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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(COMM) 328/2025

THE CHEMOURS COMPANY AND ANRPlaintiffs

Through: Mr. Ranjan Narula, Mr. Shakti Priyan
Nair & Mr. Parth Bajaj, Advocates.

Versus

ANUPAMA DINESH SINGH AND ANRDefendants

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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09.04.2025

I.A. 9278/2025 (exemption from filing clear, certified and translated copies of documents)

1. Allowed, subject to the plaintiffs filing legible copies of the documents within four (4) weeks from today.
2. The application stands disposed of.

I.A. 9280/2025 (seeking exemption from advance service to defendant)

3. The plaintiffs seek urgent interim relief against counterfeit products and for this purpose, an *ex-parte* appointment of Local Commissioner is also sought to confiscate the goods. It is submitted that there is a probability that the defendants may remove the infringing products if the defendants are given advance service of the plaint paper book. Therefore, in the peculiar facts and circumstances of this case, exemption from effecting advance service upon the defendants is granted.

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4. The application is disposed of.

I.A. 9279/2025 (O-XI R-1(4) of the Commercial Courts Act)

5. The present application has been filed on behalf of the plaintiffs seeking leave to file additional documents under the Commercial Courts Act, 2015.

6. The plaintiffs are permitted to file additional documents in accordance with the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

7. Accordingly, the application is disposed of.

I.A. 9281/2025 (u/s 12A of Commercial Courts Act, 2015)

8. As the present suit contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar v. T.K.D. Krithi*, 2023 SCC Online SC 1382, exemption from the requirement of pre-institution mediation is granted.

9. The application stands disposed of.

CS(COMM) 328/2025

10. Let the plaint be registered as a suit.

11. Issue summons.

12. Summons be issued to the defendants through all modes. The summons shall state that the written statement(s) shall be filed by the defendants within thirty days from the date of the receipt of summons. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiffs, without which the written statement(s) shall not be taken on record.

13. Liberty is given to the plaintiffs to file replication(s), if any, within thirty days from the receipt of the written statement(s). Along with the replications filed by the plaintiffs, affidavit of admission/denial of the

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documents of the defendants be filed by the plaintiffs.

14. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document, which is not in their power and possession, its detail and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

15. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

16. List before the Joint Registrar on 18th July, 2025 for completion of service and pleadings.

17. List before the Court on 17th September, 2025.

I.A. 9276/2025 (u/O-XXXIX Rule 1 & 2 of Code of Civil Procedure, 1908)

18. The present suit has been filed seeking permanent injunction restraining the defendants from infringing the trademark, trade dress and copyright of the plaintiffs, along with passing off and other ancillary reliefs.

CASE SET UP IN THE PLAINT

19. The plaintiff no. 1, The Chemours Company, is a global chemical company founded as a spin-off of *E.I. du Pont de Nemours and Company* (hereinafter “DuPont”). The Chemours Company FC, LLC (plaintiff no. 2) is the registered proprietor of the ‘CHEMOURS’ and ‘KRYTOX’ marks in India.

20. The plaintiffs are headquartered in Wilmington, Delaware, USA and specialize in three main business segments:

- Fluoroproducts;
- Titanium Technologies; and,
- Chemical Solutions.

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21. The plaintiffs employ over 8000 people, operating its 35 manufacturing and laboratory sites across the world which serves their customers in over 130 countries with a deep, collaborative knowledge in key industries including semicon, fine chemical manufacturing, and photovoltaics.

22. The plaintiffs have registered their trademarks in numerous countries around the world to protect its intellectual property and ensure the global reach of its products. The list of countries where the plaintiffs hold registered trademarks are extensive and not limited to their registration in countries including United States, European Union, Canada, Japan, China, India, Australia, Brazil, Mexico, South Korea, Other Countries, across Africa, the Middle East, Southeast Asia, and Latin America.

23. The trademark 'KRYTOX' was first introduced and adopted by DuPont in 1965. Since then, 'KRYTOX' has become a recognized name in specialty lubricants, especially in industries such as aerospace, military and automotive, due to its unique properties and performance characteristics.

24. The trademark 'KRYTOX' is an invented word, having no dictionary meaning and is not derived from the principal ingredient/ formulation of the lubricant.

25. Further, the plaintiff no. 2 is the registered proprietor of the trade mark 'KRYTOX' in India under application no. 1264566 in class 4 in respect of the said 'Lubricants, Oil and Greases' as of 3rd February, 2004. The above-mentioned trademark has been duly renewed from time to time, and is therefore subsisting.

26. The plaintiffs' predecessor in title, Dupont, filed the aforesaid application for registration of the mark 'KRYTOX' in class 4. The plaintiff no. 2 was brought on record as a subsequent proprietor of the mark *vide*

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request dated 29th July, 2016. The popularity and reputation enjoyed by ‘KRYTOX’ mark can be gauged from the large sales enjoyed by the product.

27. As a result of the superior quality of the products marketed, sold and dealt with by the plaintiffs under the trade mark ‘KRYTOX’, they have acquired valuable goodwill and reputation.

28. In addition, the plaintiffs’ lubricant product under the mark ‘KRYTOX’ bearing a unique design also bears its well known corporate name and registered mark; ‘CHEMOURS’ registered in multiple classes covering Classes 1, 2, 3, 4, 5, 9, 12, 16, 17, 19, 22, 23, 24, 25, 37, 40, 42 and 44 under application no. 3328906 dated 14th November, 2014 and application no. 2741050 dated 21st May, 2014.

29. In the first week of March, 2024, the plaintiffs through its field sales force, came to know about an identical lubricant product being marketed under the impugned mark ‘KRYTOX’.

30. The plaintiffs thereafter caused extensive inquiries to be made to ascertain the identity of the person or persons who was/ were manufacturing and marketing the identical impugned products under the deceptively similar marks ‘KRYTOX’ and ‘CHEMOURS’ which led to the knowledge about defendants. The enquiries suggested that Ms. Anupama Dinesh Singh, the sole proprietor of “M/S ADS Technology Solutions”, is involved in manufacturing, importing, wholesaling, and retailing high-temperature grease under identical marks and packaging. As per the defendant no. 1's IndiaMart page, Mr. Dinesh Singh is stated to be the Manager of the defendant no. 1.

31. The defendant no. 1 is operating from three different locations distributing its products throughout India including within the jurisdiction of this Court. The defendant no. 2 is a related entity of the defendant no. 1 and

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is engaged in the business of marketing and distribution of lubricants under the impugned marks ‘KRYTOX’, ‘CHEMOURS’.

32. A comparison between the packaging of the plaintiffs’ products with that of the defendants’ products is detailed herein below:

PLAINTIFFS’ PRODUCT	DEFENDANT’S PRODUCT
<u>KRYTOX</u>	<u>KRYTOX</u>
<u>CHEMOURS</u>	<u>CHEMOURS</u>

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33. A perusal of the table above would show that the defendants have deliberately copied the essential features of the plaintiffs' packaging besides copying the trademarks 'KRYTOX' and 'CHEMOURS'. Therefore, the confusion among members of trade and public is bound to arise.

34. Based on the averments made in the plaint, the plaintiffs have established their statutory as well as common law rights over the marks 'KRYTOX' and 'CHEMOURS' and their trade dress/ copyright. The marks being adopted by the defendants are deceptively similar to that of the plaintiffs and in respect of identical goods.

35. In view of the above, a *prima facie* case of infringement and passing off is made out on behalf of the plaintiffs in their favour. Clearly, an attempt

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has been made by the defendants to create an impression that the impugned products being manufactured and sold by the defendants are associated with the plaintiffs.

36. Balance of convenience is in favour of the plaintiffs and against the defendants. Irreparable injury would be caused to the plaintiffs if the defendants continue to use the impugned marks/labels/trade dress. Prejudice would also be caused to the public as the marks/labels/trade dress of the defendants are deceptively similar to that of the plaintiffs and likely to cause confusion in the market.

37. Consequently, till the next date of hearing, the defendants, their Directors/Partners or proprietors, as the case may be, their officers, servants, agents and representatives, or any other person acting for and on their behalf are restrained from manufacturing, selling and offering for sale advertising, directly or indirectly, lubricants, chemicals or any other products under the trademarks 'KRYTOX' and 'CHEMOURS' and/or using the packaging/ trade dress which is identical and/or a colourable imitation or substantial reproduction of the plaintiffs' product trade dress.

38. Issue Notice.

39. Notice be issued to the defendants through all permissible modes, including e-mail.

40. Reply be filed within four (4) weeks.

41. Rejoinder thereto, if any, be filed within two (2) weeks thereafter.

42. In view of the fact that the plaintiffs have sought appointment of a Local Commissioner to seize the counterfeit products, the very purpose of grant of *ex-parte* ad interim injunction would be defeated if the defendants are given notice contemplated in Order XXXIX Rule 3 of Code of Civil Procedure,

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1908 (hereinafter ‘CPC’) prior to the execution of the commission. Hence, it is directed that the plaintiffs shall serve notice under Order XXXIX Rule 3 of CPC at the time of execution of the commission which shall not be later than two (2) weeks from today and the plaintiffs shall file an affidavit of compliance in this regard within one (1) week thereafter.

43. List before the Joint Registrar on 18th July, 2025 for completion of service and pleadings.

44. List before the Court on 17th September, 2025.

I.A. 9277/2025 (u/O-XXVI R-9 of the CPC)

45. The present application has been filed under Order XXVI Rule 9 of the CPC seeking appointment of Local Commissioner to visit the premises of the defendants, make an inventory of all the goods having the impugned design and effect seizure of the same.

46. In view of what is stated above, the plaintiffs have made out a case for appointment of a Local Commissioner.

47. Accordingly, Mr. Japman Singh, Advocate (Mobile No. +91-9811134790) is appointed as Local Commissioner to visit the following premises of the defendants situated in:

*“403-404, 4th Floor, Krishna Business Hub,
Vatwa GIDC Road, Near Matrix Plaza,
Hathijaan, Ahmedabad- 382445”*

48. The following directions are passed in this regard:

- i. The Local Commissioner, along with a representative of the plaintiffs and their counsel, shall be permitted to enter upon the premises of the defendants mentioned above or any other location/premises that may be identified during the course of

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commission, in order to conduct the search and seizure.

ii. The Local Commissioner shall conduct a search at the defendants' premises and seize the infringing goods, including any packaging/ promotional material reflecting infringement.

iii. The Local Commissioner shall make an inventory of all the infringing products including but not limited to label/packaging material (hereinafter referred to as 'infringing material').

iv. After seizing infringing material, the same shall be sealed and signed by the Local Commissioner, in the presence of the parties, and released on *superdari* to the defendants on their undertaking to produce the same as and when further directions are issued in this regard.

v. The Local Commissioner shall also be permitted to make copies of the books of accounts including ledgers, cash registers, stock registers, invoices, books, etc. insofar as they pertain to the infringing products.

vi. The defendants and their representatives are directed to provide full assistance to the Local Commissioner for executing the present commission.

vii. In case, the aforesaid premises of the defendants or any part thereof are found locked, the Local Commissioner is permitted to break open the locks and doors for execution of the commission.

viii. To ensure an unhindered and effective resolution of this order, the SHO of the local police station having jurisdiction of the aforesaid premises and the DCP concerned are directed to render the necessary protection and assistance to the Local Commissioner, if and when sought.

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ix. The Local Commissioner shall have the liberty to take photographs and/or videos of the stock seized and to take a sample of the infringing products to be filed along with the Report.

49. The Local Commissioner shall file his Report within two (2) weeks of executing the commission, along with photographs taken and photocopies of the books of account and stock and the inventory procured pursuant thereto.

50. The fees of the Local Commissioner, to be borne by the plaintiffs, is fixed at Rs.1,50,000/-. The plaintiffs shall also bear expenses for travel and lodging of the Local Commissioner and other miscellaneous out-of-pocket expenses for the execution of the commission.

51. The application stands disposed of in the above terms.

52. The order passed today shall not be uploaded for a period of two (2) weeks from today.

53. *Dasti.*

AMIT BANSAL, J

APRIL 9, 2025

at

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