

(2021) 12 DEL CK 0052

In the Delhi High Court

Case No : Civil Suit (COMM) No. 523 Of 2020, Miscellaneous Application No. 11110-11111 Of 2020

Expfar S.A. & Anr.

APPELLANT

Vs

Atlanta Biological Pvt. Ltd

RESPONDENT

Date of Decision : 07-12-2021

Acts Referred:

Citation : (2021) 12 DEL CK 0052

Hon'ble Judges : Suresh Kumar Kait, J

Bench : Single Bench

Advocate : Pravin Anand, Prachi Agarwal, Kanchan Yadav, Surbhi Anand

Final Decision : Disposed Of

Judgement

Suresh Kumar Kait, J

1. The present suit being a "commercial dispute" has been filed by the plaintiffs seeking permanent injunction restraining the defendant, its Directors, servants and agents, distributors, wholesalers, dealers retailers or any other person acting for and on their behalf from manufacturing, exporting, selling, offering for sale, advertising, directly or indirectly dealing in any manner, in India with regard to products and services bearing the trademark/logo VERZIL by itself or with other words or variant or any other mark/logo which is deceptively similar to the plaintiffs' registered trademark or in any other manner whatsoever, including but not limited to trademark VERZOL as is likely to lead to infringement of the registered trademark or any other mark/logo and the depiction of the same in artistic writing style, lay out, get up, colour scheme along with its other essential features, and arrangement in any material form which may be identical with or deceptively similar to it which is likely to lead to passing off of the defendant's goods and/or business as or for those of plaintiffs or amounts to dilution and tarnishment of the plaintiffs' trademarks, get up, colour combination etc. and copyright infringement besides delivery up and destruction of all the impugned material, damages of INR 2,00,00,000 and rendition of accounts of profits of the

defendant account of sale of the products under the impugned mark/logo.

2. On 24.02.2021, learned counsel for defendant had submitted before this Court that defendant has no objection to the decree of permanent injunction being passed against the defendant, subject to the plaintiffs giving up the claim for damages and costs.

3. In response to the aforesaid, learned counsel for plaintiffs on instructions had submitted that plaintiffs shall not press for damages and costs against defendant in view of statement made by defendant. However, submitted that plaintiff's trade mark is a well known trade mark and plaintiffs shall invite a judgment on this aspect.

4. Similarly, learned counsel for defendant had also raised objection on the aspect of territorial jurisdiction but did not press it in view of statement of learned counsel for plaintiffs.

5. Today, Mr. Pravin Anand, learned counsel appearing on behalf of plaintiffs has submitted that in view of concession of counsel representing both the sides recorded in the order of 24.02.2021, the present suit be decreed in terms of Prayer Clause mentioned in Para-67(i) to (iv) and plaintiffs give up their claims with regard to prayers mentioned in Para-67(v) to (ix). However, it is submitted that the aspect of "plaintiff's trade mark being well known" be left open for consideration in any other proceedings, if so required.

6. The aforesaid submission advanced by learned counsel for plaintiffs is consented to by learned counsel for defendant.

7. In view of the above, the present suit is decreed in terms of Prayer Clause mentioned in Para-67(i) to (iv) of the present suit, which shall form part of decree. Decree sheet be drawn accordingly.

8. The present suit and pending applications are accordingly disposed of.