IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION (L) NO.35454 OF 2024
IN
COMM IPR SUIT (L) NO.35287 OF 2024

Castrol India Ltd. …Applicant / Plaintiff

Versus

Gaurav Taneja & Anr. …Defendants

Mr. Hiren Kamod, Mr. Prem Khullar, Ms. Neha Iyer, Mr. Vaibhav Keni and Ms. Proutima Ray i/b. Legasis Partners for the Applicant / Plaintiff.

None for the Defendants.

CORAM : R.I. CHAGLA J.

DATE : 4TH DECEMBER, 2024.

ORDER :

1. Mr. Kamod drew my attention to this Court's order dated 2nd December 2024 in the above Interim Application and Affidavit of Service dated 30th November 2024 of Proutima Ray. The said Affidavit of Service proves service of the papers and proceedings and the notice of listing of this matter before this Court on 2nd December

2024 on Defendant No. 1 by email and on Defendant No. 2 by courier. On the last date i.e. on 2nd December 2024, as and by way of a last chance, this Court adjourned the matter to today. Vide the order dated 2nd December 2024, this Court also directed the Plaintiff to serve notice of the order dated 2nd December 2024 on the Defendants.

2. Mr. Kamod tenders an Affidavit of Service dated 3rd December 2024 of Proutima Ray proving email service upon the Defendants of the order dated 2nd December 2024 and the notices of listing of this matter before this Court on 4th December 2024, i.e. today. He submits that today the Plaintiff has addressed another email to the Defendants informing them that in case the matter does not reach until 1.30 p.m. the matter will be taken up at 3.30 p.m. Mr. Kamod undertakes to file an Affidavit of Service proving service of this email. Despite service of the papers and proceedings, notices of listing of the matter and this Court's order dated 2nd December 2024, the Defendants have chosen not to remain present either in person or through their advocates. Mr. Kamod submits that the Defendant No. 1 is the main Defendant against whom reliefs are sought in the present matter. Mr. Kamod, Ld. Advocate submits that he is not seeking any

reliefs against Defendant No. 2 in the present Suit and the Defendant No. 2 has been impleaded only as a proforma Defendant in the facts and circumstances as more particularly set out in the Plaint. In view thereof, this Court is proceeding to hear the above Interim Application for *ad-interim* reliefs.

3. This is an action for infringement of the Plaintiff's copyright subsisting in its cinematograph films and photographs.

4. It is stated that the Plaintiff is an Indian company, which forms part of the BP Group, a multinational conglomerate. It is stated that the Group is one of the world's largest international oil and gas companies providing its customers with fuel for transportation, energy for heat and light, lubricants to keep engines moving and petrochemical products used to make everyday items as diverse as paints, clothes and packaging. It is stated that the Plaintiff has maintained its commitment to specialization, innovation and collaboration over decades of delivery of high performing oil lubricants for automobiles and motorbikes and other applications on land, sea and in the air via its iconic and global brand Castrol. It is stated that the Plaintiff and the Group have a long history of

developing greases for space missions, having worked with NASA since the 1960s and have lubricated NASA Curiosity Rover and NASA's Mars 2020 Perseverance Rover which landed on Mars in the years 2012 and 2021, respectively.

5. It is stated that the Plaintiff has a consistent history of producing innovative and impactful marketing campaigns aimed at enhancing its brand image and public engagement. It is stated that these campaigns are ideated, developed, and executed by the Plaintiff in collaboration with professional marketing agencies, creative partners, and sometimes in association with notable social media influencers and celebrities. It is stated that each campaign is meticulously crafted to align with the Plaintiff's core values and strategic objectives, thereby ensuring that the Plaintiff's brand is prominently represented. It is stated that these marketing campaign reflect the Plaintiff's commitment to showcasing its products and services in a manner that resonates with its target audience while emphasizing its values of innovation and excellence. It is stated that these marketing campaigns are meticulously planned and executed under the Plaintiff's creative supervision and direction.

6. It is stated that over the years, the Plaintiff has successfully launched several campaigns that have garnered widespread acclaim, reinforcing its position as a global leader in its industry. It is stated that such campaigns are designed to reflect the Plaintiff's core messaging and are implemented by leveraging strategic partnerships with marketing agencies and influencers to maximize their impact. It is stated that the involvement of renowned influencers and celebrities further enhances the campaigns' reach and engagement, which are always carried out exclusively for the Plaintiff's benefit and under its complete authority and control. It is stated that the Plaintiff's marketing campaign, *"Castronomy"* is one such example, created entirely by and on behalf of the Plaintiff in collaboration with its partners. It is stated that the Plaintiff has been collaborating with several organizations working space research and exploration over the years. It is stated that the Plaintiff also has been providing lubricants for critical mechanisms of such research and exploration programs for over 60 years. It is stated that the Plaintiff believes that space exploration programs are the epitome of accelerating progress, and it wanted to highlight its achievements to the world by the said campaign. It is stated that the Plaintiff also intended to create a *Castronomer*™ community for those who seek

the joy, thrill and exhilaration that space exploration brings.

7. It is stated that in or about April 2024, Plaintiff launched its marketing campaign "*Castronomy*" wherein it would commission video bloggers to capture a unique and exciting zero-gravity flight experience which simulates the loss of gravity experienced by astronauts in space. It is stated that what would make this experience truly unique is the fact that the zero-gravity flight would be a collaboration between Plaintiff (Castrol) and the renowned research institutes based out of United States of America wherein the flight would be chartered privately by the said research institute; video bloggers would be trained for the zero-gravity flight alongside the said research institute's scientists and the video bloggers would also be accompanied by the said research institute's scientists during the zero-gravity flight. It is stated that this zero-gravity flight experience would be an exclusive and non-ticketed event i.e. members of the general public could not access it. It is stated that this marketing campaign is a part of Plaintiff's / Plaintiff's Group's consistent efforts towards working in space along with reputed engineers and academic institutions and sharing its achievements in space exploration with the world.

8. It is stated that the Plaintiff believed that the "*Castronomy*" campaign will help the "Castrol" brand to stand out by demonstrating the cutting-edge technology that lies at the heart of its business and reflecting people's fascination for space exploration. It is stated that the campaign's key message was that *"All we do in space goes into all we do here on Earth"* underlines how the technology that delivers performance on Mars drives all Castrol products. It is stated that the campaign was to be broadcasted out across the Plaintiff's internal channels, social platforms and website and was also to be promoted by two selected "*Castronomers*" – prominent influencers who were to be flown for a zero-gravity test flight. It is stated that as the producer of the "*Castronomy*" campaign, the Plaintiff is the sole author and owner of the copyright subsisting in materials forming a part of this campaign. It is stated that consequently, the Plaintiff holds exclusive rights to control, reproduce, and communicate these works to the public under the provisions of the Copyright Act, 1957.

9. It is stated that the Defendant No. 2 was engaged by the Plaintiff as its marketing agency to conceptualize and execute aspects of the "*Castronomy*" marketing campaign. It is stated that the

Defendant No. 2 was entrusted with a variety of responsibilities, including strategizing the campaign's outreach, overseeing creative deliverables, and ensuring the seamless execution of the campaign in alignment with the Plaintiff's brand guidelines. It is stated that as part of its engagement, Defendant No. 2 was also tasked with identifying and collaborating with suitable social media influencers and creators whose association would amplify the campaign's reach and impact. It is stated that in furtherance of its obligations under the agreement, Defendant No. 2 undertook the task of liaising with Defendant No. 1, a prominent social media influencer, to participate in the campaign. Defendant No. 2 facilitated discussions, shared campaign briefs, and coordinated logistics to ensure the successful involvement of Defendant No. 1.

10. Accordingly, it is stated that on 26th April, 2024, the Defendant No. 2 initiated WhatsApp communication with Defendant No. 1's spouse / manager *inter-alia* stating (i) brief background of the Plaintiff's Castronomy campaign; (ii) there is just one seat for this campaign which is coming to India; (ii) this is once in a lifetime experience worth 2 million USD; (iii) dates of the said campaign being 13th or 14th May, 2024 from the USA; (iv) enquired if Defendant

No. 1 has a valid USA visa, flown a zero gravity flight before and is available on the said dates and has intent to be part of the Plaintiff's said campaign. It is stated that the Defendant No. 1's representative responded in the affirmative to the aforesaid queries except the query on whether the Defendant No. 1 has flown a zero gravity. Accordingly, Defendant No. 2's representative shared details of the Plaintiff's Castronomy campaign with Defendant No. 1 and also set out details of the deliverables for the Plaintiff's campaign. It is stated that the Defendant No. 2's representative, in no uncertain terms, informed the Defendant No. 1 that there are no commercials involved and that it is more of an experiential opportunity (which experience is worth 2 Million USD) for which the Plaintiff will only be taking Defendant No. 1 from India. Printouts of the transcript of the WhatsApp chats between Defendant No. 1's and Defendant No. 2's representatives in respect of the above are at Exhibit B to the Plaint. Printout of the file titled "2024 Zero-G Flight Logistics" shared by Defendant No. 2's representative with Defendant No. 1's representative which contained details of the Zero-G flight program is at Exhibit B-1 to the Plaint.

11. As per the Plaintiff there was an arrangement reached

between the parties, particulars whereof are mentioned at paragraph 18 of the Plaint.

12. It is stated that that Defendant No. 1, as consideration for his participation, was not required to incur any expenses for his involvement in the campaign. It is stated that the Plaintiff agreed to bear the entire cost, including travel, accommodation, and participation in the zero-gravity flight experience in collaboration with the Plaintiff's partners, amounting to an exclusive opportunity. It is stated that in addition, Defendant No. 1 was afforded the benefit of leveraging the content approved by the Plaintiff for use on his own social media channels, enabling him to enhance his online visibility and generate content for his personal platforms at no cost. It is stated that this mutually beneficial arrangement was intended to maximize the value of the campaign for both parties while ensuring the Plaintiff retained ultimate creative control and ownership of the content.

13. It is stated that on 3rd May 2024, the Defendant No. 2's representative sent an email to Defendant No. 1 setting out the details of the final deliverables as agreed upon by the Defendant No. 1 and the associated terms for Plaintiff's campaign. It is stated that

the Defendant No. 1 sent a response to the email on the same day acknowledging the terms in the Defendant No. 2's email dated 3rd May 2024, printouts of the said emails are at Exhibit C to the Plaint. It is stated that on 3rd May 2024, for ease of communication, Defendant No. 2 created a chat group on WhatsApp consisting of Defendant No. 1 and 2's representatives on WhatsApp. On 3rd May 2024, some of the terms of the Agreement were also set out and discussed on the said chat group. It is stated that in said group chat, Defendant No. 1's representative agreed to *inter alia* deliver the Raw Data to the Plaintiff, which also forms a part of the understanding between the Plaintiff and the Defendants as per the Agreement as aforementioned. Transcript of the WhatsApp chat in the said group is as Exhibit D to the Plaint.

14. It is stated that it was agreed between the parties that Defendant No. 1 would execute a Term Sheet with Defendant No. 2 formally capturing the terms of Defendant No. 1's participation in Plaintiff's marketing campaign before Defendant No. 2 got onto the zero-gravity flight. It is stated that vide an email dated 9th May 2024, Defendant No. 2's representative shared the first draft of the Term Sheet with Defendant No. 1's team. It is stated that that despite

numerous communications and follow-ups sent by Defendant No. 2 as well as oral discussions between the parties, even while indicating that the signed Term Sheet would be shared, the Defendant No. 1 failed to execute the Term Sheet with Defendant No. 2 within the stipulated time or even thereafter for reasons best known to the Defendant No. 1. Copies of the emails between the parties in the period between 9th May 2024 to 5th June 2024 showing that Defendant No. 2 repeatedly followed up with Defendant No. 1 to execute the Term Sheet are at Exhibit E to the Plaint. Copy of the term sheet shared vide email dated 9th May 2024 by Defendant No. 2's representative to Defendant No.1's team is at Exhibit E-1 to the Plaint.

15. It is stated that on 9th May 2024, Defendant Nos. 1 and 2 had a discussion regarding the creative approach for the shooting of the content during which Defendant No. 1 expressed his reservations with strictly following Plaintiff's guidelines for shooting the content without maintaining the organic essence of the content. It is stated that as a goodwill gesture, Defendant No. 2 offered Defendant No. 1 to charge a token fee of ₹5,00,000/- for adhering to Plaintiff's guidelines and parameters. However, it is stated that better sense

prevailed over the Defendant No. 1 and he agreed to follow Plaintiff's guidelines without any charges. Copies of the email and WhatsApp communications exchanged between Defendant Nos. 1 and 2 in this regard are at Exhibits F and F-1 to the Plaint.

16. It is stated that on 10th May 2024, the Plaintiff and Defendant No. 2 shared creative inputs with the Defendant No. 1 which included few scripted phrases that the Defendant No. 1 must use in his video recordings as well as innovative activities that the Defendant No. 1 could do on the flight to match the innovative experience in which he was participating. Copies of the WhatsApp communications exchanged between Defendant Nos. 1 and 2 on 10th and 11th May 2024 in this regard are at Exhibits G and G-1 to the Plaint. Copy of the Castronomy campaign concept note and guidelines shared by the Plaintiff / Defendant No. 2 with the Defendant No. 1 along with the revisions made by the Defendant No. 1 to it are at Exhibit H to the Plaint.

17. It is stated that on 11th May 2024, the Defendant No. 1 along with his wife boarded the flight booked for them by the Defendant No. 2 on the instructions of the Plaintiff to USA. On 13th,

14th and 15 May 2024, Defendant No. 1, along with one Mr. Eric Decker (Popular American YouTube vlogger also known as Airrack who was selected as the 2nd "Castronomer") commissioned by Plaintiff / Plaintiff's Group, as well as some other representatives of Plaintiff participated in the chartered zero-gravity flight experience along with various scientists of the said research institute. It is stated that over the course of 13th, 14th and 15th May 2024, Defendant No. 1 made extensive video recordings and took several photographs of the event (Raw Data) under the Plaintiff's creative direction and as per Plaintiff's campaign guidelines. It is stated that Airrack / Eric Decker, the second Castronomer engaged by the Plaintiff, also collaborated with the Defendant No. 1 and assisted him creating content for the Plaintiff's campaign. It is stated that in blatant violation of the Agreement, Defendant No. 1 has not delivered the Raw Data to the and / or final Collab Content to the Plaintiff and Defendant No. 2 till date.

18. It is stated that on 13th May 2024, the Defendant No. 2's representative sent an email to the Defendant No. 1's manager wherein he shared a revised copy of the Term Sheet and requested the Defendant No. 1 to get it checked by his legal team and provide

his suggestions. Copies of the Defendant No. 2's representative's email dated 13th May 2024 along with a copy of the Term Sheet attached therein are at Exhibits I and I-1 to the Plaint.

19. It is stated that on 14th May 2024, Defendant No. 2 sent a reminder email to Defendant No. 1 reiterating part of the Agreement stating that there is a complete embargo against Defendant No. 1 from releasing any content in relation to the zero-gravity flight experience. It is stated that in the same email, Defendant No. 2 also reminded Defendant No. 1 to execute the Term Sheet. Copy of the said email dated 14th May 2024 is at Exhibit J to the Plaint.

20. It is stated that on 15th May 2024, the Defendant No. 1 sent an email to the Defendant No. 2 with a revised copy of the Term Sheet containing wholly unacceptable, unjustified and whimsical amendments. It is stated that on 16th May 2024, the Defendant No. 2's representative sent a WhatsApp message to the Defendant No. 1's manager stating her disapproval of the revisions made to the Term Sheet and also expressing her disappointment with the Defendant No. 1's team. It is stated that on 17th May 2024, the Defendant No. 2's

representative sent an email to the Defendant No. 1's manager formally reiterating that the revisions made to the Term Sheet are not acceptable and that the Defendant No. 1 must provide justifications for making any amendments to the Term Sheet. Copies of the Defendant No. 1's manager's email dated 15th May 2024 along with a copy of the Term Sheet attached therein is at Exhibits K and K-1 to the Plaint. Copies of the WhatsApp and email communications exchanged between Defendant Nos. 1 and 2 on 16th and 17th May 2024 in this regard are at Exhibits K-2 and K-3 to the Plaint.

21. It is stated that after repeatedly following up with the Defendant No. 1 and his team, his manager shared a revised Term Sheet with the Defendant No. 2 on 22nd May 2024. Copies of the Defendant No. 1's manager's email dated 22nd May 2024 along with a copy of the Term Sheet attached therein are at Exhibits L and L-1 to the Plaint. It is stated that once again, the Defendant No. 1 made unacceptable amendments to the Term Sheet without providing any justification for the same. Accordingly, on 28th May 2024, the Defendant No. 2's representative sent WhatsApp messages to the Defendant No. 1's manager stating that the amendments are unacceptable and asking her to refer to the draft of the Term Sheet

shared by Defendant No. 2 on 13th May 2024. Copies of the WhatsApp communications exchanged between Defendant Nos. 1 and 2 on 28th May 2024 in this regard are at Exhibit L-2 to the Plaint.

22. It is stated that on 5th June 2024, the Defendant No. 2's representative sent an email to the Defendant No. 1's manager wherein she shared a revised copy of the Term Sheet and requested her to get the same closed within a week, copies of which email and term sheet therein are at Exhibits M and M-1 to the Plaint, respectively.

23. It is stated that on 6th June 2024, Defendant No. 1's representative shared a copy of the first video forming part of Collab Content with Defendant No. 2 via a private YouTube link i.e., https://youtu.be/rgbt36QWrpY, copy of which is in a pen-drive at Exhibit N to the Plaint. It is stated that Defendant No. 2 requested the Defendant No. 1 to reshare the video after adding subtitles to it so that it can be reviewed by the Plaintiff. It is stated that on 7th June 2024, the Defendant No. 1's representative reshared a copy of the same video after adding subtitles to it via a WeTransfer link. It is stated that Defendant No. 2 in turn shared the first video with

Plaintiff. Printouts of the relevant WhatsApp communications between Defendant No. 2's representative and Defendant No. 1's manager in this regard are at Exhibit O to the Plaint. It is stated that as per the campaign guidelines, the video contains a clip where Defendant No. 1 briefly talks about *inter alia* the Castronomy campaign and Castrol's products, that the campaign / video is powered by Castrol and that he had been invited for the unique experience / opportunity by Castrol.

24. It is stated that on or about 18th June 2024, the Defendant No. 2's representative had a telephonic conversation with Defendant No. 1's manager wherein she provided the Plaintiff's editorial feedback and comments to the video made by Defendant No. 1 and also asked her to share the Term Sheet with the Defendant No. 2 / Plaintiff. It is stated that on 18th June 2024, the Defendant No. 2's representative sent WhatsApp messages to Defendant No. 1's manager recording the fact that they had a discussion, called upon Defendant No. 1 to get back to Defendant No. 2 with a timeline for sharing the Term Sheet and the revised video as per the feedback. Defendant No. 2's representative also stated that she has already shared a gist of the initial feedback and that she will share

consolidated feedback soon. A copy of the Defendant No. 2's WhatsApp communication with Defendant No. 1's manager dated 18th June 2024 is at Exhibit P to the Plaint.

25. On 21st June 2024, upon the Defendant No. 2's representative following up with Defendant No. 1's representative for the Collab Content, Defendant No. 1's manager shared a private YouTube video link i.e. https://youtu.be/uiRMS3eopZI for the second video without any subtitles and asked Defendant No. 2 to share its feedback internally while the subtitles are added to the video. It is stated that after perusing the second video, the Defendant No. 2 realized that the video did not conform with the guidelines given to Defendant No. 1, and more particularly, it did not even make a reference to the Plaintiff's brand "Castrol". It is stated that the Defendant No. 2's representative immediately informed the Defendant No. 1's representative that the video does not contain any reference to the Plaintiff's Castrol and that it would not be possible to approve the video. A copy of the Defendant No. 2's representative's WhatsApp communication with Defendant No. 1's manager dated 21st June 2024 is at Exhibit Q to the Plaint. Copy of the second video shared with Defendant No. 2 is in a pen-drive at Exhibit Q-1 to the

Plaint. It is stated that Defendant No. 1 shared a revised version of the first video with the Defendant No. 2's representative via a private YouTube link i.e. https://youtu.be/jPIH4muWRbY on 24th June 2024. It is stated that the revised version of the first video retained the portion of the video promoting the Plaintiff / Castrol. It is stated the Defendant No. 2's representative immediately provided the Plaintiff's editorial feedback to the same on WhatsApp. Copy of the revised first video shared with Defendant No. 2 is in a pen drive at Exhibit R to the Plaint. It is stated that on the same date i.e. 24th June 2024, the Defendant No. 1's manager shared via a WeTransfer link with the aforementioned revised first video with subtitles to the same, printouts of transcript of the WhatsApp chats, evincing the above is at Exhibit R-1 to the Plaint.

26. It is stated that over the course of its numerous correspondences with Defendant No. 1's team as aforesaid, the Defendant No. 2 repeatedly followed up with Defendant No. 1 to execute the Term Sheet as well as to deliver the Raw Data, however the Defendant No. 1 has neither executed the Term Sheet, nor has he delivered the Raw Data to the Plaintiff.

27. It is stated that for the first time, on or about 21st June 2024, Defendant No. 1 started raising false and frivolous queries regarding the actual expenses incurred by the Plaintiff for its campaign and the exclusive nature of Plaintiff's campaign. It is stated that in blatant breach of the earlier Agreement, Defendant No. 1 demanded a payment of ₹30,00,000/- from Plaintiff for complying with Defendant No. 1's obligation of delivering the Raw Data and Collab Content to the Plaintiff in complete disregard of the earlier agreement and much subsequent to availing the unique and specifically curated experience of the zero gravity test flight along with his travel, transport and stay in the USA, at the cost and expense of the Plaintiff. It is stated that on 11th July 2024, Defendant No. 1's representative sent an email to Defendant No. 2 alleging that the zero-gravity flight was accessible to everyone upon payment of a fee and that it was unfair for Defendant No. 1 to do multiple deliverables without being told the actual expenditure of Plaintiff on the project. Copy of Defendant No. 1's representative email dated 11th July 2024 is at Exhibit S to the Plaint.

28. It is stated that vide two emails both on the same date i.e. 11th July 2024, Defendant No. 2 responded to Defendant No. 1's

representative email dated 11th July 2024. Particulars of these emails are at paragraph 37 of the Plaint. Particulars of the correspondences between the parties to finalize the terms of the draft contract between Defendant No. 1 and Plaintiff are also at paragraph 37 of the Plaint. Copies of Defendant No. 2's two emails, both dated 11th July 2024 are at Exhibits T and T-1 to the Plaint. Copies of Defendant No. 2's email dated 2nd August 2024 and the draft agreement, respectively are at Exhibits T-2 and T-3 to the Plaint. Copies of email and WhatsApp communications exchanged between Defendant Nos. 1 and 2's representatives from 5th August 2024 to 23rd August 2024 are at Exhibit T-4 to the Plaint. Copies of Defendant No. 2's email dated 30th August 2024 and the revised draft contract are both at Exhibit T-5 to the Plaint. Copies of the WhatsApp communications exchanged between Defendant Nos. 1 and 2's representatives from 1st September 2024 to 3rd September 2024 are at Exhibit T-6 to the Plaint. It is stated that till date, neither the draft Term Sheet between Defendant No. 1 and Defendant No. 2, nor the draft contract between the Defendant No. 1 and the Plaintiff have been executed by any of the parties.

29. It is stated that on 12th October 2024, the Defendant No.

1 sent a WhatsApp message to one of the Defendant No. 2's representative threatening to upload content from the Plaintiff's campaign into the public domain. It is stated that on 28th October 2024, the Defendant No. 1 once again threatened to upload content from the Plaintiff's campaign into the public domain under the pretext that the contract between the Defendant No. 1 and Plaintiff has not been finalized. Copies of the WhatsApp communications exchanged between Defendant Nos. 1 and 2's representative is at Exhibit U to the Plaint.

30. It is stated that on 29th October 2024, the Plaintiff learnt that on the same date, the Defendant No. 1 has uploaded the impugned video titled "*Ready to go in Zero Gravity with @airrack*" on his YouTube channel under the name "Flying Beast" which is available on the link https://www.youtube.com/watch?v=yDdl8i4Z60c. Copy of the Impugned Video 1 is in a pen-drive at Exhibit V to the Plaint. It is stated that after coming across Impugned Video 1, Plaintiff immediately instructed its representatives to conduct a search on Defendant No. 1's social media channels / handles / accounts. It is stated that on 1st November 2024, Defendant No. 1 has uploaded another video on his YouTube channel

titled "*Flying in ZERO GRAVITY*" which is available on the link https://www.youtube.com/watch?v=Ts-TZfJKwLE. A copy of the Impugned Video 2 is in a pen drive at Exhibit W to the Plaint; on 28th October 2024 and on 1st November 2024 Defendant No. 1 has uploaded multiple photographs on his Instagram account which are available on the links https://www.instagram.com/p/DBx7gcRyAaC/?igsh=MWc5aHIwN3d5cDkzYw%3D%3D and https://www.instagram.com/p/DBrQjrNyhk2/?img_index=1. Copy of the Impugned Photographs 1 are in a pen-drive at Exhibit X to the Plaint; and on 28th October 2024, Defendant No. 1 has uploaded multiple photographs on his X account which are available on the link https://x.com/flyingbeast320/status/1850955954818359632. Impugned Photographs 2 are in a pen drive at Exhibit Y to the Plaint.

31. It is stated that upon viewing the Impugned Content, Plaintiff realized that Defendant No. 1 has unauthorizedly utilized substantial parts of the Raw Data to create and upload Impugned Content consisting of content from the zero-gravity flight taken by Defendant No. 1 for and on behalf of and at the Plaintiff's behest, cost and expense as aforesaid. It is stated that the dishonesty of the

Defendant No. 1 is evident from the fact that the Defendant No. 1 has not given credit to Castrol / Plaintiff for any part of the Impugned Content and it has deliberately omitted the use of any content that would promote the Plaintiff / Castrol / Castronomy campaign. A list of the links on which the Impugned Content is being communicated to public is at Exhibit Z to the Plaint.

32. It is stated that in view of the above, the Plaintiff, once again, through Defendant No. 2, made several attempts to convey its concerns on the Defendant No. 1 unauthorizedly and illegally uploading the Impugned Content which is in violation of the Agreement between the Plaintiff and Defendant No. 1 and requested that the Impugned Content be taken down / removed from the social media pages of Defendant No. 1 where the same has been uploaded as on date. It is stated that the Plaintiff, through Defendant No. 2, also made numerous requests to Defendant No. 1 to deliver the Raw Data and Collab Content to the Plaintiff, of which the Plaintiff is the producer and owner of copyright subsisting therein. It is stated that however, the same was of no avail.

33. It is stated that the Plaintiff is given to understand that

Defendant No. 2 has, on its own, without the Plaintiff's knowledge or instructions, offered to pay the Defendant No. 1 a sum of ₹5,00,000/- to take down the Impugned Content from the public domain until the Plaintiff and Defendant No. 1 can reach an agreement. However, the Defendant No. 1 has not taken down the Impugned Content and the same continues to be broadcasted on the Defendant's social media channels / accounts.

34. It is stated that the Plaintiff has made substantial financial investments as the producer of the *Castronomy* marketing campaign. These expenses include onboarding Defendant No. 1 onto the chartered zero-gravity flight experience organized in collaboration with a said research institute in the United States. Details of some of the expenses incurred by the Plaintiff along with an invoice in support thereof are at paragraphs 43 and 44, and Exhibit AA to the Plaint, respectively.

35. Mr. Kamod submits that the marketing project in collaboration with research institute's zero-gravity flight was the initiative and brainchild of Plaintiff. Further, he submits that the entire production expenses towards this marketing project were

financed by the Plaintiff and the entire risk for this production was also borne by the Plaintiff. He submits that Defendant No. 1, Mr. Eric Decker a.k.a. Airrack, and other representatives of Plaintiff were commissioned by the Plaintiff and directed by the Plaintiff to carry out the marketing project in collaboration with the said research institute and its scientists.

36. Mr. Kamod submits that all arrangements necessary for shooting the Raw Data and creating the Collab Content (if any) were undertaken by Plaintiff and were the responsibility of Plaintiff. He also submits that the Raw Data and Collab Content (if any) were taken / made by Defendant No. 1 for valuable consideration at the instance of Plaintiff. He submits that in these circumstances, the Raw Data and Collab Content (if any) consist of photographs and cinematograph films in which copyright subsists and Plaintiff is the producer and author of the Raw Data and Collab Content (if any) as well as the first owner of the copyright subsisting therein in the meaning provided to the expression in the Copyright Act, 1957. He submits that the Impugned Content is a reproduction of the Raw Data and Collab Content (if any), and / or substantial parts thereof.

37. Mr. Kamod submits that Defendant No. 1 has unauthorizedly and illegally uploaded the Impugned Content on his social media channel / accounts which are publicly available and can be readily accessed by anyone on the internet. He submits that by exploiting the Raw Data and Collab Content (if any) by communicating the Impugned Content to the public, making copies of the Impugned Content including photographs of images forming part thereof and storing of the Impugned Content in a medium by electronic means, as well as reproducing the photographs forming part of the Impugned Content in a medium by electronic means, the Defendant No. 1 has infringed the Plaintiff's copyright subsisting in the Raw Data and Collab Content (if any).

38. In support of his submissions, Mr. Kamod has relied upon the decision of this Court in ***Ramesh Sippy v. Shaan Ranjeet Uttamsingh and Others, (2013) 3 AIR Bom R 1228***. He submits that the balance of convenience is in favour of Plaintiff and against Defendant No. 1. He submits that there are no equities in favour of the Defendant No. 1. Accordingly, he submits that it is absolutely just and necessary that an *ad-interim* order be passed against the Defendant No. 1 in terms of prayer clauses (a) and (b) of the above

Interim Application.

39. I have heard Mr. Kamod at length and I have perused the documents on record. I have also seen the videos and photographs stored on the pen-drive annexed along with the Plaint. *Prima facie*, I am convinced from the documents on record that the Castronomy marketing campaign including the onboarding of the Defendant No. 1 for the zero-gravity flight experience in collaboration with the said research institute and its scientists was the initiative and responsibility of the Plaintiff. *Prima facie* it appears that (i) the videographic / photographic content (Raw Data) shot by the Defendant No. 1 during the flight was at the behest of the Plaintiff; (ii) the financial burden for shooting the Raw Data was also undertaken by the Plaintiff who incurred the entire production expenses towards marketing the *Castronomy* campaign as well as bearing the entire risk therein. In view of the aforesaid, *prima facie*, I am of the considered view that the Plaintiff fits the prerequisites which define a producer of a cinematograph film as laid down by this Court in the case of ***Ramesh Sippy v. Shaan Ranjeet Uttamsingh and Others (supra)*** and therefore, the Plaintiff is the producer / author of the Raw Data and Collab Content (if any) as well as the first owner

of the copyright subsisting therein.

40. I am of the view that the Defendant No. 1 has unauthorizedly uploaded and leveraged the Impugned Content which is a reproduction of the Raw Data and / or substantial parts thereof and the same is publicly available on the Defendant No. 1's social media accounts / channels and can be readily accessed by anyone on the internet. In view thereof, by exploiting the Raw Data without the authorisation of the Plaintiff, the Defendant No. 1 in my prima facie view has infringed the Plaintiff's copyright subsisting in the Raw Data. The dishonesty of the Defendant No. 1 is evident from the fact that while the first video shared by the Defendant No. 1 with Defendant No. 2 / Plaintiff contains a segment wherein he promotes the Castronomy campaign and he talks about the Plaintiff's products and the unique experience for which he has been invited by the Plaintiff, however, the Defendant No. 1 has deliberately deleted this segment from the video and omitted any content that would promote the Plaintiff / Castrol / Castronomy campaign at the time of publishing the Impugned Content on his social media channels. It is also appears that the Defendant No. 1 has not even given any credit to the Plaintiff for the Impugned Content.

41. The Defendant No. 1 cannot claim any equities as it has knowingly and deliberately infringed Plaintiff's valid and subsisting copyrights in the Raw Data / Collab Content (if any). The balance of convenience is in favour of the Plaintiff. Despite service of the papers and proceedings, the order dated 2nd December 2024 passed by this Court and notice of the hearing before this Court, the Defendant No. 1 has chosen to not appear before this Court. Unless reliefs as prayed for are granted, the Plaintiff shall suffer irreparable injury which cannot be compensated in terms of money. In view of the above, there shall be *ad-interim* order against the Defendant No. 1 in terms of prayer clauses (a) and (b) of the above Interim Application, which read as follows:

> *"(a) That pending the hearing and final disposal of the Suit this Hon'ble Court be pleased to pass an order and temporary injunction restraining the restraining Defendant No. 1 along with his agents, associates, officers, licensees, assignees and / or any other person acting under or through him from in any manner infringing the Plaintiff's exclusive copyright in the Raw Data and Collab Content (if any) and/ or substantial part thereof by exploiting the Impugned Works shown at EXHIBITS – "V" to "Z" to the Plaint, or any of them, on any platforms and / or communicating the same to the public in any manner and / or by making copies and / or storing in any medium by electronic or other means and / or reproducing the photographs therein in any material*

form, without authorization from the Plaintiff, or in any other manner whatsoever; and

(b) That pending the hearing and final disposal of the Suit this Hon'ble Court be pleased to order and direct Defendant No. 1 to take down / remove / delete the Impugned Content on his social media channels as available on the links at EXHIBIT – "Z" to the Plaint."

42. List the above Interim Application on 20th February 2025 for further *ad-interim* reliefs.

43. Affidavit in Reply, if any, to be filed by the Defendants within a period of four weeks from today with service of an advance copy on the Advocates for the Plaintiff.

44. The Plaintiff is at liberty to file Affidavit in Rejoinder thereof within a period of two weeks from service of Affidavit in Reply.

45. This order will be digitally signed by the Private Secretary / Personal Assistant of this Court. All concerned will act on production of a digitally signed copy of this order.

[R.I. CHAGLA J.]