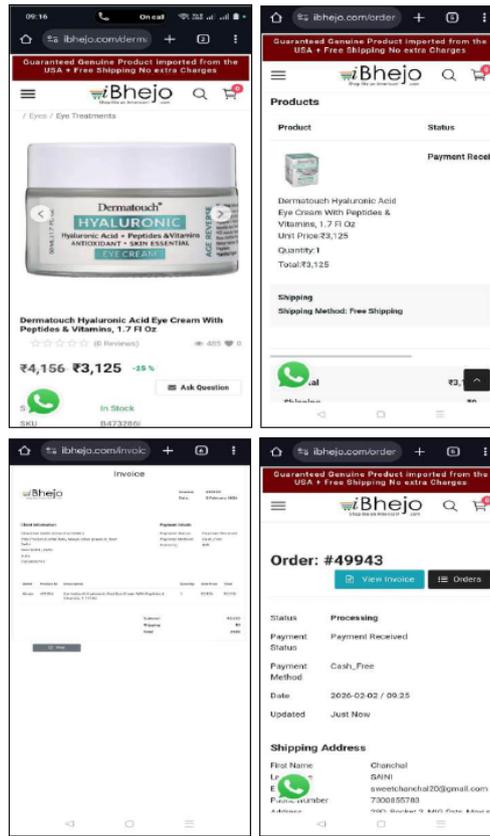


that the defendant has not adopted or used the mark “DERMATOUCH” prior to the said date.

18. The plaintiffs have also filed an opposition against the application of the defendant. Plaintiff claims that the evidence/invoices filed by the defendant in support of its trademark application are fake and forged. A comparative chart of the trademark adopted and that of the plaintiff which is enumerated in para 17, is extracted hereunder:-

	PLAINTIFF	DEFENDANT
Trademark/ Class	DERMATOUCH (Class 3)	(Class 3) 
Date of Application	22.03.2021	19.10.2021
User Date	01.04.2017	Proposed to be used

19. Plaintiff claims that the defendants served a cease and desist notice on 14.09.2022 alleging that the plaintiff is using the impugned brand “DERMATOUCH” which belongs to the defendant and should stop using the said mark. Plaintiff claims to have gained knowledge that the defendants are selling their products in India through some e-commerce websites and online portals. To ascertain the situation, the plaintiff placed an order for the impugned product through the website *www.ibhejo.com* which demonstrates that the defendants are trying to illegally capitalise upon the goodwill and reputation established by the plaintiffs extensively in India. The screenshots of such sale through the website is extracted hereunder:



20. Plaintiff claims to be the prior adaptor and the user of the mark “DERMATOUCH” in India and also registered its website *WWW.DERMATOUCH.COM* in the year 2021 and realising the success of the plaintiff under the said mark, the defendant also unauthorizedly created the website *www.thedermatouch.com* on 21.12.2022. Plaintiff claims that the defendants are unauthorizedly trying to piggy ride on the immense reputation and goodwill garnered by the plaintiffs in its registered trademark “DERMATOUCH”. Plaintiffs also claim that the trademark being identical are likely to cause confusion and deception in the minds of an ordinary consumer who may not examine the goods more deeply to ascertain as to whether those goods are of the defendants or the plaintiffs. This, according to the plaintiffs, would clearly not only dilute its trademark “DERMATOUCH” but is likely to cause great financial loss.

21. Plaintiff states that the person who enters market first is entitled to

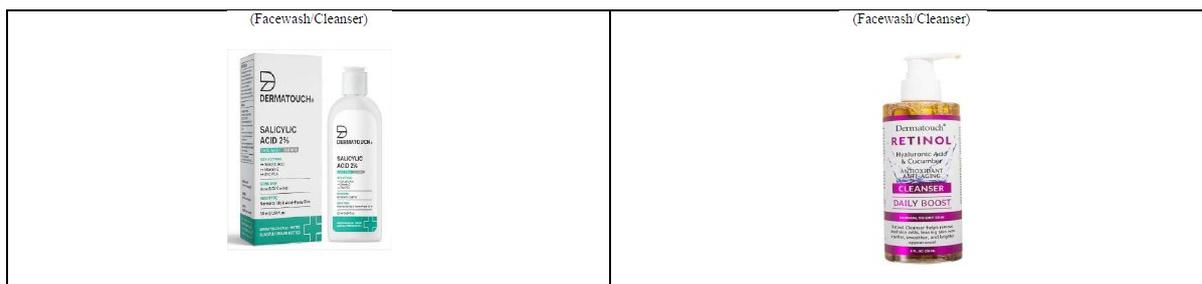


exclusive use of a particular brand or trademark and subsequent adopters are required to be restrained. Plaintiff also states that the defendant has no plausible or a bonafide explanation for adopting an identical and deceptively similar trademark similar getup and arrangement of words and devices without any permission of the plaintiff.

22. Predicated thereon, the plaintiffs seek *ex-parte ad-interim* injunction amongst other reliefs.

23. Having heard Mr. Harshit Tolia, learned senior counsel appearing for the plaintiff, having perused the plaint and examined the documents, an *ex-parte ad-interim* injunction would be in order. It would be relevant to compare the products of the plaintiffs to understand the similarity or the deceptive similarity between the two marks. The similarities are clear from the following table

PLAINTIFF'S PROUDCTS	DEFENDANT'S PRODUCTS
<p>(Moisturizer)</p> 	<p>(Moisturizer)</p> 
<p>(Serum)</p> 	<p>(Serum)</p> 
<p>(Facewash/Cleanser)</p> 	<p>(Cleanser)</p> 



24. Perusal of the aforesaid products and the trademark “DERMATOUCH” used by both the parties clearly demonstrates that the marks are identical. Though, the trademark of the plaintiff’s product is in capital letters and those of the defendant are in small letters, that distinction is not substantial. The manner in which both the products highlight the mark “DERMATOUCH” on the top of the trade dress or the packing and even on the product itself, would clearly and is most likely to confuse or deceive a consumer with average intelligence and an imperfect recollection as to whether the products of defendant are those of the plaintiff. It is also clear from the pleadings and the documents placed on record, that both parties are in the same class i.e. Class-3. So much so, that even the products in the said Class are almost identical. It is but obvious that the trade channels and the distribution channels whether brick or mortar shops or e-commerce platforms, both are likely to be common too. Logically, even the consumer base is most likely to be common too.

25. Regard is also had to the fact that the plaintiff had obtained the registration of its trademark “DERMATOUCH” on 22.03.2021 with the user date of 01.04.2017 while the defendant has applied for a device mark DERMATOUCH on 19.10.2021 on a “proposed to be used basis”. The plaintiff has shown by documents placed on record that it has incurred substantial expenditure in promotions and advertisements on its products under the mark “DERMATOUCH” and also has demonstrated popularity of its goods, immense goodwill and reputation garnered over the last many years through



the sales figures and turnover.

26. Given the nature of similarity between the two marks, the common distribution channel and the common consumer base, it appears that an unwary consumer with average intelligence and imperfect recollection is most likely to get confused and deceived into believing the goods of the defendant as those of the plaintiff or that those goods are associated with the plaintiff.

27. Evidently, the plaintiff has been able to make out a *prima facie* strong case in its favour. Having regard to the pleadings and the documentary evidence placed on record, establishing plaintiff's goodwill and reputation in the trademark "DERMATOUCH" the balance of convenience is tilted in the favour of plaintiff. Plaintiff is most likely to suffer irreparable loss and injury which may not be compensated in monetary terms alone in case *an ex-parte ad interim* injunction is not granted in favour of the plaintiff.

28. Resultantly, the following directions are passed:

- a. Defendants its promoters, directors, assigns, relatives, successors-in-interest, licensees, franchisees, partners, representatives, servants, distributors, employees, agents etc. or anyone associated with them are restrained from using the objectionable trade mark or any other identical to or deceptively similar to or a substantial reproduction of the distinctive trademark of the plaintiffs.
- b. Defendants are directed forthwith to remove all references to the objectionable trade mark or identical to or deceptively similar to or a substantial reproduction of the plaintiffs trademark "DERMATOUCH" , from any and all online mediums including the website of the Defendants, social media accounts of the Defendants including but not limited to those highlighted and appended alongwith the Plaint including in particular Defendants'



online listings, social media networking sites and all third party websites, online trade portals, e-commerce platforms, online medical trade portals, e-pharmacies, etc.

29. Issue notice.

30. Let a reply to this application be filed by the defendant within four weeks from service. Rejoinder, thereto, if any, be filed within two weeks thereafter.

31. Compliance of Order XXXIX Rule 3 of CPC shall be done within ten days from date.

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32. Let the plaint be registered as a suit.

33. Upon filing of the process fee, issue summons of the suit to the defendant through all permissible modes.

34. The summons shall state that the Written Statement shall be filed by the defendant within 30 days from the date of the receipt of summons. Alongwith the Written Statement, the defendant shall also file Affidavit of Admission/Denial of the documents of the plaintiff, without which the Written Statement shall not be taken on record.

35. Liberty is granted to the plaintiffs to file Replication, if any, within 30 days from the receipt of the Written Statement. Along with the Replication filed by the plaintiffs, an Affidavit of Admission/Denial of the documents of defendant be filed by the plaintiff, without which the Replication shall not be taken on record.

36. 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.

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

38. List before the Joint Registrar (Judicial) on 21.05.2026 for completion of



service and pleadings.

39. List before the Court on 08.09.2026.

TUSHAR RAO GEDELA, J

MARCH 20, 2026

Sumit/rl