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

+ **CS(COMM) 546/2020 with I.A. 3026/2021**

SANDISK LLC

.....Plaintiff

Through: Mr. Prithvi Singh, Ms. Devyani Nath,
Mr. Ritwik Marwaha, Advocates

versus

JPY MOBILE PHONE ACCESSORIES & ORS.Defendants

Through: Mr. Yash Kumar and Mr. Inder
Singh, Advocates for defendants no.1
and 3

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

O R D E R

17.01.2025

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1. The present suit has been filed seeking permanent injunction restraining the defendants from infringement of the plaintiff's registered

trademarks 'SanDisk', ' ', 'Cruzer Blade' and ' ', among others, infringement of copyright, passing off and other ancillary reliefs.

2. It is the case of the plaintiff that the defendants have indulged in counterfeiting activities by selling identical products bearing the plaintiff's trademarks and trade dress.

3. Summons in the suit were issued to the defendants no.1 and 2 on 11th December, 2020. *Vide* the same order, the said defendants were restrained

CS(COMM) 546/2020

Page 1 of 3



from using the impugned marks and/or any other mark which is deceptively similar to the plaintiff's registered trademarks.

4. Further, *vide* the order dated 27th January, 2022, the defendant no.3, which is a sister concern of the defendant no.1, was impleaded in the present suit.

5. The plaintiff also filed an application under Order XXXIX Rule 2A of the Code of Civil Procedure, 1908 read with Section 11 and 12 of the Contempt of Court Act, 1971 for non-compliance of the order passed by this Court on 11th December, 2020.

6. Pursuant to the order passed by this Court on 6th May, 2024 in the aforesaid application and bailable warrants issued on 18th July, 2024 and 24th October, 2024, Mr. Ajay Kumar Gupta, who is the proprietor of the defendant no.1, is present in Court today.

7. An affidavit of Mr. Ajay Kumar Gupta has been filed on behalf of the defendant no.1 on 3rd May, 2024, wherein details of sale of the impugned products made by him after the interim order was passed by this Court are provided. This amounts to a clear admission that the said defendant has violated the interim order passed by this Court on 11th December, 2020.

8. On instructions, counsel for the defendants no.1 and 3 submits that the said defendants do not wish to contest the present suit and are willing to suffer a decree of permanent injunction.

9. In view of the above, a decree of permanent injunction is passed in favour of the plaintiff and against the defendants no.1 and 3 in terms of the prayer clause contained in paragraph no.44(a), (b) and (c) of the plaint.

10. Counsel for the plaintiff also insists on damages and cost to be awarded in favour of the plaintiff.



11. In the totality of facts and circumstances of the case as well as taking into account the wilful disobedience by the defendant no.1 of the order passed by this Court on 11th December, 2020, the defendants no.1 shall pay damages/cost of Rs. 2,00,000/- to the plaintiff. The aforesaid damages/cost shall be paid to the plaintiff in four (4) equal monthly instalments of Rs. 50,000/- each on or before 20th January, 2025, 20th February, 2025, 20th March, 2025 and 20th April, 2025, respectively.

12. Despite service, the defendant no.2 did not appear in the present proceedings. The aforesaid shows that the defendant no.2 does not have any defence to put forth on merits. Accordingly, the said defendant was proceeded *ex-parte* on 21st January, 2021. In view of the above, the averments made in the plaint are deemed to be admitted on behalf of the defendant no.2.

13. Accordingly, a decree of permanent injunction is passed against the defendant no.2 in terms of the prayer clause contained in paragraph no.44(a), (b) and (c) of the plaint. Further, damages/cost amounting to Rs. 2,00,000/- are awarded in favour of the plaintiff and against the defendant no.2.

14. The suit is, accordingly, decreed in the above terms.

15. Pending applications, if any, are disposed of.

16. Let the decree sheet be drawn up.

AMIT BANSAL, J

JANUARY 17, 2025

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