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

INTERIM APPLICATION (L) NO. 8904 OF 2025
WITH
LEAVE PETITION (L) NO. 9646 OF 2025
IN
COMMERCIAL IP SUIT (L) NO. 8733 OF 2025
WITH
COMMERCIAL IP SUIT (L) NO. 8733 OF 2025

Unilever Global IP Limited & Anr.	...	Applicants/
Versus		Plaintiffs
Ashok Kumar	...	Defendants

Mr. Hiren Kamod a/w Laher Shah, Jayesh Kalebere i/by Laher Shah for the Applicants/Plaintiffs.

CORAM: MANISH PITALE, J.
DATE : 28th MARCH 2025

P.C. :

1. Heard learned counsel for the applicants/plaintiffs.
2. The applicants have instituted the present proceedings as a John Doe action and hence, the defendants have been shown as "Ashok Kumar". In these proceedings, the applicants/plaintiffs are asserting their intellectual property rights in their registered trade marks CLOSEUP, PEPSODENT, HUL, HINDUSTAN UNILEVER and U-LOGO, as also the original artistic works/trade dress associated with their registered marks CLOSEUP and PEPSODENT, in which the applicants claim subsisting copyright.
3. It is the case of the applicants that in the first week of March 2025, when the applicants got an investigation conducted in the

markets of Patnipura and Ranipura at Indore, Madhya Pradesh and Pandra Krishi Bazaar Ranchi, Jharkhand, they come across the impugned products. In the instant proceedings, the applicants are concerned with two kinds of impugned products, one category being absolute counterfeit products, while the other category being termed as contraband goods. The second category of contraband goods are products that appear to have been purchased from Nepal and illegally imported into India, to be mixed with counterfeit products and sold in the markets of Indore and Ranchi and perhaps in markets all over India. It is the case of the applicants that in this manner, their intellectual property rights are being violated by the defendants.

4. The applicants have incorporated specific pleadings about the details of each of the applicants, highlighting the fact that the applicant No.2 is one of the India's largest fast moving consumer goods companies engaged in Home and Personal Care products, as also Foods and Beverage products with highly established brands across the said spectrum in the market. It is emphasized that the annual turnover of the applicants for the year 2023-24 was over Rs.59,579 crores with 35 brands, spreading across 20 distinct consumer categories.

5. As regards the registered trade mark "CLOSEUP" of the applicants, it is stated that the applicant No.1 adopted the said trade mark in the year 1967 and it was launched in India in the year 1970. The applicant No.1 acquired registration for the said

trade mark CLOSEUP in the form of word mark/device mark/lable mark, details of which are given at Exhibit 'A1'. The applicants have placed on record as to the manner which the artistic work associated with the registered mark CLOSEUP was designed and developed, due to which distinctive labels were created. It is specifically pleaded that the applicant No.2 had commissioned the concerned person for creation of the said original artistic work and that a Deed of Assignment dated 4th March 2002 was executed in its favour, copy of which is annexed at Exhibit 'A3'. The applicants have placed on record the net sales figures for the said registered trade mark CLOSEUP, stating that for the year 2021-2022, the sales figures were to the tune of Rs.92,420 lakhs and an amount of Rs.13,970 lakhs was spent towards advertisement expenses.

6. As regards the trade mark PEPSODENT, it is pleaded that the applicant No.1 through its predecessors had adopted the same in the year 1945 and it was launched in India in the year 1992. Registrations in respect of the said trade mark PEPSODENT were obtained in India, the details of which are at Exhibit 'B1'. Reference is also made to the manner in which artistic work associated with the said registered mark PEPSODENT was created and details of Deed of Assignment dated 30th January 2024 executed in favour applicant No.2, are also placed on record. Copy of the Deed of Assignment annexed at Exhibit 'B3'. As regards sales figures, it is specifically stated that for that year

2021-22, the net sales proceeds in the context of said trade/brand PEPSODENT were to the tune of Rs.25,420 lakhs and an amount of about Rs.4,660 lakhs was spent towards advertisement expenses.

7. As regards the trade mark Hindustan Unilever and HUL, it is stated that the applicant No.2 changed from Hindustan Unilever to Hindustan Unilever Limited w.e.f. 11th June 2007 and that the mark HUL was openly and continuously used by the applicants. The applicant No.2 secured registration for the trade marks Hindustan Unilever and HUL, details of which are stated in paragraph 19 of the plaint.

8. As regards the trade mark U-LOGO, details have been stated in paragraph 22 onwards, specifically stating that registration for the unique U-LOGO was obtained on 12th March 2004. The applicants have also placed on record the manner in which they are openly and extensively using the registered trade marks Hindustan Unilever and U-LOGO in respect of the said products throughout India.

9. Considering the aforesaid pleadings and documentary material in support thereof, this Court is satisfied that the applicants are entitled to assert their intellectual property rights in respect of the registered trade marks CLOSEUP, PEPSODENT, HUL, HINDUSTAN UNILEVER and U-LOGO, as also the original artistic works/trade dress/packaging associated with registered trade marks CLOSEUP and PEPSODENT, in which the

applicants claim subsisting copyright.

10. The applicants have specifically stated that in the first week of March 2025, their investigation team came across the impugned products in the markets of Indore and Ranchi. The copying was to such an extent that the counterfeit products appeared to be genuine products of the applicants. It was highlighted that in the counterfeit products, the country Nepal is wrongly spelt as “Napal” and there are other differences which have been elaborated in a report annexed at Exhibit ‘G’. This Court has perused the same and it is found that the impugned products are nothing but counterfeits. Comparison of the products is also given at Exhibit ‘G’. It is as follows :

PLAINTIFF’S PRODUCTS	DEFENDANTS’ PRODUCTS
	



11. This Court is convinced that sufficient material is placed on record on behalf of the applicants to show that the impugned products found in the markets at Indore and Ranchi are nothing but counterfeit products and that the applicants are entitled to press for urgent *ex-parte* ad-interim reliefs in that context. Specific pleadings with regard to the same are found at paragraph 56 of the plaint. Having perused the same, this Court is satisfied that the applicants are entitled to press for ad-interim reliefs without notice.

12. As noted hereinabove, in the present proceedings the applicants are not only pressing for reliefs in the context of counterfeit products but also products that have been termed as contraband products. It is brought to the notice of this Court that the applicants have manufacturing facility in Nepal for manufacturing their genuine products, in this case, toothpastes bearing the registered trade marks CLOSEUP and PEPSODENT, for sale of such products in Nepal. The investigation team of the applicants found that along with the said counterfeit products, the defendants are mixing products of the applicants that have been manufactured in Nepal, illegally brought into India, with such counterfeit products for sale in the markets. It is submitted that the position of law with regard to the products being legally imported into India is clear, to the effect that if such products were to be legally imported into India and sold by certain entities, the question of infringement may not be arise. But, since in the

present case, the products being labeled as contraband in the pleadings, are goods that have been illegally imported into India for sale, mixed with such counterfeit products, the applicants are entitled to press for *ex-parte* ad-interim reliefs as against the said activity of the defendants also.

13. The learned counsel for the applicants referred to the judgment of the Delhi High Court in the case of ***Philip Morris Products S.A. & Anr. v/s. Sameer & Ors.*** (judgment and order dated 10th March 2014 passed in CS(OS) 1723/2010 and I.A. 11288/2010). In the said judgment, the Delhi High Court has discussed the position of law with regard to such contraband products and observed that such smuggled products being sold in the grey market would amount to infringement of the intellectual property rights of the applicants. Considering the said position of law, this Court is convinced that the applicants have made out a strong *prima facie* case, not only in respect of the counterfeit products being sold in the market by the defendant, but also the said contraband products.

14. The applicants have clearly made out a case for grant of *ex-parte* ad-interim reliefs, *inter alia*, for appointment of Court Receiver. Peculiar facts and circumstances of the present case require an additional direction to the Court Receiver to prepare separate inventories for the counterfeit products on the one hand and the contraband products on the other. Since the investigation team of the applicants has come across such products being sold

openly at various places, including pavements in the markets of Indore and Ranchi, a strong case is made out by the applicants in their favour to pray for a direction that the impugned products be permitted to be brought to the premises of the applicants, to be kept in a sealed condition for future reference.

15. This Court is of the opinion that unless the ad-interim reliefs prayed by the applicants without notice are granted, they will continue to suffer grave and irreparable loss and that therefore, the balance of convenience is also in their favour.

16. In view of the above, there shall be *ex-parte* ad-interim reliefs in terms of prayer clauses (a), (b), (d) and (f), which read as follows :

“(a) pending the hearing and final disposal of the suit, the Defendants by themselves, their proprietor/partners, servants, agents, distributors, dealers, assignees, stockists and all those connected with the Defendants in their business be restrained by an order of temporary injunction of this Hon’ble Court from manufacturing, printing, packaging, laminating, distributing, supplying and/or using in any manner whatsoever in relation to dentifrices including toothpaste, tooth powder, mouth washes, dental cream, all oral hygiene products and preparations, the impugned marks CLOSEUP and PEPSODENT, HUL, HINDUSTAN UNILEVER and U-LOGO or any mark/s identical with and/or deceptively similar to the Plaintiff’s registered trademarks- i) HUL and HINDUSTAN UNILEVER listed at Exhibit “C” hereto; ii) U-LOGO listed at Exhibit C-1 hereto; iii) CLOSEUP, listed at Exhibit A-1 hereto; iv) PEPSODENT listed at Exhibit B-1 hereto; in respect of the goods covered by the Plaintiffs’ aforesaid registrations and/or like goods or in any other manner whatsoever in respect of the goods covered by the Plaintiff’s aforesaid registrations and/or like goods or in any other manner whatsoever;

(b) pending the hearing and final disposal of the suit, the Defendants by themselves, their proprietor/partners, servants, agents, distributors, dealers, assignees, stockists and all those connected with the Defendants in their business be restrained by an order and temporary injunction of this Hon'ble Court from manufacturing and/or trading, marketing, importing, distributing, selling and/or using in any manner whatsoever in relation dentifrices including toothpaste, tooth powder, mouth washes, dental cream, all oral hygiene products and preparations, the pirated / impugned artistic works of CLOSEUP and PEPSODENT (appended at Exhibit E hereinabove) bearing colour scheme, lay-out, get-up, style, artwork, trade dress and representation or any other artwork/s which is/are identical with and/or is/are substantially/strikingly similar to the Plaintiff's original artistic works of CLOSEUP (appended at Exhibits A-2 hereinabove), PEPSODENT (appended at Exhibit B-2 hereinabove), so as to infringe upon the Plaintiff No.02's subsisting copyrights in the original artistic works for the aforesaid products;

*(d) pending the hearing and final disposal of this suit, the Court Receiver, High Court, Bombay, or such other fit and proper person/s as this Hon'ble Court thinks fit, be appointed Receiver/s with all powers under Order XL Rule 1 and Order XXXIX Rule 7 of the Code of Civil Procedure, 1908, to attend and search the premises, shops, retail outlets, offices, factories, godowns, warehouses of the Defendant and other premises wherever the infringing / impugned goods bearing the impugned marks counterfeit marks **CLOSEUP and PEPSODENT, HUL, HINDUSTAN UNILEVER and U-LOGO** all depicted under pirated artworks and trade dress of CLOSEUP and PEPSODENT in respect of dentifrices including toothpaste, tooth powder, mouth washes, dental cream, all oral hygiene products and preparations and any other like goods as may be found, stocked, sealed or are lying and to break open locks of such premises with the help of police protection (if needed), make an inventory, seize and take possession/custody thereof by sealing the said goods, handing over possession of such seized goods to the Plaintiff on superdari who would keep such inventory of seized goods at their premises under lock and key and also of all related items such as carton boxes, labels, stationery, production*

registers, invoices, printing and packaging materials, screens, cylinders, blocks, moulds, dyes, stencils, machinery and master plates used to manufacture the goods and to print the infringing packaging materials lying at the premises, offices or factories, manufacturing units, godowns, warehouses of the Defendant or their agents or at any other place/s and the Defendant by themselves, their servants, employees, representatives be ordered to deliver up all the aforesaid to the Court Receiver or to such other fit and proper person as Hon'ble Court thinks fit and the Court Receiver must carry out such search and seizure with local police assistance, if necessary, at no costs;

(f) pending the hearing and final disposal of the suit, this Hon'ble Court be pleased to order and direct the Defendants by themselves from giving and/or making complete disclosure of documents on oath including revealing : (a) the name/s and address/es of the people/parties/ entities who have placed orders on the Defendants for supply of counterfeit dentrifice preparations, as complained off, (b) the name/s and address/es of the people/parties to whom such impugned goods have been sold, supplied and/or distributed, (c) the name/s and address/es of manufactures, traders, importers from whom the Defendants purchase the impugned goods bearing the impugned marks and the pirated artworks;"

17. The Court Receiver, High Court, Bombay is appointed with the following powers and directions viz.-

- i) All powers under Order XL Rule 1 and Order XXXIX Rule 7 of the Code of Civil Procedure;
- ii) A direction to visit and search all premises of defendants, forcibly breaking open locks if necessary, and also where necessary, with police assistance.
- iii) A direction to seize, take possession, custody, and control of the impugned product of all infringing

marks, drawings, copies and materials including products manufactured by the defendants.

- iv) A direction to make an inventory of all the material, equipment, etc.

18. Since the defendants are located in Ludhiana, Punjab, it would be necessary to appoint Additional Special Receivers.

19. Accordingly, 19 Advocates are appointed as Additional Special Receivers to execute the order and their details are as follows :

Adv. Raghav Sethi
Address: L-18, Green Park (Main),
New Delhi – 110016
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Email: advraghavsethi@gmail.com

Adv. Syed Adil Hussain
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Adv. Tej Singh Mahadik
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Adv. Samrat Gupta
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20. Fees of Additional Special Receivers is fixed at Rs.25,000/- each per day. The plaintiffs shall pay the fees, but it will be at liberty to seek the same as costs at the final hearing of the suit.

21. The Additional Special Receivers shall submit their reports to the Court Receiver, High Court, Bombay on the following email id:

crcvr-bhc@nic.in

22. Execution and implementation of the order:

- i) The Additional Special Receivers are empowered and authorized, acting on an authenticated copy of this order, to take the assistance of the local police authorities in the execution of this commission.

- ii) The police authorities concerned are directed to act on production of a digitally signed copy of this order.
- iii) The Court Receiver will issue the necessary letters of authority to enable the local police to act.
- iv) The Additional Special Receivers are directed to seize and seal all infringing goods bearing the pirated artworks and make an inventory of such seized goods.
- v) The Additional Special Receivers may, if necessary, break open any locks with the assistance of the police.
- vi) The Additional Special Receivers may visit each of the locations of the defendants and is to seize and seal all infringing products of the defendants.
- vii) These products will be retained in the premises to be provided by the plaintiffs, initially at their costs, which are recoverable with interest.
- viii) The Additional Special Receivers shall prepare separate inventories, with the assistance of the representative of the applicants, for counterfeit products on the one hand and contraband products on the other.

23. The Additional Special Receivers shall submit their report to the Court Receiver of this Court by email on or before 16th June 2025. The Court Receiver shall in turn submit report before this Court by 23rd June 2025.

24. In the facts and circumstances of the case, the Court Receiver, High Court, Bombay will not insist upon production of a hard copy of this order, but will act on production of a soft copy digitally signed.

25. The plaintiffs will comply with the provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 within 14 days of the Court Receiver executing his commission.

26. Liberty to the defendants to apply for variation, modification or recall of this order after at least 7 clear working days' notice to the Advocates for the plaintiff.

27. List this application for further consideration on 30th June 2025 and *ex-parte* ad-interim reliefs granted hereinabove shall continue to operate till 4th July 2025.

MANISH PITALE, J.