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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 623/2017 & IA No.10904/2017 (under Order XXXIX
Rules 1&2 of the CPC).

SUPERON SCHWEISSTECHNIK INDIA LIMITED Plaintiff
Through: Mr. Sanjeev Singh, Mr. D.K. Yadav
and Mr. Sudhir Balyan, Advs.

versus

ALPHA ARC PVT. LTD. & ANR Defendants
Through: Mr. Umesh Mishra and Mr. Vishal
Patel, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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07.12.2017

1. The sole plaintiff has instituted this suit for restraining the two defendants namely M/s. Alpha ARC Pvt. Ltd. and Sanjay Trading Company from passing off their goods i.e. electrodes as that of the plaintiff by adopting the trademark 'VAC PAC' and base colour orange on the carton in which the said product is sold, and for ancillary reliefs.
2. The suit was entertained and summons thereof ordered to be issued. Vide *ex parte ad* interim order dated 19th September, 2017, interim injunction in terms of prayer clause in IA No.10904/2017 was granted in favour of the plaintiff and against the defendants.
3. The defendants have filed written statement. Though no replication has been filed as yet but the suit is ripe for framing of issues and for hearing of the application for interim relief.
4. The counsel for both the defendants states that the defendants have already stopped using the mark 'VAC PAC' on their packaging or anywhere

else on their product or advertising material and are willing to suffer a decree restraining the defendants from using the mark 'VAC PAC'.

5. The counsel for the defendants also states that they have also stopped using the base colour orange on the packaging of their product and are willing to suffer a decree therefor also.

6. The counsel for the plaintiff states that the defendants having so conceded, the plaintiff does not press the suit for any other relief.

7. The counsel for the plaintiff states that the plaintiff has no objection to the defendants using the words 'VACUUM PACK' on their cartons and packaging and other advertising material.

8. The plaintiff is ordered to be bound by such undertaking.

9. A decree is accordingly passed in favour of the plaintiff and jointly and severally against the defendants, of permanent injunction restraining the defendants from using the trade mark 'VAC PAC' of the plaintiff on the packaging or otherwise for sale of their electrodes / welding products and from using the base colour orange on the carton / packaging in which the said products are sold by the defendants, leaving the parties to bear their own costs.

10. Decree sheet be prepared.

11. The date of 22nd January, 2018 before the Joint Registrar stands cancelled.

RAJIV SAHAI ENDLAW, J

DECEMBER 07, 2017

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