

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****NOTICE OF MOTION NO.2070 OF 2019****IN****COMMERCIAL IP SUIT NO.1093 OF 2019**

Unilever PLC And Anr. ...Applicants/Plaintiffs

vs.

MAAHI37 And 12 Ors. ...Defendants

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Mr. Vinod Bhagat, a/w. Ms. Laher Shah and Ms. Saloni Palkhiwala, i/b. G.S. Hegde & V.A. Bhagat, for the Applicant/Plaintiff.

Mr. Atmaram Patade, for Defendant No.5.

Mr. Jitendra Devmurari and Mr. Bhavik Sangani, both partners of Defendant No.21 (Shree Hari Enterprises) and Defendant No.22 (PS Enterprise) present.

Mr. Naresh Kewad, Proprietor of Defendant No.23 (NLKVAD Enterprise) present.

Mr. D.G. Chaudhari, representative of Court Receiver present.

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CORAM : S.C. GUPTE, J.**DATE: 17 DECEMBER 2019****P.C.:**

. In pursuance of the order dated 3 December 2019, the Plaintiffs have amended the plaint. The amended plaint has been duly served on most of the newly added Defendants. Affidavits in proof of such service are tendered across the the Bar. The affidavits indicate circumstances in which some others of the Defendant could not be served. So far as the original Defendants are concerned, the service of

the suit and the notice of motion has been complete. None, however, appears, except Defendant No.5, through Counsel, and newly added Defendant Nos. 21 to 23 in person.

2. Since Clause XIV of the Letters Patent has already been granted on 3 September 2019, the prayer for ad-interim relief in terms of prayer clauses (c) and (c)(i) can very well be considered.

3. Since no cause is shown, the ad-interim application insofar as these prayers are concerned, is allowed. There will be an ad-interim order in terms of prayer clauses (c) and (c)(i) in the notice of motion. Prayer Clauses (c) and (c) (i) are quoted below :

(c) 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, including other known and unknown persons/firms/entities subsequently found, be restrained by an order and injunction of this Hon'ble Court from manufacturing, marketing, printing, packaging, selling and/or using, online and/or offline, in any manner whatsoever in relation to their hair oil, hair cleanser and other like cosmetic and medicinal hair care preparations, the counterfeit marks and the impugned trade dress or any mark or trade dress identical with and/or deceptively similar to the Plaintiffs' distinctive and prior used trade marks U-Logo and

INDULEKHA and the Plaintiffs' distinctive trade dress, so as to pass off their goods and business as and for those of the Plaintiffs' or in some way connected or associated therewith;

- (c)(i) 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, marketing, distributing, packaging, selling and/or using, online and/or offline, in any manner whatsoever in relation to their hair care or personal care and other like cosmetic preparations, the counterfeit marks and the impugned trade dress or any mark or trade dress identical with and/or deceptively similar to the Plaintiffs' distinctive and prior used trade marks AXE, BRUT, LAKME AND DOVE and the Plaintiffs' distinctive trade dress used on their label packaging, so as to pass off their goods and business as and for those of the Plaintiffs' or in some way connected or associated therewith.

4. In so far the infringement case of the Plaintiffs is concerned, which is the subject matter of prayer clauses (a)(i) and (b)(i), for the same reasons, even these prayers are allowed. Accordingly, there will be an ad-interim relief in respect of prayer clauses (a)(i) and (b)(i) as quoted below:

(a)(i) 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, marketing, distributing, packaging, selling and/or using, online and/or offline, in any manner whatsoever in relation to their hair care or personal care and other like cosmetic preparations, the impugned counterfeit marks or any mark/s identical with and/or deceptively similar to the Plaintiffs' trade marks, so as to infringe upon the Plaintiffs' aforesaid trade marks, AXE registered under Nos. 421079, BRUT registered under Nos. 2142767 and 2144011 and LAKME and DOVE registered under Nos. 196215, 1377212, 1822651 and 2170582 all in class 03, respectively from manufacturing, marketing, distributing, packaging, selling and/or using, online and/or offline, in any manner whatsoever in relation to their hair care or personal care and other like cosmetic preparations, the impugned counterfeit marks or any mark/s identical with and/or deceptively similar to the Plaintiffs' trade marks, so as to infringe upon the Plaintiffs' aforesaid trade marks, AXE registered under Nos. 421079, BRUT registered under Nos. 2142767 and 2144011, LAKME registered under Nos. 604703, 782606, 2188730, 631532, 744942, 874356, 1330997,

1500385, 1537007, 1678791, 1706559, 1706560, 1745477, 1754505, 1765977, 1950676, 2168389, 2168392, 2225490, 2225491, 2618511, 2618613, 2740511, 2946833, 2947708, 3090122, 3218639, 3406848, and 3707467 and DOVE registered under Nos. 139303, 247934 and 602155 all in class 03, respectively.

(b)(i) 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, marketing, distributing, packaging, selling and/or using, online and/or offline, in any manner whatsoever in relation to their hair care or personal care and other like cosmetic preparations, the pirated artworks of AXE, BRUT and LAKME & DOVE or any other artwork/s which are identical with and/or is substantially/strikingly similar to the Plaintiffs' original artistic works of AXE, BRUT, LAKME and DOVE.

5. Replies, if any, to the notice of motion, on the basis of the amended plaint, to be filed by the Defendants within four weeks from today. Rejoinder, if any, within two weeks thereafter. The notice of motion to come up on board in due course.

6. In the meantime, the Court is informed that in pursuance of orders passed by this Court, the Court Receiver, Bombay has seized offending goods at the locations of various Defendants. The Receiver to make the requisite site reports and place the same before this Court for appropriate orders and directions *qua* the seized goods.

(S.C.GUPTE, J.)

Smita
Gonsalves

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