



\$~46

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 109/2024
SEQUOIA CAPITAL OPERATIONS LLC & ORS. Plaintiffs

Through: Ms. Shwetasree Majumdar, Ms. Priya Adlakha, Mr. Vardaan Anand and Mr. Shiv Mehrotra, Advocates for P-1.
Mr. Saikrishna Rajagopal, Ms. Sneha Jain, Mr. Yatinder Garg and Mr. Akshay, Advocates for P-2 & 3.

versus

SEENE TRADER & ORS. Defendants

Through: Mr. Madhav Khosla and Ms. Moha Paranjpe, Advocates for Telegram.
Ms. Nidhi Raman, CGSC with Mr. Zubin Singh and Mr. Rahul Kumar Sharma, Advocates for D-7 & 8.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
05.02.2024

%

I.A. 2723/2024 (seeking exemption from advance service to Defendant No.1)

1. For the grounds and reasons stated therein, the application is allowed and disposed of. The Plaintiffs allege that Defendant No. 1 is perpetrating fraud on the general public by creating a false association with the Plaintiff, resulting in grave financial losses to the public. Considering the nature of controversy involved in the present suit as well as the peculiar facts and circumstances of the case, exemption from effecting advance service on Defendant No. 1 is allowed.



2. Disposed of.

I.A. 2720/2024(seeking exemption from pre-institution mediation)

3. As the present suit contemplates urgent interim relief, in light of the judgment of Supreme Court in *Yamini Manohar v. T.K.D. Krithi*,¹ exemption from attempting pre-institution mediation is granted.

4. Disposed of.

I.A. 2721/2024 (seeking to file additional documents)

5. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.

6. If Plaintiffs wish to file additional documents at a later stage, they shall do so strictly as per the provisions of the said Act.

7. Disposed of.

I.A. 2722/2024(seeking exemption)

8. Exemption is granted, subject to all just exceptions.

9. Plaintiffs shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

10. Disposed of.

CS(COMM) 109/2024

11. Let the plaint be registered as a suit.

12. Issue summons. Counsel mentioned in appearance above accept summons on behalf of Defendants No. 3, 7 and 8. They confirm receipt of the suit paper-book and waive the requirement for Registry to issue formal

¹ 2023 SCC OnLine SC 1382.



summons. Written statement(s) shall be filed within thirty days from today. Issue summons to remaining Defendants, upon payment of process fee, by all permissible modes. Summons shall state that the written statement(s) shall be filed by the Defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the Defendants shall also file affidavit(s) of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.

13. Liberty is given to the Plaintiffs to file replication(s) within 15 days of the receipt of the written statement(s). Along with the replication(s), if any, filed by the Plaintiffs, affidavit(s) of admission/denial of documents of the Defendants be filed by the Plaintiffs, without which the replication(s) shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

14. List before the Joint Registrar for marking of exhibits on 05th April, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

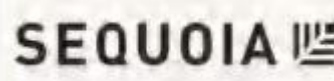


15. List before Court for framing of issues thereafter.

I.A. 2719/2024(under Order XXXIX Rules 1 and 2 of CPC)

16. Ms. Shwetasree Majumder, counsel for Plaintiff No. 1, and Mr. Saikrishna Rajagopal, counsel for Plaintiffs No. 2 and 3, have presented the following facts and contentions:


16.1 The present suit seeks to permanently restrain the unauthorized use of the Plaintiff No. 1's registered trademarks "SEQUOIA", "SEQUOIA



CAPITAL”, “”, “” etc. and passing off of Plaintiffs No. 2 and 3’s trademarks “PEAK XV”, “PEAK XV PARTNERS”, “”, “” and “” by Defendant No.1, who is operating a fraudulent online investment and trading portal, under the name and mark “Senee Trader” through the websites www.senee.in, www.senee.net, www.senee.org and a Mobile Application named “Senee Group”, and unauthorisedly misusing Plaintiffs’ names and trademarks in Fake Job Advertisements and fake Facebook profiles to dupe job aspirants and potential investors.

Plaintiff No. 1/ Sequoia Capital Operations, LLC

16.2 Plaintiff No. 1 is a venture capital firm, having its headquarters at California, United States of America, who offers a range of investment services in various sectors, such as artificial intelligence, machine learning, cryptocurrency, healthcare, fintech, e-commerce, edtech, telecom etc., under the brand name “SEQUOIA”. Plaintiff No. 1 aims to aid founders in building their companies, and has successfully assisted several renowned entities in expanding their businesses.

16.3 The mark “SEQUOIA” was first adopted in 1972 by Plaintiff No. 1’s founder, Mr. Donald T. Valentine, being inspired from the “SEQUOIA” tree that lives for thousands of years. The trademarks “SEQUOIA”, “” and their formative variants have been registered in



Plaintiff No. 1's favour in various countries and have now become an essential aspect of Plaintiff No. 1's trading activities.

16.4 In India, Plaintiff No. 1 has various trademark registrations in different classes, with the first registration dating back to 29th July, 2005.² Their commercial activities in India commenced in 2006 when Plaintiff authorized an Indian venture capital firm by the name of Westbridge Capital Partners to use the mark "SEQUOIA CAPITAL". Pursuant to this authorization, 'Westbridge Capital Partners' was later rebranded as 'Sequoia Capital India'. In 2006 itself, Sequoia Capital India (now known as PEAK XV PARTNERS) raised \$400 million, followed by another \$300 million in 2007, becoming the first Silicon Valley venture capital firm to have an exposure of more than \$1 billion in India.

16.5 Plaintiff No. 1 has been regularly featured in Indian print and digital media and has a significant online presence on social media platforms, which are indicative of Plaintiff's goodwill and reputation in the Indian market. The "SEQUOIA" trademarks are exclusively associated with the Plaintiff and any unwarranted use thereof in relation to capital market would cause customer confusion and result in loss of business and goodwill to the Plaintiff.

Plaintiff No. 2/ Peak XV Partners Operations LLC and Plaintiff No. 3/ Peak XV Partners Advisors India LLP

16.6 The brand 'PEAK XV' of Plaintiff Nos. 2 and 3 is inspired from the moniker given to Mount Everest back in the 1850s by the British Survey before it came to be officially known as Mount Everest.

² Particulars of registration are mentioned at Paragraph No. 24 of the plaint.




16.7 Plaintiff No. 3 has been operating a website www.peakxv.com on the internet, which prominently displays its trademarks 'PEAK XV',



and the device  as its website icon.

The website prominently calls out that PEAK XV PARTNERS was formerly known as Sequoia India and SEA and *inter-alia* provides information of PEAK XV PARTNERS' team, programmes (like Surge, Spark, PitStop, etc.), the companies that it has invested in, etc. Blog posts featuring details of Plaintiff No. 3's services under the PEAK XV PARTNERS trademark are also published regularly on the said website.

16.8 Plaintiff No. 2 has filed trademark applications for the word and

device marks, i.e. '

Details of the Dispute

16.9 Due to long-standing registrations and extensive use, the SEQUOIA and PEAK XV PARTNERS trademarks are associated with Plaintiffs so much so that any reference to the names SEQUOIA/SEQUOIA CAPITAL/ SEQUOIA GROUP, PEAX XV, PEAK XV PARTNERS draws an immediate connection with Plaintiffs. Any unwarranted and unjustified reference to the SEQUOIA and PEAK XV PARTNERS brand in the context of the capital market may cause customer confusion and deception and

³ Particulars of applications are mentioned at Paragraph No. 25 of the plaint.



would be detrimental to Plaintiffs brand business, entrenched goodwill and brand reputation.

16.10 On 14th August, 2023, some senior officials of Plaintiff No. 3, received an email from a potential investor/informant, seeking a clarification if ‘Senee Investment Group Co Ltd.’ is the Plaintiff No. 1’s company, as purportedly many people are using the Plaintiffs’ name in conjunction with Senee Investment. The informant also shared a job posting dated 14th June, 2023, issued by ‘Senee Trader’, for direct recruitment of Indian adults with average salary of INR 3,000-8,000 per day, posted on Facebook [**“Fake Job Post”**], extract of which is reproduced hereinbelow:



16.11 The aforementioned Fake Job Post was not issued by the Plaintiffs, and accordingly, Plaintiff No. 1 hired an investigator to look into the matter, which revealed extensive misuse of SEQUOIA and PEAK XV PARTNERS trademarks and the fraud being perpetuated by ‘Senee Trader’ in the course of its highly dubious investment and trading business, which is detailed below:

(i) The Fake Job Post was posted on several Facebook profiles, listed in



DOCUMENT A annexed to the plaint, where the profile owners misrepresent themselves to be associated with/employed by the Plaintiff No. 1, and/or promoting and advertising the business of Defendant No. 1 “Senee Trader”. One such profile contained a brochure of Senee Trader’s investment income plan and the post makes an explicit false statement that ‘Sequoia Capital’ has invested in and is managing their alleged new energy project for which SENEЕ is recruiting partners, which is reproduced below:



(ii) The Fake Job Post includes a fake incorporation certificate of a company under the name ‘Senee Investment Group Co Ltd.’, purportedly registered with the Registrar of Companies, Ministry of Corporate Affairs, Government of India, having an incomplete and erroneous address.

(iii) The aforementioned Facebook profiles also refer to a few fake press releases of ‘Senee Trader’ such as ‘2023 India SENEЕ Trader new energy technology industry investment GP project glory listed’, allegedly published by various media houses such as ‘Desk Release’, ‘Insider Release’ and ‘PR Wire India’.

(iv) Defendant No. 1 is operating at least three mirror websites under the name of ‘Senee Trader’ www.senee.in, www.senee.net and www.senee.org, which have substantially similar content and claim to be the most



professional consulting service provider in South-East Asia. In order to access any other tab on these websites, a user login is required, and one can register on the website only through an 'invitation code', which was not available in the public domain.

(v) The impugned websites provide links to download the 'Senee Trader' mobile apps named 'Senee Group' from which Defendant No. 1 is accepting payments from potential investors/victims.

(vi) Defendant No. 1 is operating a YouTube channel under the name of 'Senee Trader', which had several videos posted on it by the Channel itself and YouTube shorts by third parties, who claim to have invested huge sums of money with Defendant No. 1 and earned profits/returns from those investments. The said videos unauthorizedly carry references to Plaintiff No.1's "SEQUOIA" trademarks in the video description.

16.12 Initially, Plaintiffs were under the impression that "Senee Trader" is a legitimate entity which is infringing and passing off the Plaintiffs' trademarks to use it as a skateboard for its investment and trading business. Accordingly, Plaintiffs issued cease and desist letters to Defendant No. 1 seeking restraint of misuse of their trademarks. However, there was no response from Defendant No. 1 and its infringing and fraudulent activities increased.

16.13 Plaintiffs learnt that Defendant No. 1 is communicating and cheating potential investors through various WhatsApp groups/communities, Telegram groups/Channels, details of which have been set out in DOCUMENTS B and C annexed with the plaint. The admins of these groups/channels and communities are actively circulating misleading and



fake information among the potential investors.

16.14 Plaintiff's investigator was able to procure the 'invitation code' to access the Defendant No. 1's fake "Senee Group" mobile app. After logging in the mobile app, the Investigator was further directed to WhatsApp messenger mobile no. for assistance through chat. The said WhatsApp user confirmed that the Fake Job Post pertains to Defendant No. 1 "Senee Trader" and asked the Investigator to invest in a so-called new energy project with a minimum investment of INR 1,000/-. On October 26, 2023, the Investigator paid the said amount through a UPI transaction, which was credited in favour of an entity named 'MK Enterprises'. However, despite assurances, the Investigator was not given access to the alleged 'Senee Trader official WhatsApp group' and the Investigator stopped receiving responses thereafter.

16.15 It is the case of the Plaintiffs that Defendant No. 1 is also spreading fake newsfeed including conducting a road show, advertised as '*Senee Group India celebrates Diwali with a Successful IPO Global Roadshow at NASDAQ*' and claiming false association with another genuine capital venture investment firm "Seafund Ventures", and misusing its SEBI registration number on its fraudulent websites. There are several articles, YouTube Videos and comments of the victims on the internet, which claims that "Senee Trader" is a fake entity and has looted the investors of huge sums of money.

16.16 Plaintiff No. 3 filed complaints with the Commissioner of Police, Bengaluru, CERT-IN, SEBI, MeitY etc., however, it appears that no action has been taken by the authorities. Thus, in such circumstances, the instant application is filed seeking urgent interim reliefs.



17. The Court has considered the aforementioned submissions. The material placed on record clearly depicts that Defendant No. 1 is attracting unsuspecting consumers using the Plaintiff No. 1's reputation connected with their registered trademarks. The operators/ group admins of various WhatsApp and Telegram groups/Communities/ Channels have not been authorized by the Plaintiffs to offer any job recruitment and/or financial trading and investment opportunities and are misrepresenting themselves to the public to that effect. Further, the websites www.senee.in, www.senee.org and www.senee.net *prima facie* appear to be illegitimate, intended to be used as a ploy to induce the unwary users to "invest" substantial sums of money, which is detrimental to public interest. This also affects the Plaintiffs' standing in the market, as the consumers are initially drawn by the use of the "SEQUOIA" and 'PEAK XV PARTNERS' trademarks.


18. In view of the foregoing and considering the public interest involved in the matter, the Court is of the opinion that Plaintiffs have demonstrated a strong *prima facie* case in their favour and in case an *ex-parte* ad-interim injunction is not granted, Plaintiffs will suffer an irreparable loss. Balance of convenience also lies in the favour of Plaintiffs, and against Defendant No.1. Accordingly, the following directions are issued:

18.1 Till the next date of hearing, Defendant No. 1, and/or any person acting on their behalf, are restrained from using the Plaintiff No. 1's registered "SEQUOIA" trademarks or its variations, as a part of their domain names, websites, mobile applications, social media handle names/ profiles credentials/ description, promotional/ business activities on digital or print media, bank accounts and/ or any business papers etc. in any manner that would amount to infringement of Plaintiff No. 1's trademarks.



18.2 Till the next date of hearing, Defendant No. 1, and/or any person acting on their behalf, are restrained from passing off their business as that of the Plaintiffs, by using their trade names and trademarks

SEQUOIA and PEAK XV PARTNERS, , 

and the device  and their variations in any manner including but not limited to issuing fake job advertisements, claiming an association/affiliation with the Plaintiffs and their related entities and employees.

18.3 Defendant No. 2, Meta Platforms Inc., is directed to block/remove access to the said profiles/accounts as mentioned in DOCUMENT-A annexed to the plaint. Further, they shall disclose, by filing in a sealed cover, the mobile nos., email ids and IP addresses used to open the fake Facebook profiles/accounts, before this Court within four weeks from today.

18.4 Defendant No.2 is also directed to remove/block the WhatsApp groups/communities as well as WhatsApp accounts of the mobile numbers as mentioned in DOCUMENT-B, or any other groups/ community groups created by/ administered by the phone numbers of the group admins of the aforesaid group that are misusing the Plaintiff's trademarks in their communications.

18.5 Defendant No. 3, Telegram FZ-LLC, is directed to remove/block Telegram channels/accounts as mentioned in DOCUMENT-C annexed with the plaint. They shall further delete all other groups/community groups created by/ administered by the administrators of the channels/ accounts listed in the aforementioned DOCUMENT-C. Further,



they shall file in a sealed cover the necessary information pertaining to the identity of the admins of the groups/ channels mentioned in Document-C annexed to the plaint, as is available with them, within a period of four weeks from today.

18.6 Defendant No. 3 is also directed to file an affidavit on the steps it can take, within its capacity as an intermediary platform, to ensure that no new groups are formed in the name of “Senee Trader” by the same/ new administrators. The said affidavit should specifically outline whether it is technologically possible for Defendant No. 3 to ascertain the existence of any other groups utilising “SENEE TRADER”, “SEQUOIA” or “PEAK XV” in their group names or group descriptions. Let the same be filed within four weeks from today.

18.7 Defendant No. 4, Dynadot LLC, domain name registrar for the domain senee.in, and Defendant No. 5 Gname.com Pte. Ltd., domain name registrar for the domain names senee.org and senee.net shall suspend the said domain names and maintain *status quo* regarding the ownership of the respective domain names. They shall further file in a sealed cover the necessary information pertaining to the identity of the registrants of the aforesaid domain names, as is available with them, within a period of four weeks from today. In this regard, Defendant No. 6, NIXI, is directed to pass necessary directions to Defendants No. 4 and 5 to ensure compliance of the aforesaid directions.

18.8 Defendant No. 7, Ministry of Electronics and Information Technology, Union of India and Defendant No. 8, Department of Telecommunications, Ministry of Communications, Union of India, shall issue necessary notifications/ directions to all telecom and internet service



providers, Domain Name Registrars, social media platforms and messaging apps in India, to permanently block/ delete/ remove access to all the telephone numbers, websites, domain names, accounts on social media and messaging platforms etc., which are subject matter of the present suit, and specifically mentioned in DOCUMENTS A, B and C.

18.9 Defendant No. 9, NPCI is directed to disclose details of the bank account number attached to the UPI ID ujjbb5691989920@ujjivan of Defendant No. 1 and also suspend/block access to the said UPI ID.

19. Compliance of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 shall be done within fifteen days from today.

20. Issue notice. Reply, if any, be filed within four weeks from today. Rejoinder thereto, if any, be filed within two weeks thereafter.

21. Re-notify on 10th July, 2024.

SANJEEV NARULA, J

FEBRUARY 5, 2024
d.negi