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

+ **CS(COMM) 112/2023, I.A. 4176/2023**

PARAGON CABLE INDIA & ANR.

.....Plaintiffs

Through: **Mr. Kapil Midha and Ms. Samiksha
Gupta, Advocates**

versus

ESSEE NETWORKS PRIVATE LIMITED & ORS.Defendants

Through: **Ms. Priyanka Sethia, Advocate**
Mob: 9711251567

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

10.09.2024

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1. The present suit has been filed on behalf of the plaintiffs against the defendants for permanent injunction restraining infringement of trademark



‘ELEKTRON’/ , passing off, acts of unfair competition, misrepresentation, dilution, rendition of accounts, delivery up, damages, etc.

2. During the course of pendency of the present suit, the parties were referred to mediation, wherein they have successfully negotiated a settlement and executed a Settlement Agreement dated 22nd July, 2024.

3. Learned counsels appearing for the parties confirm the terms of the settlement and pray that the suit be decreed in terms, thereof.



4. This Court has perused the terms of the settlement and finds the same to be lawful.
5. As per the settlement, the defendants have recognised and unequivocally acknowledged the rights of the plaintiffs in the mark/logo/label 'ELEKTRON', as adopted by the plaintiffs.
6. Further, the defendants have undertaken not to interfere with the rights of the plaintiffs in their trademark/logo/label 'ELEKTRON' or oppose/rectify registration of the said marks.
7. Attention of this Court has been drawn to Clauses 8 and 9 of the said settlement, which read as under:

“xxx xxx xxx

8. *That the Defendants state that Application No. 726721 in Class 9 bearing Certificate No. 249200 for trademark "ELEKTRON" (logo) was filed in the name of Sanjay Electricals, partnership firm of Mr. Dilip Kumar Bhutoria and Smt. Kamala Devi Bhutoria. After the demise of Smt. Kamla Devi Bhutoria on 23.10.2000, the said Partnership Firm was converted into a Proprietorship concern of Mr. Dilip Kumar Bhutoria. The said proprietor, Mr. Dilip Kumar Bhutoria, incorporated a Private Limited Company namely Essee Networks Private Limited, that is the Defendant No. 1 herein.*

Essee Networks Private Limited acquired and took over the Proprietorship business of M/s. Sanjay Electricals along with all the Assets, Liabilities and Goodwill, including trademarks, of the said concern as a going concern and to carry on all such business as done by the said concern. In this regard reliance is placed upon the Memorandum and Articles of Association of Essee Networks Private Limited which stipulates that the main object to be pursued by the Essee Networks Private Limited on its incorporation is to acquire and take over the existing proprietorship business of M/s. Sanjay Electricals along with all the Assets, Liabilities and Goodwill of the said firm as a going concern and to carry on all such business as done by the said concern.

Mr. Dilip Kumar Bhutoria being the erstwhile partner of the partnership concern namely Sanjay Electricals, subsequently the Sole Proprietor of Sanjay Electricals when Sanjay Electricals was



converted from a partnership concern to a proprietorship concern of Mr. Dilip Kumar Bhutoria, and being the Director of Essee Networks Private Limited, states that as on date, the said Trademark



"ELEKTRON" (logo) being bearing Application No. 726721 in Class 9, is solely owned by Essee Networks Private Limited in as much as Essee Networks Private Limited has acquired and took over the Proprietorship business of M/s. Sanjay Electricals along with all the Assets, Liabilities and Goodwill, including trademarks, of the said concern as a going concern and to carry on all such business as done by the said concern. Mr. Dilip Kumar Bhutoria has filed an Affidavit to this effect which is annexed as Annexure E. Mr. Dilip Kumar Bhutoria has also categorically stated in the said affidavit that pursuant to the assignment of the aforesaid Trade Mark being



"ELEKTRON" (logo) being bearing Application No. 726721 in Class 9, by Essee Networks Private Limited to Mr. Vikas Nagpal, no rights whatsoever in the said Trade Mark remain with Mr. Dilip Kumar Bhutoria, Essee Networks Private Limited or Sanjay Electricals.

Mr. Dilip Kumar Bhutoria and all the persons acting on their behalf, specifically and categorically assert that they have never transferred, sold, licensed any rights in the mark "ELEKTRON" to any third party.

Mr. Dilip Kumar Bhutoria recognize and unequivocally acknowledge the rights of the Plaintiffs in unique and distinctive mark/logo/label "ELEKTRON" as adopted and used by the Plaintiffs.

Mr. Dilip Kumar Bhutoria undertakes not to interfere with the rights of the Plaintiffs in their Trademark/logo/label "ELEKTRON" or oppose/rectify registration of the said marks.

Mr. Dilip Kumar Bhutoria Undertakes to not use the Trademark/logo/label "ELEKTRON" or any other mark which is deceptively similar or identical to the trademark "ELEKTRON" of the Plaintiffs for any goods or services in any manner whatsoever.

Essee Networks Private Limited agrees to assign the said Trademark bearing Application No. 726721 (Certificate No. 249200) in Class 9



*for the trademark "ELEKTRON" (logo) being along with the goodwill in perpetuity to Mr. Vikas Nagpal for a valid consideration of Rs. 5,90,000/- (Rupees Five Lakhs Ninety Thousand only) which shall be paid by the first party to Essee Networks Private Limited simultaneously with the signing of the present Settlement Agreement. Copy of the said assignment deed dated 22nd July, 2024 is annexed as **Annexure-F**.*

9. That Essee Networks Private Limited and Mr. Dilip Kumar Bhutoria had applied for a change in name of Registered Proprietor as well as alteration of address of the Registered Proprietor of the said Trademark, however, the same has not been allowed by the Trademarks Registry.

Given the assignment of the Trademark bearing Application No. 726721 (Certificate No. 249200) in Class 9 for the Trademark "ELEKTRON" to Mr. Vikas Nagpal, the Defendants shall provide all necessary documents, NOCs, if any, and shall provide all assistance to get the name of the proprietor changed to Mr. Vikas Nagpal in the aforesaid applications before the Ld. Trademarks Registry. In this regard, the parties shall request the Hon'ble High Court to pass appropriate directions to the Ld. Trademarks Registry to change the name of the proprietor to Mr. Vikas Nagpal in the aforesaid applications.

xxx xxx xxx''

8. This Court notes that in terms of the Settlement Agreement, the defendants have already assigned their rights over the trademark 'ELEKTRON' in favour of the plaintiffs.

9. This Court further notes that it is recorded in the Settlement Agreement that the said marks, which have been assigned by the defendants in favour of the plaintiffs, still stand in the name of M/s Sanjay Electricals in the Register of the Trademarks.

10. Accordingly, the following directions are passed:



I. The suit is decreed in favour of the plaintiffs and against the defendants in terms of the Settlement Agreement dated 22nd July, 2024, which shall form part of the decree.

II. Parties shall remain bound by the terms and conditions of the settlement.

III. Since the trademarks in question with respect to 'ELEKTRON' have been assigned in favour of the plaintiffs by way of Assignment Deed by the defendants, the plaintiffs shall be at liberty to approach the Registrar of Trade Marks to get the said trademarks transferred in their favour in terms of the Settlement Agreement. The said trademarks are as follows:

Application no.	Trademark	Class	Proprietor	Certificate No.
4818100	ELEKTRON	7	Essee Networks Private Limited	3016980
4818101	ELEKTRON	9	Essee Networks Private Limited	3016549
4818102	ELEKTRON	11	Essee Networks Private Limited	3020450



4818097		7	Essee Networks Private Limited	3018732
4818098		9	Essee Networks Private Limited	3021775
4818099		11	Essee Networks Private Limited	3015995

726721		9	M/s Sanjay Electricals	
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IV. The Trademark Registry is directed to expeditiously process the application of the plaintiffs, preferably, within a period of three months from today, for transfer of the aforesaid trademarks in their favour, including, with respect to application no. 726721 in Class 9, which is currently standing in the name of M/s Sanjay Electricals.

11. In view of the fact that the parties have arrived at a compromise, the Registry is directed to issue a certificate for refund of full court fee in favour



of the plaintiffs

12. Decree sheet be drawn up.
13. The suit along with the pending applications, stands disposed of.

MINI PUSHKARNA, J

SEPTEMBER 10, 2024
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