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

+ **CS(COMM) 302/2023 & I.As. 9157-9163/2023**

**CALVIN KLEIN TRADEMARK TRUST** ..... Plaintiff

Through: Mr. Shravan Kumar Bansal,  
Mr. Rishi Bansal and Ms. Aishwarya  
Debadarshini, Advs.

versus

**HERTZ CHEMICALS PVT. LTD. & ANR.** ..... Defendants

Through: Mr. Akhil Sibal, Sr. Adv. with  
Mr. Sachin Gupta, Mr. Rohit Pradhan and  
Mr. Asavari Jain, Advs..

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**ORDER (ORAL)**

**11.05.2023**

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1. The dispute in this case relates to the following three products of the defendant, which are as depicted in para 47 of the plaint, which allegedly adopt a trade dress deceptively similar to that of the plaintiff, so as to confuse the consumer public into believing an association between them, or confusing them with the products of the plaintiff:





2. After Mr. Bansal argued the matter for some time, Mr. Akhil Sibal, learned Senior Counsel for Defendant 1, interceded to state that his client has already discontinued manufacture and export of the impugned products way back in November 2017, January 2019 and October 2021 respectively, and was willing to henceforth not use the impugned marks. He also handed over, across the Bar, an affidavit, dated 11<sup>th</sup> May 2023, of his client, which reads thus:

“AFFIDAVIT OF NAZNEEN WIFE OF SUNIL SEWHANI,  
AGED ABOUT 37 YEARS, AT THE ADDRESS RAHEJA XION  
UNIT NO. 301, 3<sup>RD</sup> FLOOR JETHA COMPOUND, DR. B.  
A.ROAD, MAZGAON, BYCULLA EAST MUMBAI- 400027  
PRESENTLY AT NEW DELHI

I do hereby solemnly affirm and declare as under:

1. I say that I am one of the directors of the Defendant Company and fully aware of the facts and the circumstances of this present case. I am competent to swear and depose this present affidavit.

2. I state that the impugned trade mark bottles UNO SHIMMER, UNO NEW YORK, and, ONLY NEW YORK, have been discontinued way back in November 2017, January 2019 and October 2021, respectively.

3. Without prejudice to our rights and contentions, I state that the Defendant company has no intention of manufacturing and /or exporting the impugned trade marks/bottles.

4. In view of the above, it is respectfully prayed that the present suit may kindly be disposed off.

Deponent

Verification:

Verified at New Delhi on this 11<sup>th</sup> day of May, 2023 that the contents of the above affidavit are true and correct, that no part of it is false and nothing material or relevant has been concealed therefrom.

Deponent"

3. Mr. Sibal submits that the said affidavit is being filed without prejudice and subject to the plaintiff's agreeing to close the present proceedings and to a disposal of the suit on the basis of the said affidavit.

4. Mr. Bansal, on instructions, submits that, in view of the aforesaid affidavit and binding the Defendant 1 thereby, the grievance in the present suit does not survive for adjudication and that his client is not intending to press the other reliefs contained in the plaint.

5. In view of the above, let the plaint be registered as a suit.

6. In view thereof, it is not necessary to issue formal summons in

the suit.

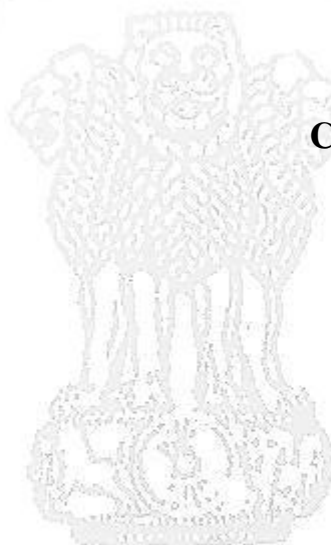
7. The suit stands decreed by binding Defendant 1 to the contents of the affidavit dated 11<sup>th</sup> May 2023, reproduced *in extenso* hereinabove, and the undertakings contained therein.

8. The Registry is directed to draw up a decree sheet accordingly.

9. The plaintiff would be entitled to refund of court fees, if any, deposited by it.

**MAY 11, 2023**  
*dsn*

**C. HARI SHANKAR, J.**



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