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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 14TH DAY OF JULY, 2021

THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

C.S. (Comm.Div.) No.180 of 2019

&

O.A No.227 of 2019

RES Q TECHNOLOGIES PVT LTD

#48, Vijaya Nagar, II Street, Sri Devi Garden,

Valasaravakkam, Chennai - 600 087

Respresented by its Director Mr. Magesh

..Plaintiffs/Applicants

Vs.

RAJDEEP ENERGIES PVT. LTD.

5/315, Ground Floor, St'Marys Street,

Santhosh Nagar, Palavakkam,

Chennai - 600 041

Respresented by its Director

..Defendant/Respondent

C.S. (Comm.Div.) No. 180 of 2019

Civil Suit praying that this Hon'ble Court be pleased to grant a judgment and decree on the following terms:

(a) a permanent injunction restraining the Defendant by itself, its partners, men, servants, agents, representatives, distributors, stockists or anyone claiming through or under them from in any manner infringing the Plaintiff's registered trademarks RESQ by using an identical mark RESQ or any other trademark deceptively similar to that of the Plaintiff's registered trademark or in any manner whatsoever;



(b) a permanent injunction restraining the Defendant by itself, its partners, men, servants, agents, representatives, distributors, stockists or anyone claiming through or under them from in any manner passing off or enabling other to pass off the Defendant's products as that of Plaintiff's products by manufacturing, selling, offering to sell, distributing, stocking, displaying, printing, advertising using the trademark RESQ that is identical to Plaintiff's trademark RESQ or in any manner whatsoever;

(c) the Defendants be ordered to surrender to Plaintiff for destruction of all products, labels, cartons, business cards, leaflets, promotional materials, brochures, dyes, blocks, moulds, screen prints, packing materials and other materials using the infringing trademark RESQ or any other trademark deceptively similar to that of Plaintiff's registered trademark RESQ;

(d) to grant damages for a sum of Rs.10,000/- in favour of Plaintiff and against Defendant.

(e) a preliminary decree be passed in favour of the Plaintiff directing the Defendant to render accounts of profits made using the trademark RESQ and a final decree be passed in favor of Plaintiff for the amount of profits thus found to have been made by Defendant after verifying the accounts.

(f) for costs of the suit.

**O.A. No. 227 of 2019**

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Original Application praying that this Hon'ble Court be pleased to pass an ad- interim injunction restraining the respondent by itself, its partners, men, servants, agents, representatives, distributors, stockists or anyone claiming through or under them from in any manner infringing the applicant's registered trademark RESQ by using an identical mark RESQ or any other trademark deceptively similar to that of the applicant's registered trademark or in any manner whatsoever.

This Civil Suit along with this original application coming on this day before this court for hearing in the presence of Ms. Suba Shiny, advocate for the plaintiff in C.S. No. 180 of 2019 and for the applicant in O.A. Nos. 227 of 2019 and Ms. Thenkodi Annam Nelson, advocate for the defendant in C.S. No. 180 of 2019 and for the respondent in O.A. No. 227 of 2019 and upon reading the plaint and memorandum of compromise dated 28/03/2021 filed in C.S. No. 180 of 2019 and the order dated 19/08/2019 made in C.S. No. 180 of 2019 and A. No. 4141 of 2019 and O.A. Nos. 226 & 227 of 2019 and the Memorandum of Compromise signed by the plaintiff and defendant and their respective advocates and the said advocates for the parties hereto praying this court to pass memorandum of compromise morefully set out in



follows:-

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That the defendant herein shall forthwith cease to use and shall not manufacture or market their products under the mark RESQ, RESQ TRON, RESQ MEGATRON, RESQ ATOMPRO, RESQ SUPERIA or any mark deceptively similar, either phonetically, visually or structurally thereto, in any manner whatsoever to the Plaintiff's trademark RESQ;

2. That Rajdeep Energies Pvt. Ltd., the defendant herein, by itself, its partners, men, servants, agents, representatives, distributors, stockists or anyone claiming through or under them from in any manner (a) infringing the plaintiff's registered trademark RESQ by using an identical mark RESQ or any other trademark deceptively similar to that of the plaintiff's registered trademark or in any manner whatsoever; (b) passing off or enabling other to pass off the defendant's products as that of plaintiff's products by manufacturing, selling, offering to sell, distributing, stocking, displaying, printing, advertising using the trademark RESQ that is identical to plaintiff's trademark RESQ or in any manner whatsoever;

3. That the defendant herein, shall also cease to provide warranty service to the products already sold bearing the mark RESQ, RESQ TRON, RESQ MEGATRON, RESQ ATOMPRO, RESQ SUPERIA or any mark deceptively similar, either phonetically, visually or structurally thereto, in

any manner whatsoever to the Plaintiff's trademark RESQ with effect from



31/10/2021;

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4. That an agreed by the plaintiff's herein, other reliefs found in prayers 24(c), 24(d), 24(e) and 24(f) respectively be and is hereby given up;

5. That the defendant herein, agreed to withdraw the appeal being OSA NO.17 of 2021 filed against the order dated 07/11/2019 passed in A. No. 4141 of 2019 and also agreed to surrender all trademark registrations with the prefix "RESQ";

6. That the plaintiff herein, shall withdraw the rectification petition being O.R.A No. 3 of 2019 pending on the file of Intellectual Property Appellate Board, Chennai.

7. That the O.A. 227 of 2019 do stand closed;

8. That there shall be no order as to costs of this suit.

Schedule

Memorandum of Compromise



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C.S. (Comm.Div.) No.180 of 2019
and
O.A No.227 of 2019

Decree :-

DATED: 14/07/2021

THE HON'BLE DR. JUSTICE
G. JAYACHANDRAN

FOR APPROVAL: 19.08.2021

APPROVED ON: 24.08.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.07.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.S.(Com.Div.) No.180 of 2019
and O.A.No.227 of 2019

Res Q Technologies Pvt. Ltd.,
#48, Vijaya Nagar, II Street, Sri Devi Garden,
Valasaravakkam, Chennai 600 087,
Rep. by its Director Mr.Magesh.

...Plaintiff

/versus/

Rajdeep Energies Pvt. Ltd.,
5/315, Ground Floor, St. Marys Street,
Santhosh Nagar, Palavakkam,
Chennai 600 041,
Rep. by its Director.

...Defendant

This Civil Suit is filed under Order IV Rule 1 Original Side Rules read with Order VII Rule 1 of CPC and under Sections 27, 29, 134 and 134 of the Trade Marks Act, 1999, praying for the following:

a) a permanent injunction restraining the defendant by itself, its partners, men, servants, agents, representatives, stockists or anyone claiming through or under them from in any manner infringing the plaintiff's registered trademark RESQ by using an identical mark RESQ or any other trademark deceptively similar to that of the plaintiff's registered trademark



or in any manner whatsoever;

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b) a permanent injunction restraining the defendant by itself, its partners, men, servants, agents, representatives, stockists or anyone claiming through or under them from in any manner passing off or enabling other to pass off the defendant's products as that of plaintiff's products by manufacturing, selling, offering to sell, distributing, stocking, displaying, printing, advertising using the trademark RESQ that is identical to plaintiff's trademark RESQ or in any manner whatsoever;

c) the defendant be ordered to surrender to plaintiff for destruction of all products, labels, cartons, business cards, leaflets, promotional materials, brochures, dyes, blocks, moulds, screen prints, packing materials and other materials using the infringing trademark RESQ or any other trademark deceptively similar to that of plaintiff's registered trademark RESQ;

d) to grant damages for a sum of Rs.10,000/- in favour of the plaintiff and against defendant;

e) a preliminary decree be passed in favour of the plaintiff directing the defendants to render accounts and profits made using the trademark RESQ and a final decree be passed in favour of plaintiff for the amount of profits thus found to have been made by the defendant after verifying the accounts;

f) for costs of the suit.



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For plaintiff : M/s.Suba Shiny

For Defendant : M/s.Thenkodi Annam Nelson

JUDGMENT

Pending suit, the parties have entered into compromise and have filed a memorandum of compromise dated 28.03.2021.

2.In view of the terms entered into between the plaintiff and the defendant as found in paragraph 4 of the memorandum of compromise, the suit is decreed in terms of the compromise. Paragraph 4 of the memorandum of compromise shall form part of the decree. No order as to costs. The connected application is closed.

**Sd/-G.J.J.,
14.07.2021**

// Certified to be true copy//

Dated at Madras this day of 2021.

Court Officer(O.S.)

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