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

+ CS(COMM) 643/2024 & I.A. Nos. 35231/2024, 35232/2024,  
35233/2024 & 35234/2024

FALCON AUTOTECH PRIVATE LIMITED .....Plaintiff

Through: Mr. Sandeep Sethi, Senior Advocate  
with Mr. Subhash Bhutoria,  
Ms. Sonal Alagh, Ms. Chhavi Singh,  
Ms. Shreya Sethi and Ms. Akshita,  
Advocates.  
(M): 8860499666  
Email: subhash@iplaws.com

versus

KENGIC INTELLIGENT TECHNOLOGY CO. LTD. ....Defendant

Through: None.

**CORAM:**  
**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**ORDER**  
**02.08.2024**

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**I.A. 35234/2024 (Exemption from filing original copies)**

1. The present is an application under Section 151 of the Code of Civil Procedure, 1908 ("CPC"), on behalf of the plaintiff, seeking exemption from filing original/true typed copies.
2. Exemption is granted, subject to all just exceptions.
3. Applicant shall file legible, clear, and original copies of the documents, on which the plaintiff may seek to place reliance, before the next date of hearing.
4. Accordingly, the present application is disposed of.



**I.A. 35233/2024 (Exemption from instituting Pre-Litigation Mediation)**

5. The present is an application under Section 12A of the Commercial Courts Act, 2015, read with Section 151 of CPC seeking exemption from undergoing Pre-Institution Mediation.

6. Having regard to the facts of the present case and in the light of the judgment of Supreme Court in the case of *Yamini Manohar Versus T.K.D. Keerthi, 2023 SCC OnLine SC 1382*, and Division Bench of this Court in *Chandra Kishore Chaurasia Versus RA Perfumery Works Private Ltd., 2022 SCC OnLine Del 3529*, exemption from attempting Pre-Institution Mediation, is granted.

7. Accordingly, the application stands disposed of.

**I.A. 35232/2024 (Application seeking leave to file additional documents)**

8. This is an application seeking leave to file additional documents under Order XI Rule 1(4) as amended by the Commercial Courts, Commercial Appellate Division of the High Courts Act, 2015, read with 151 CPC.

9. The plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

10. The application is disposed of, with the aforesaid directions.

**CS(COMM) 643/2024**

11. None appears for the defendant, despite valid advance service.

12. Attention of this Court has been drawn to the document at PDF page 226 of the document folder, which is an excerpt from the website of the defendant, wherein, the contact details of the defendant company, have been given.

13. Let the plaint be registered as suit.



14. Upon filing of the process fee, issue summons to the defendant by all permissible modes. Summons shall state that the written statement be filed by the defendant within thirty days from the date of receipt of summons. Along with the written statement, the defendant shall also file affidavit of admission/denial of the plaintiff's documents, without which, the written statement shall not be taken on record.

15. Liberty is given to the plaintiff to file replication within thirty days from the date of receipt of the written statement. Further, along with the replication, if any, filed by the plaintiff, an affidavit of admission/denial of documents of the defendant, be filed by the plaintiff, without which, the replication shall not be taken on record. If any of the parties wish to seek inspection of the documents, the same shall be sought and given within the timelines.

16. List before the Joint Registrar (Judicial) for marking of exhibits, on 25<sup>th</sup> September, 2024.

17. List before the Court, on 11<sup>th</sup> December, 2024.

**I.A. No. 35231/2024 (Application under Order XXXIX Rules 1 and 2 read with Section 151 CPC seeking ex-parte ad-interim injunction)**

18. The present suit has been filed against infringement of granted *patent bearing no. 410846*, seeking *inter alia* relief of permanent and mandatory injunction, rendition of accounts, damages and delivery up.

19. Learned Senior Counsel appearing for the plaintiff submits that the instant proceedings have been initiated, in order to protect the plaintiff's statutory rights in the *patent bearing no. 410846* dated 25<sup>th</sup> January, 2021, titled as 'AN INTEGRATED PRE-SORTATION SYSTEM', granted by the Indian Patent Office. Attention of this Court has been drawn to the



document, wherein, patent registration has been issued in favour of the plaintiff.

20. Learned Senior Counsel for the plaintiff submits that the plaintiff has invested tremendous amounts of money, time and resources in developing and manufacturing sorter machines. The plaintiff developed and delivered its first sorter system in the year 2015. These Systems are specifically engineered to optimize and automate critical operational processes within warehouse automation, logistics centers, and other material handling facilities.

21. It is submitted that the pre-sorting system, as developed by the plaintiff, is a separate and independent assembly, thereby making an advancement over the existing prior art. It is submitted that pre-sorting systems have multiple use cases in the supply chain, and hence is an extremely important and valuable technology for e-commerce, supply chain and delivery service providers. Thus, it is submitted that plaintiff has been a market leader in innovative sorting technology, having invested considerable resources in developing a pre-sorting system, which is currently integrated in loop sorters.

22. It is further submitted that the plaintiff's integrated sorting system, which has the proprietary pre-sorting mechanism, improves accuracy and efficiency. Thus, it is submitted that the invention, along with its technical knowledge, know-how and expertise, forms an invaluable asset and exclusive property of the plaintiff.

23. It is submitted that the plaintiff's suit patent discloses an integrated pre-sortation system, having two-part integrated sorting i.e., a feeding pre-sort apparatus and a downstream pre-sort apparatus. Further, the invention



discloses an integrated pre-sort arrangement, wherein the integrated pre-sort arrangement includes one or more feed lines, a pre-sorting set up, one or more cross belt sorter segments, a feeding pre-sort apparatus and a downstream pre-sort apparatus, which is configured to connect to a server having a processing unit, using a communication network.

24. Learned Senior Counsel appearing for the plaintiff further submits that there was neither any pre-grant opposition nor any post-grant challenge to the patent granted in favour of the plaintiff.

25. It is submitted that in and around the first week of June 2024, the plaintiff learned from market sources that the defendant has installed a sorter machine at one of the plaintiff's client's premises, which machine was claimed to have virtually identical specifications, configuration and usage to the suit Patent. Upon receiving this preliminary information, the plaintiff approached its said Client, requesting an inspection of the machine, which request was allowed by the Client in good faith and long-standing business relations.

26. It is submitted that the plaintiff's team visited its client's premises located in Gurugram, on 10<sup>th</sup> July, 2024 for inspection. Upon a thorough inspection of the defendant's machine, the plaintiff was shocked to note that the machine is functionally identical to the plaintiff's highest selling sorter machine, which is the subject matter of the suit patent.


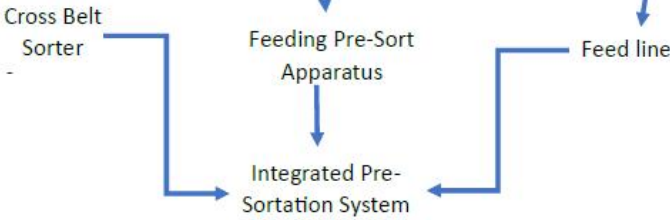
27. It is submitted that based on the inspection of the machine, the plaintiff has done a thorough and careful claim mapping, and it has come to the fore that defendant has slavishly copied, and reverse engineered, each and every aspect of the suit patent.

28. Attention of this Court has been drawn to the claim mapping, through





visual comparison with the defendant’s infringing product, which is reproduced, as under:-



<b>Patent Number:</b> IN410846	<b>Title:</b> AN INTEGRATED PRE-SORTATION SYSTEM
<b>Assignee:</b> Falcon Autotech Private Limited	<b>Publication Date:</b> 31/12/2021
<b>Filing Date:</b> 25/01/2021	<b>Family Member:</b> NA

Sr. No.	Particulars	Claims Mapping of IN410846 vs Automated Sorter, Kengic China
1	Claim 1 Element 1	An integrated pre-sortation system (100), comprising:
	Evidence from target product	 
2	Element 2	one or more <b>feed lines (102, 104)</b> ;



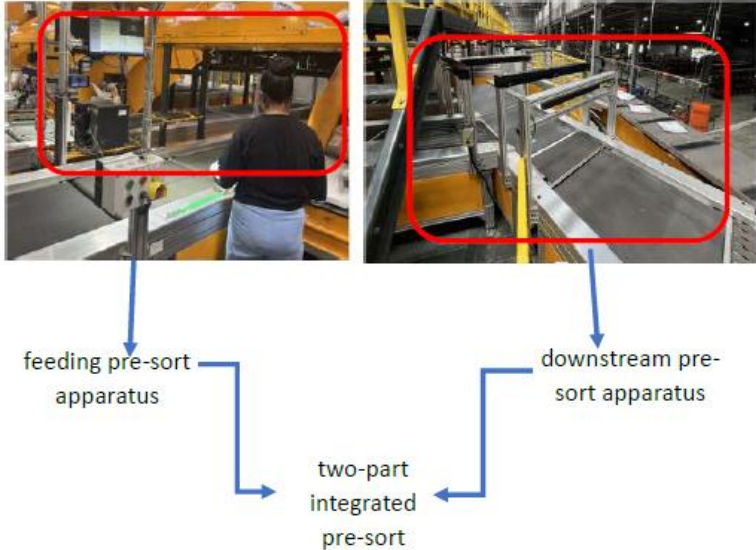
	Evidence from target product	
3	Element 3  Evidence from target product	one or more <b>cross belt sorter segments (108,110);</b>  
4	Element 4	a <b>feeding pre-sort apparatus (200)</b> having a <b>pre-sorting set up (106);</b> and





	Evidence from target product	 <p data-bbox="715 752 879 808">feeding Pre-Sort Apparatus</p> <p data-bbox="1171 763 1347 790">Pre-Sorting setup</p>
5	Element 5	a downstream pre-sort apparatus (400); characterized in that
	Evidence from target product	 <p data-bbox="887 1518 1102 1574">downstream pre-sort apparatus</p> <p data-bbox="1203 1541 1305 1615"><i>Subhash</i> (True Copy)</p>
6	Element 6	wherein the feeding pre-sort apparatus (200) and the downstream pre-sort apparatus (400) are responsible for a two-part integrated pre-sort;







	Evidence from target product	 <p><b>Analyst Comment:</b> The process of sorting items, goods/products/articles/parcels/packets into two distinct stages or phases. First part captures inputs like quantity, weight, location, size, barcode at feeding pre-sort apparatus and the second part executes based on the input at downstream pre-sort apparatus.</p>
7	Element 7	wherein the <b>integrated pre-sortation system (100)</b> including the one or more <b>cross belt sorter segments (108, 110)</b> exhibits Z- shape;

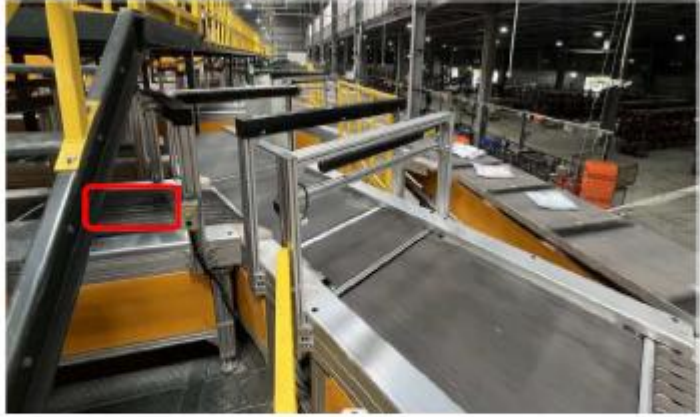



	Evidence from target product	 <p style="text-align: center;">Cross Belt Sorter Segments</p> <p><b>Analyst Comment:</b> The Z-shape is an arrangement of integrated pre-sortation system and the cross-belt sorter segments in specific shapes to facilitate efficient movement and sorting of items/goods/products/articles/parcels/packets through the system.</p>
8	Element 8	<p>wherein the <b>feeding pre-sort apparatus (200)</b> comprises:</p> <p>Evidence from target product</p> 
9	Element 9	one or more <b>dual direction conveyors (210, 212);</b>



	Evidence from target product	
10	Element 10	wherein the downstream pre-sort apparatus (400) comprises:
	Evidence from target product	
11	Element 11	one or more than one load conveyors (410, 412);


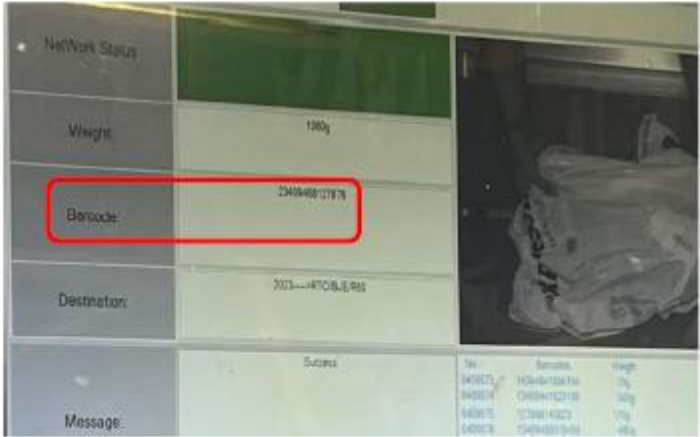


	Evidence from target product	
12	Element 12	one or more <b>receiving conveyors (414)</b> ; and
	Evidence from target product	
13	Element 13	one or more <b>merge conveyors (424)</b> .

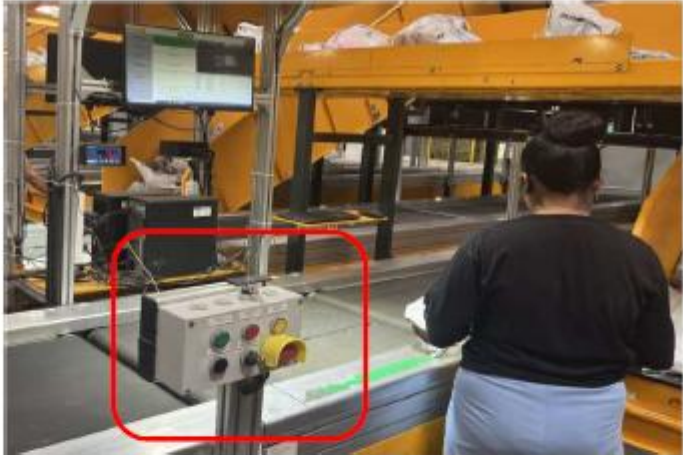




	Evidence from target product	
14	Claim 2 Element 1	The integrated pre-sortation system (100) as claimed in 1, wherein the feeding pre-sort apparatus (200) further comprises:
	Evidence from target product	
15	Element 2	one or more weighing scales (202, 204);


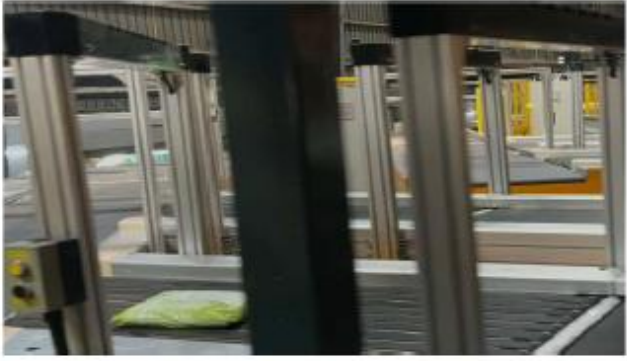


	Evidence from target product	 <p><b>Analyst Comment:</b> The weighing scale is a device used to measure the weight or mass of items/goods/products/articles/parcels/packets. It can be placed independently or below any conveyor, like loading conveyor.</p>
16	Element 3	one or more <b>barcode scanners</b> (206, 208); and
	Evidence from target product	 <p><b>Analyst Comment:</b> The barcode sensors used to read and decode information encoded in barcodes. The barcode scanner may be built onto the system i.e., it can be a part of the feeding pre-sorting set-up or be handled manually.</p>
17	Element 4	an <b>operator panel</b> (218).





	Evidence from target product	
18	Claim 3 Element 1	The integrated pre-sortation system (100) as claimed in 1, wherein the downstream pre-sort apparatus (400) further comprises:
	Evidence from target product	
19	Element 2	one or more spacing conveyors (422);
	Evidence from target product	





20	Element 3	a plurality of sensors including: one or more <b>parcel receiving sensors</b> (402, 404);
	Evidence from target product	 <p><b>Analyst Comment:</b> Parcel receiving sensor is a sensor used to detect the arrival or presence of items/goods/products/articles/parcels/packets at a receiving location/load conveyor, and it can be inferred that the parcel receiving sensor has been installed with the downstream pre-sort apparatus.</p>
21	Element 5	one or more <b>parcel releasing sensors</b> (406, 408);
	Evidence from target product	 <p><b>Analyst Comment:</b> A parcel releasing sensor used to detect and facilitate the release of items/goods/products/articles/parcels/packets to receiving conveyor, and it can be inferred that the parcel releasing sensor has been installed with the downstream pre-sort apparatus.</p>
22	Element 6	one or more <b>checkpoint sensors</b> (416, 418);




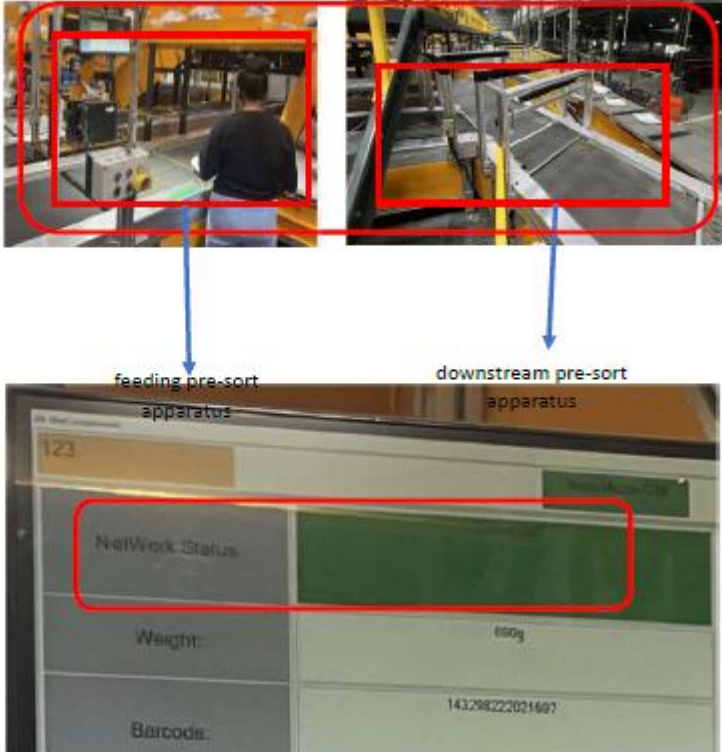


	Evidence from target product	 <p><b>Analyst Comment:</b> Check point sensor is a sensor used to monitor and regulate the movement of items/goods/products/articles/parcels/packets at a receiving conveyor or entry/exit points in a conveyor system, and it can be inferred that the checkpoint sensor has been installed with the downstream pre-sort apparatus.</p>
23	Element 7	an array <b>curtain sensor</b> (420);
	Evidence from target product	 <p><b>Analyst Comment:</b> A curtain sensor is a type of sensor system designed to detect the presence, dimensions, movement or position of items/goods/products/articles/parcels/packets with respect to conveyor belt, and it can be inferred that the curtain sensor has been installed with the downstream pre-sort apparatus.</p>
24	Element 8	a <b>length sensor</b> (426); and





	Evidence from target product	 <p><b>Analyst Comment:</b> Length sensor is a device used to measure the length or width of items/goods/products/articles/parcels/packets, and it can be inferred that the length sensor has been installed with the downstream pre-sort apparatus.</p>
25	Element 9	an <b>induction sensor</b> (428).
	Evidence from target product	 <p><b>Analyst Comment:</b> Indication sensor is a type of sensor used to detect the presence or movement items/goods/products/articles/parcels/packets etc. typically within a conveyor systems or automated sorting equipment in warehouse automation, and it can be inferred that the induction sensor has been installed with the downstream pre-sort apparatus.</p>
26	Claim 4 Element 1	The integrated pre-sortation system (100) as claimed in 1, comprising: a <b>server (120)</b> , having a <b>processing unit (180)</b> ; a <b>communication network (140)</b> ; and
	Evidence from target product	





		 <p><b>Analyst Comment:</b> A processing unit has an internet port to connect with any remote server or system, it can be inferred that the system is duly connected to remote server with processing unit via any communication network.</p>
27	Element 2	<p>an <b>integrated pre-sort arrangement (160)</b>; wherein the <b>integrated pre-sort arrangement (160)</b> is connected to the <b>server (120)</b>, via the <b>communication network (140)</b>; and</p>
	<p>Evidence from target product</p> <p><i>Siddhant</i> (True Copy)</p>	 <p>feeding pre-sort apparatus      downstream pre-sort apparatus</p> <p>NetWork Status</p> <p>Weight: 660g</p> <p>Barcode: 143298222021607</p>



		<p><b>Analyst Comment:</b> The integrated pre-sort arrangement which includes feeding pre-sort apparatus and downstream pre-sort apparatus has processing unit with internet port and it can be inferred that the integrated pre-sort arrangement is duly connected to remote server with via a communication network.</p>
28	Element 3	wherein the <b>integrated pre-sort arrangement (160)</b> includes the <b>feeding pre-sort apparatus (200)</b> and the <b>downstream pre-sort apparatus (400)</b> .
	Evidence from target product	 <p style="text-align: center;">feeding pre-sort apparatus                      downstream pre-sort apparatus</p>
29	Claim 5 Element 1	The integrated pre-sortation system (100) as claimed in 1, wherein the <b>feeding pre-sort apparatus (200)</b> is positioned prior to the <b>downstream pre-sort apparatus (400)</b> .
	Evidence from target product	 (True Copy)



		 <p style="text-align: center;"> <span style="margin-right: 150px;">downstream pre-sort apparatus</span> <span>feeding pre-sort apparatus</span> </p> <p><b>Analyst Comment:</b> It is clearly visible from the annotated image of the target product that feeding pre-sort apparatus is placed prior to downstream pre-sort apparatus.</p>
30	Claim 6 Element 1	The integrated pre-sortation system (100) as claimed in claim 1, wherein the <b>integrated pre-sortation system (100) is embedded with a conveyor belt system.</b>
	Evidence from target product	 <p style="text-align: center;">Conveyor Belt System</p>
31	Claim 7 Element 1	The integrated pre-sortation system (100) as claimed in claim 1, wherein the <b>integrated pre-sortation system (100) is embedded with a cross belt sorter.</b>



Evidence from target product	 <p data-bbox="938 770 1114 797">Cross Belt Sorter</p>
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29. Thus, by reference to the aforesaid document, it is submitted that it is apparent that the defendant, being a much later entrant in sorting system industry, is attempting to springboard its business in India by offering and selling the infringing products to the customers, including the plaintiff's clientele.

30. It is submitted that the defendant has adopted an utterly illegal approach to compete with and in fact, displace the plaintiff from its primary market i.e., India.

31. It is submitted that defendant is a Chinese based entity, having no establishment, or physical presence in India.

32. Attention of this Court has been drawn to the information of the defendant, as available on website of the Ministry of Corporate Affairs ("MCA"), which is reproduced as under:-



#### Company Information

CIN	U93090KA2018FTC116728
Company Name	KENGIC LOGISTICS AUTOMATION PRIVATE LIMITED
ROC Name	ROC Bangalore
Registration Number	116728
Date of Incorporation	21/09/2018
Email Id	gksassociates1@gmail.com
Registered Address	NO 336, 27TH MAIN, H S R LAYOUT SECTOR-2, Bangalore, Bangalore, Karnataka, India, 560102
Address at which the books of account are to be maintained	-
Listed in Stock Exchange(s) (Y/N)	No
Category of Company	Company limited by shares
Subcategory of the Company	subsidiary of company incorporated outside India
Class of Company	Private
ACTIVE compliance	-
Authorised Capital (Rs)	1,00,00,000
Paid up Capital (Rs)	60,00,000
Date of last AGM	31/12/2020
Date of Balance Sheet	31/03/2020
Company Status	Strike Off

#### Jurisdiction

ROC (name and office)	ROC Bangalore
RD (name and Region)	RD, South East Region

#### Index of Charges

No Records Found

#### Director/Signatory Details

Sr. No	DIN/PAN	Name	Designation	Date of Appointment	Cessation Date	Signatory
1	08234209	ZHENGUO LIU	Director	21/09/2018	•	Yes
2	08234210	DI CHENG	Director	21/09/2018	•	Yes
3	07995580	RAVISH SINGH	Director	21/09/2018	•	Yes

33. By referring to the aforesaid document, learned Senior Counsel appearing for the plaintiff submits that at present, the status of the defendant's Indian company is as "Strike Off".

34. Attention of this Court has also been drawn to the Resolution passed in the Board Meeting of the defendant Indian Company on 15<sup>th</sup> February, 2021, wherein, it has been resolved as under:-



**KENGIC LOGISTICS AUTOMATION PRIVATE LIMITED**

REGD. ADDRESS: - NO 336, 27TH MAIN, H S R LAYOUT SECTOR-2 BANGALORE KARNATAKA  
560102 INDIA  
CIN NO: - U93090KA2018FTC116728

**CERTIFIED TRUE COPY OF THE RESOLUTION PASSED IN THE BOARD MEETING OF KENGIC LOGISTICS AUTOMATION PRIVATE LIMITED HELD ON MONDAY, 15<sup>TH</sup> DAY OF FEBRUARY 2021 AT REGISTERED OFFICE OF THE COMPANY AT 11.00 A. M.**

The Chairman informed the board that the Company has failed to start any business activity since its incorporation and it is now advisable to close down the company through the Fast Track Exit Mode (FTE) 2016 prescribed by Ministry of Companies Affairs under the provisions of Section 248 of the Companies Act, 2013.

After discussion, the following resolution was passed:

**"RESOLVED THAT** the company should approach Registrar of Companies for striking off the name of the company under the provisions of section Section 248 of the Companies Act, 2013.

**FURTHER RESOLVED THAT** any one Director of the Company be and is hereby authorised to file necessary e-forms and other documents with Registrar of Companies and are hereby also authorised to do all such acts, deeds and things necessary in this connection on behalf of the Company."

For KENGIC LOGISTICS AUTOMATION PRIVATE LIMITED

Director  
For Kengic Logistics Automation Pvt. Ltd.  
刘真园  
ZHENGUO LIU  
DIRECTOR  
DIN: 08234209  
Director

For Kengic Logistics Automation Pvt. Ltd.  
DI CHENG  
DIRECTOR  
DIN: 08234210  
Director

For Kengic Logistics Automation Pvt. Ltd.  
RAVISH SINGH  
DIRECTOR  
DIN: 07995580  
Director

PLACE: BANGALORE  
DATE: 15/02/2021

35. By referring to the aforesaid document, it is submitted that since the Indian company of the defendant could not carry on its business in India, it resolved to approach the Registrar of Companies for striking off the name of the company, which accordingly, has been done.

36. Attention of this Court has also been drawn to the Indemnity Bond filed by one of the Directors of Indian Company of the defendant, wherein, it has been stated as follows:





## INDEMNITY BOND

(To be given individually by every director)

*[Pursuant to clause (i) of sub-rule (3) of rule 4 of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016]*

To,


Registrar of Companies  
E Wing, 2nd Floor, Kendriya Sadan,  
Kormangala, Bangalore, Karnataka 560034

I, **RAVISH SINGH**, S/o **MR.RANA RANJIT SINGH** R/O H. NO. K-31/30, FLAT NO -5 NEAR ARYA SAMAJ MANDIR, MODEL TOWN III, NEW DELHI- 110009 a Director of **KENGIC LOGISTICS AUTOMATION PRIVATE LIMITED** (hereinafter called "the Company"), incorporated on 21/09/2018 under the Companies Act, 2013 having its registered office at **NO 336, 27TH MAIN, H S R LAYOUT SECTOR-2 BANGALORE BANGALORE KA 560102 IN** and Having CIN NO- **U93090KA2018FTC116728** do hereby declare that:

1. I, **RAVISH SINGH**, S/o **MR.RANA RANJIT SINGH** am Director of this Company.
2. That I have made an affidavit confirming that the company does not have any assets and liabilities as on date.
3. Further, the Company has been inoperative since its incorporation. Thus the Company is defunct and I request the Registrar of Companies, Bangalore to strike off the name of the Company from the register of companies under Section 248 of the Companies Act, 2013.
4. I do hereby undertake to indemnify :-
  - a) The claimants for all lawful claims against the company arising in future after the striking off the name of the Company.
  - b) Any person for any losses that may arise pursuant to striking off the name of the Company.
  - c) The claimants for all lawful claims and liabilities, which have not come to our notice up to this stage, and if any claim arises or observed even after the name of the Company has been struck off in terms of Section 248 of the Companies Act, 2013.


Date: 09/03/2021  
Place: Bangalore



  
**RAVISH SINGH**  
(Director)

DIN: - 07995580

H. NO. K-31/30, FLAT NO -5 NEAR ARYA  
SAMAJ MANDIR, MODEL TOWN III,  
NEW DELHI- 110009

  
(True Copy)



37. An affidavit to the same effect, filed by one of the Directors of the Indian Company of the defendant, as filed along with the plaint, is reproduced as below:-

**FORM No. STK -4**  
**AFFIDAVIT**  
(To be given individually by every Director)  
*[Pursuant to sub section (2) of section 248 read with clause (iii) of sub-rule (3) of Rule 4]*

I, **RAVISH SINGH**, S/o **MR. RANA RANJIT SINGH** R/O H. NO. K-31/30, FLAT NO -5 NEAR ARYA SAMAJ MANDIR, MODEL TOWN III, NEW DELHI- 110009 a Director of **KENGIC LOGISTICS AUTOMATION PRIVATE LIMITED** (hereinafter called "the Company"), incorporated on **21/09/2018** under the Companies Act, 2013 having its registered office at **NO 336, 27TH MAIN, H S R LAYOUT SECTOR-2 BANGALORE BANGALORE KA 560102 IN** and Having CIN NO- **U93090KA2018FTC116728** do Solemnly affirm and state as under do Solemnly affirm and state as under:

(I) I, **RAVISH SINGH**, S/o **MR. RANA RANJIT SINGH** Holder of DIN **07995580** duly attested by a whole time practicing professional Chartered Accountant that I am Director of the Company stated above since **21/09/2018**.

(II) My present residential address is H. NO. K-31/30, FLAT NO -5 NEAR ARYA SAMAJ MANDIR, MODEL TOWN III, NEW DELHI- 110009(copy of documentary evidence duly attested by a whole time practicing professional Chartered Accountant) is enclosed.



(I) My permanent address is H. NO. K-31/30, FLAT NO -5 NEAR ARYA SAMAJ MANDIR, MODEL TOWN III, NEW DELHI- 110009(copy of documentary evidence duly attested by a whole time practicing professional Chartered Accountant) is enclosed.

(II) The Company maintains a bank account as on date.

(III) The Company M/S **KENGIC LOGISTICS AUTOMATION PRIVATE LIMITED** does not have any assets and liabilities as on date.

(IV) The Company has been inoperative since it's incorporation till date 09/03/2021

(V) As on date, the Company does not have any dues towards Income Tax/Sales Tax/Central Excise/Banks and Financial Institutions; and other Central or State Government Departments/Authorities or any Local Authorities.

38. Similar affidavit has also been filed by two other Directors. Perusal of the aforesaid affidavit, filed by the Director of the Indian Company of the



defendant, categorically shows that it has been stated in categorical terms that the company has been inoperative since its incorporation. Thus, the Indian Company of the defendant has been stated to be, as '*Defunct*'.

39. It is submitted that despite the Indemnity Bond and affidavits filed before the Registrar of Companies, and having the name of the Indian Company of the defendant, having been struck off from the website of the Ministry of Corporate Affairs, the LinkedIn profiles of certain persons are active, which show them working as Project Manager and Employees for the defendant-company.

40. Attention of this Court has been drawn to the LinkedIn profile of one persons, who claims to be the Project Manager and Manager of the defendant company, stationed at New Delhi, which is reproduced as under:-



41. Similarly, the LinkedIn profile of one of the persons, showing himself to be Software Engineer at the defendant-company, stationed at India, is reproduced as under:-



42. Another person, who portrays himself to be a Project Site Manager, at the defendant-company, and shown to be stationed at Delhi, India, is reproduced as under:-



43. Thus, it is submitted that the defendant company is clandestinely operating in India, despite having its name *Struck Off* from the website of the Ministry of Corporate Affairs.

44. Thus, it is apparent from defendant's own conduct and business activities, that it is competing with the plaintiff in a highly unfair and illegal manner, causing detriment to the plaintiff's business.



45. It is further submitted that the defendant has not obtained any licence or permission, including Foreign Company registration, PAN, TAN, GST etc. and, thus, is operating its business in India by flouting mandatory legal compliances. Thus, it is submitted that the defendant is playing a serious fraud, not only on the Indian customers, but also on tax and other government authorities.

46. Learned Senior Counsel appearing for the plaintiff submits that the defendant has no establishment or presence in India. Thus, selling, supplying and marketing of the infringing products by the defendant, has far reaching consequences, including serious consumer liability arising from sub-standard quality of the defendant's products. It is submitted that in addition to the blatant infringement of the plaintiff's exclusive rights in the suit patent, the defendant is doing its illegal business activities in India, which ought to be restrained in a larger public interest.

47. Considering the submissions made before this Court, the plaintiff has demonstrated a *prima facie* case for grant of injunction in its favour and that if no *ex-parte ad-interim* injunction is granted, the plaintiff will suffer an irreparable loss. Further, the balance of convenience also lies in favour of the plaintiff, and against the defendant.

48. Accordingly, it is directed that, till the next date of hearing, the defendant, its directors, proprietor, successors, assignees, owners, servants employees, subordinates, representatives, stockists, dealers, agents, franchisees, distributors, and all other person(s) acting for/on their behalf, are restrained from directly or indirectly, manufacturing, selling, importing, exporting, offering for sale, advertising, exhibiting, promoting, in any manner, infringing products or any product, which infringes upon the Suit



Patent being *Patent No. IN410846*, i.e., “An Integrated Pre-Sortation System”.

49. Issue notice to the defendant by all permissible modes, upon filing of process fees, returnable on the next date of hearing.

50. Reply, if any, be filed within a period of four weeks from the date of service.

51. Rejoinder thereto, if any, be filed within a period of two weeks, thereafter.

52. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of one week, from today.

53. List before the Court on 11<sup>th</sup> December, 2024.

**MINI PUSHKARNA, J**

**AUGUST 2, 2024**

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