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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 19th April, 2022

+ **CS (COMM) 129/2021 & I.A. 14331/2021**

BRITANNIA INDUSTRIES LTD Plaintiff

Through: Mr. Sagar Chandra, Ms. Ishani Chandra, Ms. Shubhie Wahi, Ms. Sanya Kapoor, Advocates (M: 9810907412) with Mr. Omar Waziri, Legal Officer

versus

PARLE BISCUITS PVT. LTD & ANR. Defendants

Through: Mr. N.K. Bhardwaj and Mr. Bikash Ghorai., Advocates. (M:9818318973) with Vrushal Uttarde, Associate Sr. Manager.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

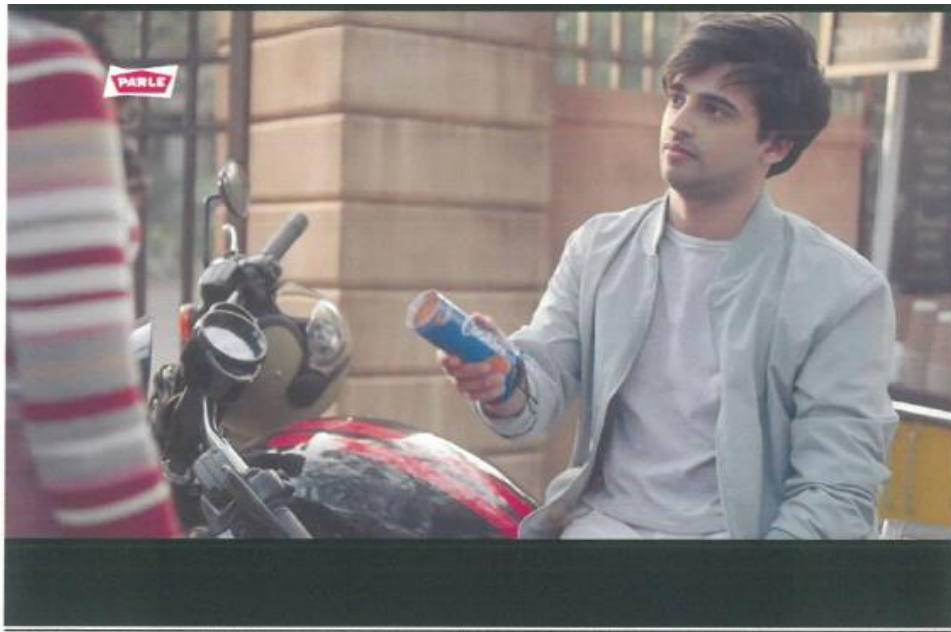
I.A. 7966/2021(u/O VI R 17 CPC)

2. The present suit had been filed by the Plaintiff seeking permanent injunction and damages against the Defendants, for disparagement and infringement of the Plaintiff's design and BRITANNIA GOOD DAY BUTTER COOKIES/ GOOD DAY range of Cookies and for generic disparagement. The case of the Plaintiff is that the impugned advertisement of the defendants had disparaged the Plaintiff's cookies (*hereinafter "Advertisement No.1"*) to promote its own Parle 20-20 cookies and in the said advertisement, the design of the cookies of the Plaintiff was also being used.

3. This is an application under Order VI Rule 17 CPC seeking to include

two further advertisements (*hereinafter* “*Advertisement Nos. 2 and 3*”), against which the Plaintiff has the same grievances as it had in respect of Advertisement No.1 i.e., the packaging and/or the design of the cookies, being used. The screenshots of the said Advertisements, as placed on record, are as below:

(i) Advertisement No.2



(ii) Advertisement No.3



4. Having seen the frames of the impugned Advertisement Nos. 2 and 3, since the theme of the said two advertisements is the same as the first advertisement, and the cookie design is also claimed to be similar to the design used in Advertisement No.1, the amendment is allowed.

5. The amended plaint is taken on record.

6. Accordingly, *I.A. 7966/2021* is disposed of.

CS (COMM)-129/2021 & I.A. 14331/2021 (stay)

7. Insofar as Advertisement No.1 is concerned, vide order dated 26th March, 2021, this Court had granted an ad-interim order and recorded an agreement between the parties in the following terms:

“2. Essentially the grievance of the plaintiff is regarding the advertisement uploaded on YouTube by the defendants. It is claimed that the defendants seek to promote their product Parle 20-20 cookies by denigrating, defaming and disparaging the plaintiffs Britannia Good Day Butter Cookies/Good Day range of cookies.

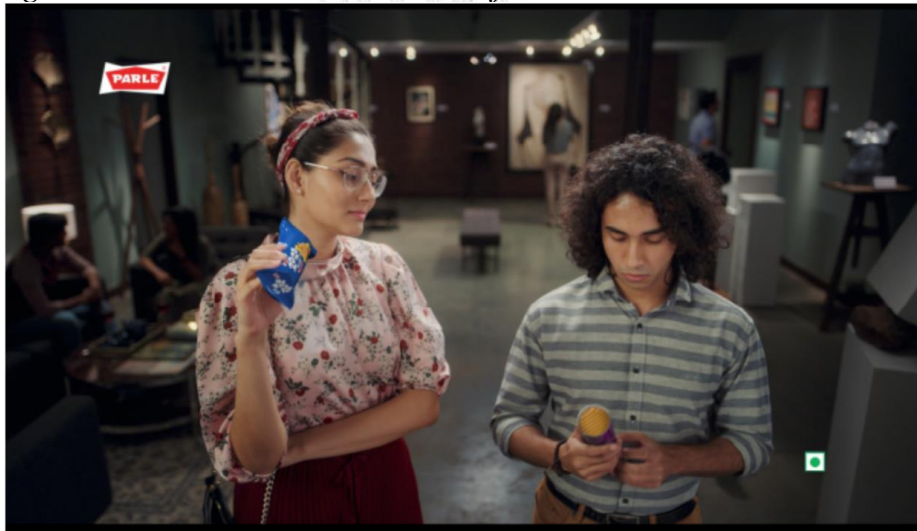
3. After some arguments, learned counsel for the

defendants very fairly, without prejudice to their rights and contentions, stated that they would like to try and sort out the matter.

4. Both the parties have agreed that in the advertisement in question, the colour of the packet of the cookies shall be as follows:-



5. Similarly, regarding the design of the cookies, it is agreed that the same shall be as follows:-



6. Essentially the design is that the first line of the cookie is curved while subsequent lines below the first line being straight lines.

7. Binding the defendants to the above, the present application is disposed of.

8. Learned counsel for the defendants states that they will take one week's time from today to pull down the impugned advertisement."

In terms of the above order, the Defendant had agreed to change the colour of the packet as also the design of the cookie.

8. Ld. counsel for the parties have now conferred with each other and on instructions from their clients, it is submitted by Mr. Bhardwaj, Id. Counsel for the Defendants, that in both the advertisements i.e, Advertisement No.2 and Advertisement No.3, there is no issue of packaging that exists, however, insofar as the cookie design is concerned, in order to ensure that the grievance of the Plaintiff is redressed, the Defendants are willing to blur the cookie image in the said two advertisements. This is agreeable to the Plaintiff.

9. Accordingly, it is directed that the Defendants shall ensure that within two weeks from now, the impugned Advertisement No.2 and Advertisement No.3 shall be modified with the blurred image of the cookie and the currently used cookie image would be no longer visible in the said advertisements on any online platforms from 1st May, 2022, onwards.

10. Insofar as Advertisement No.1 which was impugned, the order dated 26th March, 2021, has already been complied with. In view thereof, no further reliefs are being sought in the present suit.

11. It shall be ensured that the Defendants shall not use any cookie image in any form of their advertising or otherwise, which is violative of the Plaintiff's registered design, in terms of the above order and the order dated 26th March, 2021, in the future.

12. The suit is decreed in the above terms. The Plaintiff does not press for damages or costs. Decree sheet be drawn up accordingly.

13. The present order has been passed on the basis of the counsels' submissions, who have obtained instructions from Mr. Omar Waziri, Legal Officer of the Plaintiff and Mr. Vrushal Uttarde, Associate Sr. Manager of the Defendants, both of whom are present in Court.

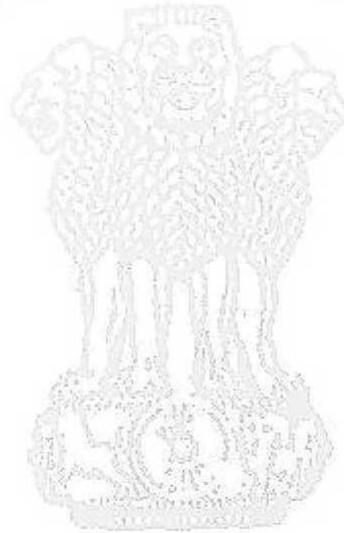
14. All pending applications are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

APRIL 19, 2022

dj/ms

HIGH COURT OF DELHI



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