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

+ **CS(COMM) 412/2023**

CASTROL LIMITED

..... Plaintiff

Through: Mr. Dushyant K. Mahant, Mr. Urfee Roomi, Ms. Janaki Arun, Mr. Ritesh Kumar, Mr. Jashkaran Singh and Ms. Anuja Chaudhry, Advocates.

versus

**RAJASEKHAR REDDY BYREDDY, TRADING AS SRI
KARTHIKEYA TRADERS**

..... Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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08.02.2024

I.A. 1213/2024 (under Order XXXIX Rules 1 and 2 of CPC on behalf of Plaintiff)

1. Mr. Dushyant K. Mahant, counsel for Plaintiff, states that in terms of order dated 30th January, 2024, fresh copy of the above application has been supplied to the Defendant, however, no reply has been received. There is also no appearance on behalf of the Defendant. Accordingly, the Court has proceeded to consider the application *ex-parte*.

2. On 02nd June, 2023, while issuing summons in the suit, this Court granted *ex-parte* ad interim injunction in favour of Plaintiff and against Defendant. The operative portion of the said order reads as under:

“18. The impugned products extracted above are deceptively similar to



Plaintiff's products. The word marks "CASTROL" and "CRYSTAL" are phonetically similar and their use on the conflicting products i.e.,

" " and " " is also similar. Defendant's intention to imitate Plaintiff's packaging is manifest by adoption of identical shape of the container and similar colours on the labels appearing on the impugned goods. The manner of use of the phrases "ACTIV", for which Plaintiff has a wordmark registration, and "3x PROTECTION" is alike in the said products. Defendant's goods also bear Plaintiff's registered device



"", without any authorisation, which amounts to infringement of Plaintiff's trademark rights.

19. As regards the issue of design infringement, upon examination of the rival goods, the Court is of the prima facie opinion that Defendant's impugned container is an obvious imitation of Plaintiff's registered design as no substantial dissimilarity is evident between the conflicting products at this stage.

20. Considering the above, Plaintiff has made out a prima facie case in its favour and in case an ex-parte ad-interim injunction is not granted, Plaintiff will suffer an irreparable loss; balance of convenience also lies in favour of the Plaintiff and against the Defendant.

21. Accordingly, till the next date of hearing, Defendant or anybody acting on its behalf, is restrained from manufacturing, offering for sale, selling, displaying, advertising, marketing whether directly or indirectly, engine oil, coolants and lubricants and/or similar/ related/ allied/ cognate goods, bearing the afore-noted impugned packaging, and marks

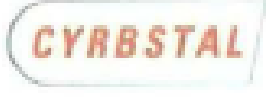
"CRYSTAL"/ " " and its variants, "ACTIV", "ACTIVE",



"ACTIVEBOND" and "CRB PLUS" as well as the container "".

3. Mr. Mahant states that during the pendency of the suit, although the Defendant has introduced changes to the impugned marks, however, even these changed marks continue to be infringing. The changes made by Defendant have been delineated at Paragraph No. 22 of the instant application, as follows:



S. No.	Defendant's new marks and packaging	Plaintiff's marks and packaging	Changes made by Defendant
1.			The Defendant has copied the bullet shaped device and the colour scheme of the Plaintiff/ Applicant's mark in its entirety and has merely removed the Roundel Device and altered the font slightly.
2.			The Defendant/ Non-Applicant has copied the stylization of Plaintiff's ACTIV Device mark, and has merely removed the letter C and added the letter E to arrive at the ATIVA mark.

4. Mr. Mahant argues that these changed marks are identical/ deceptively similar to the Plaintiff's marks, and would be covered by the order of injunction dated 02nd June, 2023. Nonetheless, for the sake of clarity, the instant application prays that the Court issue specific directions with respect to the impugned products using the Defendant's changed marks.

5. The Court has considered the aforesaid. The injunction order dated 2nd June, 2023, already restrains the Defendant from using the mark 'CRYSTAL'/ '' and its variants, "ACTIV", "ACTIVE",



"ACTIVEBOND" and "CRB PLUS" as well as the container '

CS(COMM) 412/2023



marks and the Plaintiff's marks clearly depicts that the only change made by the Defendant is introduction of the letter 'B' and re-arrangement of letters in the impugned mark to make it 'CYRBSTAL'.

6. In view of the above, the Court finds that Plaintiff has made out a *prima facie* case in their favour and in case no *ex-parte* ad-interim injunction is granted, Plaintiff will suffer an irreparable loss. Further, balance of convenience also lies in favour of the Plaintiff and against the Defendant.

7. Accordingly, Defendant and/or anybody acting on their behalf, is restrained from manufacturing, offering for sale, selling, and/or dealing with engine oil, coolants and lubricants or similar/allied/ cognate goods bearing

the marks and packaging ' , ' , ' , ' 

and ' , ' , and any other marks and/or packaging that is identical/ similar to Plaintiff's marks and packaging, i.e.

' , ' , ' , ' 



and ‘ ’.

8. List before the Court on the date already fixed, i.e., 20th March, 2024.

FEBRUARY 8, 2024
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SANJEEV NARULA, J