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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 691/2022, I.A. 16354/2022, I.A. 19344/2022 & I.A. 21449/2022**

**ALPHAVECTOR INDIA PVT. LTD.** ..... Plaintiff

Through: **Mr. Shuvam Bhattacharya and Ms. Ruchi Chaudhary, Advocates.**

versus

**M/S SACH INDUSTRIES & ORS.** ..... Defendants

Through:

**CORAM:**  
**HON'BLE MR. JUSTICE ANISH DAYAL**

% **ORDER**  
**08.05.2024**

1. Mediation report has been received. Parties have entered into a settlement agreement dated 16<sup>th</sup> March, 2024 which has been placed on record.
2. The terms of settlement are extracted as under:



1. The Defendants agree that the Plaintiff is the prior adopter and user of the trademark NINETY ONE and 91 and that the Plaintiff enjoys extensive goodwill and reputation in the same. The Defendants further agree that their use of the trademarks NINETY NINE (whether on a standalone basis or as part of any other mark), 99 (whether on a standalone basis or as part of any other mark), **NINETY NINE**, SACHIN 99, ONLY99 infringes the Plaintiff's rights.
2. The Defendants agree and undertake to this Hon'ble Court that they shall not directly or indirectly, manufacture, advertise, sell, offer for sale, export or in any other manner use with respect to any goods or services the trademarks NINETY NINE (whether on a standalone basis or as part of any other mark), 99 (whether on a standalone basis or as part of any other mark), **NINETY NINE**, SACHIN 99, ONLY99 (hereinafter collectively referred to as "Infringing Marks"), whether in the form of a word, or a logo, or as part of a domain name such as <http://99bikes.co.in/>, and any other mark deceptively similar to the Infringing Marks, and the marks NINETY ONE, 91 either as a word, or a logo, or as part of a domain name that would amount to infringement and/ or passing off.



3. The Defendants agree and undertake to this Hon'ble Court that they shall not represent themselves to be dealer(s) or distributor (s) of goods including but not limited to bicycles, bicycle parts and accessories that bear the trademarks NINETY ONE / 91 and further, shall not in any manner claim to be associated with the Plaintiff.
4. The Defendants agree and undertake to this Hon'ble Court that they shall withdraw their trademark applications bearing Nos. 5011447 and 5011448 or any other application for the trademark in classes 12, 35 and 39 or any allied or cognate goods or services for the mark NINETY NINE, 99 and/or any mark deceptively similar to the Plaintiff's NINETY ONE, 91 trademarks.
5. The Defendants further agree and undertake to discontinue any use of the email ID [sachinindustries\\_99@hotmail.com](mailto:sachinindustries_99@hotmail.com), save to the extent that its use is necessary for the purposes of compliance as required by law or for internal purposes only. It is specifically clarified that the Defendants shall not use the email [sachinindustries\\_99@hotmail.com](mailto:sachinindustries_99@hotmail.com) for any public facing purpose, or for any commercial use, including for purposes pertaining to sales, offers for sales or advertisements of any manner.

3. It has been further agreed by parties that a decree may be passed in terms of prayers 52(a), (b), (c), and (f) of the plaint; same are extracted as under:



- a. A decree for permanent injunction restraining the Defendants, their proprietorship firms, partnerships, distributors, employees, partners, servants, agents, partners, wholesalers, distributors, associated companies/firms and affiliates as the case may be, from directly or indirectly using, manufacturing, advertising, selling, offering for sale and/or exporting any goods under the

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trademarks NINETY NINE / 99, **NINETYNINE**, whether in the form of a word or logo or as part of a domain name, or any other mark deceptively similar to the Plaintiff's NINETY ONE / 91 trademark amounting to passing off;

- b. A decree for permanent injunction restraining the Defendants, their proprietorship firms, partnerships, distributors, employees, partners, servants, agents, partners, wholesalers, distributors, associated companies/firms and affiliates as the case may be, from directly or indirectly using, manufacturing, advertising, selling, offering for sale and/or exporting any goods under the

*Parth*



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trademarks NINETY NINE / 99, **NINETYNINE**, whether in the form of a word or logo, or any other mark deceptively similar to the Plaintiff's NINETY ONE / 91 trademark amounting to infringement of its registration numbers 5131466, 483003, 4665108, 4665106 and 4665107;

- c. A decree for permanent injunction restraining the Defendants, their proprietorship firms, partnerships, distributors, employees, partners, servants, agents, partners, wholesalers, distributors, associated companies/firms and affiliates as the case may be, from directly or indirectly representing itself to be associated with or connected with the Plaintiff or its goods under the trademark NINETY ONE / 91 or in any manner being associated with the Plaintiff;
- f. An order directing the Defendants to withdraw their trademark applications bearing nos. 5011447 and 5011448 or any other application for the trademark in classes 12 and 35 or any allied or cognate goods or services for the mark NINETY NINE / 99 and/or any mark deceptively similar to the Plaintiff's NINETY ONE / 91 trademark;

4. This Court has perused the terms of settlement and finds them to be lawful and acceptable.
5. Parties shall be bound by terms of the settlement.
6. Decree sheet be drawn up in the above terms.
7. In view of the mediation between the parties, plaintiff shall be entitled to full refund of the Court fees.
8. Registry is directed accordingly.
9. The plaintiff has agreed to not press for damages or their contempt



application being *I.A. 19344/2022*.

10. In relation to the de-sealing and destruction of the defendants' impugned products bearing the infringing marks which were sealed during execution of the Local Commission on 19<sup>th</sup> October, 2022, the parties have agreed to a process to be followed, as per para 6-9 of the said terms of settlement, which are extracted as under:

6. Subject to Clauses 7, 8 and 9 hereinbelow, the parties shall jointly approach the Hon'ble Court for de-sealing of the Defendant's bicycles, labels, images, stickers, cartons, moulds, spare parts, brochures and any other materials bearing the Infringing Marks which were sealed during the Commission



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conducted on October 11, 2022, conducted by the Learned Local Commissioner, Advocate Vignesh Singh.

7. The Defendants agree and undertake that they shall irreversibly destroy / melt all labels, images, stickers, cartons, moulds, spare parts, brochures and any other materials bearing the Infringing Marks which were seized during the Commission conducted on October 11, 2022, pursuant to orders of the Hon'ble High Court of Delhi. To the extent that there are any stickers, labels or materials bearing the Infringing Marks, which can be removed from finished bicycles or bicycle parts, such stickers, labels etc. shall be removed and thereafter destroyed.
8. The Defendants agree and undertake that any act mentioned in Clauses 5 and 6 shall be done in the presence of the learned Local Commissioner and the Plaintiff's representative(s). The Defendants agree and undertake to exclusively bear all costs and expenses incurred in the following:
  - 8.1 Appointment of a Local Commissioner, their expenses pertaining to lodging, travel, food, etc.
  - 8.2 Costs and expenses associated with the acts of de-sealing, destruction, melting, etc.
9. It is clarified that after de-sealing as stated in Clauses 5 and 6, the Defendants shall not sell any products which bear the Infringing Marks. The

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Defendants may only sell those finished products, from which the Infringing Marks have been removed in the presence of the Local Commissioner and which products accordingly no longer bear the Infringing Marks in any manner whatsoever.

11. **Mr. Vaibhav Gupta, Advocate** [+91 8586025144] is appointed as



Local Commissioner for this purpose who shall execute the said instructions as agreed upon by parties on or before 20<sup>th</sup> May, 2024. It is directed accordingly.

12. Fee of the Local Commissioner is fixed at Rs. 1 lakh, which shall be borne as per terms of settlement. Expenses for travel, lodging, and other out of pocket expenses which shall also be borne as per terms of settlement..

13. Local Commissioner to file their report pertaining to execution of the aforesaid mandate within two weeks of execution.

14. In case it is required, police assistance may be taken through the local Station House Officer [***SHO***] for execution of the Local Commission.

15. The suit is disposed of accordingly.

16. Order be uploaded on the website of this Court.

**ANISH DAYAL, J**

**MAY 8, 2024/RK/sc**