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

+ **CS(COMM) 381/2016**

SANDISK CORPORATION

..... Plaintiff

Represented by: Mr. Prithvi Singh, Advocate.

versus

ATUL MALHOTRA

..... Defendant

Represented by: Mr. Faraz Khan, Advocate.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

27.10.2017

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I.A. No. 12431/2017 (under Order XXXIX Rule 1 and 2 CPC)

1. By this joint application the plaintiff and defendant seek disposal of the suit in terms of the settlement arrived at between the parties.
2. Application is disposed of taking the settlement on record and decreeing the suit in terms of the settlement.

CS(COMM) 381/2016

1. Parties have settled the matter as noted in paras 4 and 5 of I.A. No. 12431/2017 as under:

“4. The Plaintiff and the Defendant have now agreed to settle their disputes amicably and the terms of the settlement are as under:

a) The Defendant acknowledges the Plaintiff to be the proprietor of the word mark SanDisk, the  (logo) and the Red frame Logo as enumerated in the plaint or otherwise owned by the Plaintiff (hereinafter, the SanDisk trademarks).

b) The Defendant acknowledges that the Plaintiff's SanDisk trademarks have acquired the status of well-

known marks, under the statute and in common law and admit the validity of the same in India.

c) The Defendant undertakes to destroy in presence of the Plaintiff's counsel and/or the Plaintiff's representative all the products (being 6,631) in number which were seized and sealed by the local commissioner within a week of recordal of the present settlement application as well as all unauthorized promotional material, stickers, cartons, packaging, dies, articles, papers etc. currently in his possession bearing the SanDisk trademarks at a venue convenient to the Plaintiff within 15 days of recordal of this compromise.

*d) That the Defendant agrees to pay a sum of ₹2,50,000/- to the Plaintiff towards full and final settlement of the claims arising out of the present suit vide demand draft no.060824 dated 24.10.2017. Copy of the same is attached as **Annexure A**.*

e) The Defendant undertake to this Hon'ble Court that they will not sell or import any illegal or unauthorized products bearing the SanDisk trademarks or any other marks which may be identical with or deceptively similar variants of the Plaintiff's SanDisk trademarks amounting to infringement thereof.

f) The Defendants undertakes that they have not filed any application for registration of the SanDisk trademarks or any other mark deceptively similar to the trademarks of the Plaintiff or any of its variants and will not file any application for registration of the SanDisk trademarks or any other mark deceptively similar to the said marks or any other similar mark whether in the form of a word, label or other composite mark in respect of any goods or services whatsoever in the future.

5. Should the Defendant or his representatives be found to be in breach of this settlement agreement at any date in the

future, they will be liable to INR 1,00,000 for each act of infringement.”

2. The application is duly supported by the affidavit of Shri Vishal Vig, authorized representative of the plaintiff authorization in whose favour has already been placed on record at page 206 of the paper-book.
3. Application is also supported by the affidavit of defendant.
4. Consequently the suit is decreed in terms of the settlement as noted above.
5. Decree sheet will incorporate the terms of the settlement.
6. Court fee be returned to the plaintiff under Section 16A of the Court Fee Act.

I.A. No. 4774/2016 (under Order XXXIX Rule 1 and 2 CPC)

Application is disposed of as infructuous.

OCTOBER 27, 2017
‘vn’

MUKTA GUPTA, J.

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