

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN IT'S COMMERCIAL DIVISION
COMM. SUIT (L) NO. 424 of 2018
WITH
NOTICE OF MOTION (L) NO. 772 of 2018

Unilever Plc & Anr.

...Plaintiffs

V/s

Unicare Products

...Defendant

Mr. Ashutosh Kane with Mr. Aasif Navodia instructed by W.S. Kane & Co.,
Advocates for the Plaintiffs.

Mr. Dilip Rafaliya, Partner of the Defendant, present in person.

CORAM: S.J. KATHAWALLA, J.
DATE: MAY 04, 2018

P.C.

1. Heard the Learned Counsel appearing on behalf of the Plaintiffs.
2. Pursuant to the order dated 19th April, 2018 passed by this Court, the Partner of the Defendant, one Mr. Dilip Rafaliya, is present in Court today. Self-attested copies of his Aadhar Card and that of the Pan Card of the Defendant firm are tendered in Court. Mr. Rafaliya states that the Defendant is willing to submit to a decree in terms of prayer clauses (a), (b), (c), (d), (e) and (g) to the Plaint. In view thereof, the Suit is decreed in terms of prayer clauses (a), (b), (c), (d), (e) and (g) which are reproduced hereinbelow:

“(a) the Defendant by itself, its proprietor, partners, directors, servants, employees, agents, dealers, distributors and all persons claiming under it be restrained by a permanent order and injunction of this Hon'ble Court from infringing the 1st Plaintiff's copyright subsisting in the artistic work comprised in the said U logo shown at Exhibit “A” to the plaint by reproducing, printing, publishing, using and/or communicating to the public the impugned U logo shown at Exhibit “H” to the plaint or any other logo/ work which is an imitation and/or reproduction of the artistic work comprised in the 1st Plaintiff's said U logo shown at Exhibit “A” to the plaint or substantial part thereof or in any other manner whatsoever;

(b) the Defendant by itself, its proprietor, partners, directors, servants, employees, agents, dealers, distributors and all persons claiming under it be restrained by a permanent order and injunction of this Hon'ble Court from infringing the 1st Plaintiff's registered trade mark bearing Registration No. 1272187 in Class 03, by the use of the impugned U logo and the impugned name “Unicare”, both shown at Exhibit “E” to the plaint and/or any other trade mark/ logo identical with and/or deceptively similar to the 1st Plaintiff's registered trade mark bearing Registration No. 1272187 in Class 03 in respect of the goods covered by the 1st Plaintiff's aforesaid registration and/or the like goods or in any other manner whatsoever;

(c) the Defendant by itself, its proprietor, partners, directors, servants, employees, agents, dealers, distributors and all persons claiming under it be restrained by a permanent order and injunction of this Hon'ble Court from infringing the 2nd Plaintiff's registered trade marks bearing Registration Nos.1486109 and 1780462 both in Class 03 by the use of the impugned splat logo shown at Exhibit “E” to the plaint and/or any other trade mark/ logo identical with and/or deceptively similar to the 2nd Plaintiff's registered trade

marks bearing Registration Nos.1486109 and 1780462 both in Class 03 in respect of the goods covered by the 2nd Plaintiff's aforesaid registrations and/or the like goods or in any other manner whatsoever;

(d) the Defendant by itself, its proprietor, partners, directors, servants, employees, agents, dealers, distributors and all persons claiming under it be restrained by a permanent order and injunction of this Hon'ble Court from using the impugned U logo and the impugned name "Unicare", both shown at Exhibit "E" to the plaint or any other logo/ name identical or deceptively similar to the 1st Plaintiff's said U logo and the said trade mark shown at Exhibits "A" and "B" to the plaint respectively upon and in relation to detergent powder and/or cake and/or the like goods so as to pass off or enable others to pass off the Defendant's goods as and for the 1st Plaintiff's well-known goods or in any other manner whatsoever;

(e) the Defendant by itself, its proprietor, partners, directors, servants, employees, agents, dealers, distributors and all persons claiming under it be restrained by a permanent order and injunction of this Hon'ble Court from using the impugned splat logo shown at Exhibit "E" to the plaint or any other logo identical or deceptively similar to the 2nd Plaintiff's said splat logo shown at Exhibit "C" to the plaint upon and in relation to detergent powder and/or cake and/or like goods so as to pass off or enable others to pass off the Defendant's goods as and for the 2nd Plaintiff's well-known goods or in any other manner whatsoever;

(g) that the Defendant be ordered and decreed to deliver up to the Plaintiffs for destruction the impugned goods, cartons, labels, pouches, wrappers, dies, blocks, stationery, packing material and things bearing the impugned U logo, the impugned name "Unicare" and the impugned splat logo, all shown at Exhibit "E" to the plaint and/ or any other logo/ name which is a substantial

reproduction of and/or closely and deceptively similar to the 1st Plaintiff's said U logo and said trade mark shown at Exhibits "A'" and "B" to the plaint and the 2nd Plaintiff's said splat logo shown at Exhibit "C" to the plaint respectively;"

3. In so far as prayer clauses (b) and (d) are concerned, parties have agreed that Defendant may use the impugned name "Unicare Products" for a maximum period of 3 months from today to enable the Defendant to effect the necessary change in name of the Defendant firm as registered before various authorities/ official bodies.
4. The Partner of the Defendant agrees and undertakes that the Defendant shall within a period of 7 days from today write to the Registrar of Trade Marks, Ahmedabad, intimating him the withdrawal of the Trade Mark Application No. 2470768 in Class 03, and shall forthwith forward a copy of the said letter duly acknowledged by the Office of the Registrar of Trade Marks to the Advocates for the Plaintiffs.
5. In view of this order, the Ld. Advocate, on instructions from the Plaintiffs, states that he is not pressing for any costs and damages. The Suit against the Defendant is therefore disposed off. Refund of Court Fees as per Rules. Notice of Motion (L) No.772 of 2018 also stands disposed off. The Court Receiver stands discharged without passing accounts but subject to payment of his costs, charges and expenses by the Plaintiff within a period of one week from the date of receipt of the final report from the Court Receiver.

(S.J. KATHAWALLA, J.)