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

+ CS(COMM) 100/2021 & I.A.3133/2021, I.A.3134/2021,
I.A.4316/2021, I.A.5547/2021

RAAJ UNOCAL LUBRICANTS LIMITED Plaintiff

Through: Mr. Akhil Sibal, Sr. Adv.
instructed by Mr.Kapil Wadhwa and
Ms.Deepika Pokharia. Advs.

versus

APPLE ENERGY PVT LTD & ANR. Defendants

Through: Mr.Neeraj Kishan Kaul and
Mr.Raj Shekhar Rao, Sr. Advs. with
Ms.Shwetaree Majumder, Ms.Diva Arora, Mr.
Aditya Verma, Ms.Vasundhara Majithia, Advs.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

23.04.2021

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(Video-Conferencing)

I.A.4316/2021 (under Order XXXIX Rule 4 of the CPC)

1. Mr. Neeraj Kishan Kaul, learned Senior Counsel appearing for the defendants/applicants submitted, at the outset, that his clients were willing to assuage the apprehensions expressed by Mr. Akhil Sibal, learned Senior Counsel for the plaintiff, by making a statement that they were not seeking blocking of the plaintiff's website in India. He submitted that, in fact, the prayers in the US complaint did not refer to blocking of any website at all, but only required the plaintiff (who are the CS (COMM.) 100/2021

Page 1 of 3



defendant in the US proceedings) to “be preliminarily and permanently enjoined from using the 76 Marks” and to “immediately remove or otherwise eliminate all elements and instances of the 76 Marks or the counterfeit marks that appear on defendants’ products and promotional material including its website at unocalglobal.com and all social media accounts”. Mr. Kaul submits that his clients were, in the US proceedings, only concerned with the plaintiff’s targetting customers or distributors in the US and the use of the trademark “76” in the US, and were not concerned with the plaintiff’s activities in India, regarding which they would join issue with the plaintiff in the present proceedings.

2. Mr. Kaul submits that, therefore, his client would have no objection to the plaintiff’s website being accessible in India in whatever form it is, *so long as it is not accessible in the US with the “76 Marks”*. He submits that this, according to him, more than sufficiently protects the plaintiff insofar as the present proceedings before this Court are concerned.

3. Mr. Kaul has emphasised the fact that, in examining the plaintiff’s prayer for anti-suit injunction, this Court is not empowered to enter into the merits of the defendants’ case in the US proceedings. So long as the US proceedings are not vexatious or oppressive, in any manner, to the plaintiff’s proceedings in the present suit in India, he submits that no case for grant of anti-suit injunction can be made out. Once the assurances expressed by him in the present proceedings today are taken on record,



he submits that the proceedings in the US cannot be regarded, any further, as vexatious or oppressive to the proceedings in the present suit in India and, therefore, no case for continuance of the anti-suit injunction passed by this Court would remain.

4. Mr. Akhil Sibal, learned Senior Counsel for the plaintiff seeks a day's time to take instructions from his client on this aspect.

5. Re-notify as part-heard on 26th April, 2021.

6. It is made absolutely clear that, in case the parties do not arrive at an agreement on this aspect, this Court would proceed to hear and decide the present application on 26th April, 2021.

7. Needless to say, the statements made by learned Senior Counsel in this matter would be entirely without prejudice to their respective rights and contentions in the present proceedings as well as in the proceedings before the US Court.

8. The Registry is directed to email a copy of this order to learned Counsel for both sides by this evening.

C.HARI SHANKAR, J

APRIL 23, 2021/kr

CS (COMM.) 100/2021

Page 3 of 3