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

+ **CS (COMM) 1200/2018**

MOHALLA TECH PVT. LTD. Plaintiff

Through: Mr. Akhil Sibal, Senior Advocate
with Mr. Nirav Shah, Mr. Yash and
Mr. Pranut Sharma, Advocates.
(M:9920136409)

versus

BYTEDANCE INC. & ORS. Defendants

Through: Mr. Jayant Bhushan, Senior Advocate
with Ms. Swati Setia and Mr. Omesh
Puri, Advocates for D-1.
(M:9891128860)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **26.10.2018**

I.A. 14713/2018 (exemption)

1. This is an application seeking exemption from filing original documents. Recording the Plaintiff's undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be filed prior to the stage of admission/denial, the exemption is allowed. I.A. is disposed of.

CS (COMM) 1200/2018 & I.A. 14712/2018 (u/O XXXIX Rules 1 & 2 CPC)

2. Present suit has been filed by the Plaintiff- Mohalla Tech Pvt. Ltd. seeking an injunction against the Defendant's 'Helo' mobile application, which is made available by the Defendant No.1 on various platforms including the Android platform. The Plaintiff claims ownership of the mobile application 'ShareChat', which is downloadable on identical

platforms including the Android platform. The Plaintiff's mobile application ('app') is one which is used for exchange of information between users and is also available in 14 different languages in India. The claim made by the Plaintiff is that, it launched its 'app' on 19th December, 2014 and has more than 50 million users. Mr. Akhil Sibbal, learned Senior Advocate appearing for the Plaintiff has taken the Court through the various screen shots, which are extracted in the plaint from pages 28 onwards in order to allege that the Defendant No.1's 'Helo' app is a complete copy of the Plaintiff's application.

3. It is submitted by learned Senior Advocate for the Plaintiff that Defendant No.1 has not only copied the features, look and feel but also various icons, which appear on the Plaintiff's app. It is also submitted that Defendant No. 1 has started copying/misusing the various comments and posts by its users, which appear on the Plaintiff's app, by wrongly attributing them to fictitious people on its own 'Helo' application. Another submission of Mr. Sibbal is that when the name of the Plaintiff's 'ShareChat' application is searched on the Google database, Defendant No.1's application 'Helo' comes up as one of the first search results. It is, thus, obvious that 'Helo' has purchased 'ShareChat' as an ad-word on the Google ad-word program. In view of this, it is submitted that Defendant No.1's actions not only constitute infringement of copyright but also result in passing off by the Defendant No.1, of its 'Helo' application as that of the Plaintiff or as being affiliated with the Plaintiff.

4. Mr. Jayant Bhushan, learned Senior Advocate appearing for Defendant No.1 submits that since there is no caveat, and they have received the pleadings and documents just this morning, they need some time to

address submissions against the allegations which have been made by the Plaintiff. Considering that the users could download these mobile applications almost on a minute-to-minute basis, time is granted till Monday i.e. 29th October, 2018 for Mr. Bhushan to take instructions. In the meantime, the Plaintiff shall also serve the Defendant Nos.2 & 3 through their Indian offices. Interim application shall be heard on the next date. *Dasti.*

5. List on 30th October, 2018.

PRATHIBA M. SINGH, J.

OCTOBER 26, 2018/dk