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

CNR No. DLHC010289152021

+ **CS(COMM) 452/2021 & I.A. 12015/2021**

STANLEY BLACK AND DECKER, INC.Plaintiff

Through: Ms. Ekta Sarin and Mr. Ayush
Samaddar, Advocates.

versus

STANLEY SWITCHGEAR PRODUCTSDefendant

Through: Mr. Shailen Bhatia, Ms. Naina Gupta,
Ms. Kavita Nigam, Mr. Amit Jain and
Mr. Vikrant Malhotra, Advocates.

CORAM:

HON'BLE MR. JUSTICE A. J. BHAMBHANI

ORDER

% **10.08.2026**

I.A. 11592/2025

By way of the present application filed under Order VI Rule 17 read with section 151 of the Code of Civil Procedure 1908 ('CPC'), the defendant seeks to amend their written statement dated 09.11.2021.

2. At the outset this court notes that though order dated 07.05.2025 recorded that I.A. No.11592/2025 had been disposed-of, that was an inadvertent noting which was corrected *vidé* order dated 29.07.2025.
3. Notice on this application is deemed to have been issued on 07.05.2025. Reply dated 23.06.2025 has been filed by the plaintiff.
4. The court has heard Mr. Shailen Bhatia, learned counsel appearing for the defendant and Ms. Ekta Sarin, learned counsel for the plaintiff.
5. Mr. Bhatia argues, that as recorded in order dated 10.10.2023, the plaintiff had not opposed I.A. No.14350/2023 filed by the defendant



under Order XI Rule 1(10) of the CPC seeking to bring on record certain additional documents, which documents were subsequently placed on record.

6. Mr. Bhatia submits that the additional documents pertain to withdrawal of the defendant's trade mark application bearing No.3411669 in Class 7.
7. Mr. Bhatia further submits, that as recorded in order dated 07.05.2025, another set of documents pertaining to withdrawal of the defendant's trade mark application bearing No.3935910 in Class 9 (though with costs) were also taken on record.
8. Counsel submits that by way of the present application the defendant seeks to amend their written statement *only* to add certain formal paras in their written statement which are needed in view of the additional documents which have already been filed or have been taken on record. It is also pointed-out that the subsequent set of documents was taken on record subject to costs of Rs.20,000/- payable to the plaintiff.
9. On the other hand, Ms. Sarin argues that by amending their written statement the defendant is seeking to absolve itself of the breach of an undertaking given by them to the plaintiff's alleged predecessor.
10. Ms. Sarin submits that belated withdrawal of trade mark applications filed by the defendant are not *bona fide* acts and cannot defeat the plaintiff's claim arising from breach of an undertaking given by the defendant.
11. In response to the above Mr. Bhatia submits that the defendant wishes to amend its written statement to the *limited extent* as set-out in para 3 of the present application.



12. Considering the averments in the application, and the submissions made by learned counsel for the parties it is seen: (i) that the additional documents in question have already been taken on record *vidé* orders dated 10.10.2023 and 07.05.2025 respectively; (ii) that, in effect, the documents filed serve to abide and perform undertaking dated 25.01.1975 given by the defendant to the plaintiff's alleged predecessor; and (iii) that the amendment sought by the defendant appears to be formal in the sense that it only seeks to make averments in relation to the said additional documents.
13. In view of the above, this court is inclined to allow the present application.
14. However, so as to not defeat the plaintiff's claim arising from the breach of undertaking furnished by the defendant, this court would observe that the present application being allowed *would not* prejudice any claims, rights and contentions that the plaintiff may seek to raise subsequently.
15. At this stage, learned counsel for the plaintiff is queried as to whether, in view of the defendant having withdrawn the trademark applications, any substantive claim survives in the present suit.
16. Ms. Sarin submits that though the defendant has withdrawn their trade mark applications to honour the undertaking given by the defendant in the past, the plaintiff would also want an undertaking from the defendant that they would *not file* any fresh trade mark application nor shall they use the subject matter trade mark in violation of undertaking dated 25.01.1975.



17. Counsel for the plaintiff further submits that the defendant must also withdraw the opposition filed by them to the plaintiff's pending trade mark application.
18. Furthermore, counsel submits that the defendant is also liable to pay damages and costs to the plaintiff.
19. In view of what has been stated on behalf of the plaintiff, learned counsel for the defendant seeks time to take instructions in relation to the undertaking and withdrawal of their opposition. Counsel for the defendant submits, that subject to such undertaking and withdrawal of opposition by the defendant, the plaintiff's *should* waive damages and costs.
20. Let counsel for the parties take instructions from their respective parties.
21. For the above purpose, re-notify on 25th November 2026.

A. J. BHAMBHANI, J

AUGUST 10, 2026/hb