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

+ **CS(COMM) 609/2024**

MOLD-TEK PACKAGING LIMITED

.....Plaintiff

Through: Mr. Jayant K. Mehta, Sr. Advocate
with Mr. Ashutosh Kumar, Mr.
Vinod Chauhan, Ms. Radhika
Pareva Mr. Rajat Sinha and Mr.
Vagish Pandey, Advs.

Versus

IDEAL TECHNOPLAST INDUSTRIES LIMITED & ORS.

.....Defendants

Through: None

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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30.07.2024

I.A. 34171/2024-Exp

1. Exemption allowed, subject to all just exceptions.
2. The applications stand disposed of.

I.A. 34167/2024 (*Exp. from serving in advance*)

3. The plaintiff seeks exemption from advance service on the defendants.
4. Learned senior counsel for the plaintiff submits that considering the position involved, particularly since appointment of Local Commissioner(s) for execution of search and seizure at the premises of defendants is being sought, there is a likelihood that the apprehensions of the plaintiff will become a reality in case advance service is affected and

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therefore, an exemption from effecting advance service is necessary.

5. For the reasons stated in the application as also taking into account the aforesaid factors and in the interest of justice, the plaintiff is granted exemption from effecting advance service upon the defendants.

6. Accordingly, the present application is allowed and disposed of.

I.A. 34169/2024 (Section 12A CCA, 2015)

7. The plaintiff seeks exemption from instituting pre-litigation mediation.

8. Considering the averments made in the present application wherein the plaintiff seeks urgent ad-interim relief and in view of ***Yamini Manohar vs. T.K.D. Krithi*** 2023 SCC OnLine 1382 and ***Chandra Kishore Chaurasia vs. R. A. Perfumery Works Private Limited***. 2022:DHC:4454-DB, the plaintiff is exempted from instituting pre-litigation mediation.

9. Accordingly, the present application is allowed and disposed of.

I.A. 34170/2024 (Addl. doc.)

10. The present application has been filed on behalf of the plaintiff under Order 11 Rule 1(4) of the Code of Civil Procedure, 1908 as applicable to commercial suits under the Commercial Courts Act, 2015 seeking to place on record additional documents.

11. The plaintiff will be at liberty to file additional documents at a later stage, *albeit*, strictly as per the provisions of the Commercial Courts Act, 2015 and Delhi High Court (Original Side) Rules, 2018.

12. Accordingly, the present application is disposed of.

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13. The plaintiff has filed the present suit for permanent injunction restraining the defendants from infringement of registered patents and

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registered designs of the plaintiff and seeking rendition of accounts, damages, delivery etc.

14. Let the plaint be registered as a suit.

15. Upon filing of the process fee, issue summons of the suit to the defendants through all permissible modes returnable before the Joint Registrar on 15.10.2024.

16. The summons shall state that the written statement(s) be filed by the defendants within a period of *thirty days* from the date of the receipt of the summons. Written statement(s) be filed by the defendants along with affidavit(s) of admission/ denial of documents of the plaintiff, without which the written statement(s) shall not be taken on record.

17. Replication(s) thereto, if any, be filed by the plaintiff within a period of *fifteen days* from the date of receipt of written statement(s). The said replication, if any, shall be accompanied by with affidavit(s) of admission/ denial of documents filed by the defendants, without which the replication(s) shall not be taken on record within the aforesaid period of *fifteen days*.

18. If any of the parties wish to seek inspection of any document(s), the same shall be sought and given within the requisite timelines.

19. List before the Joint Registrar for marking exhibits of documents on 15.10.2024. It is made clear that if any party unjustifiably denies any document(s), then it would be liable to be burdened with costs.

20. List before the Court on 16.12.2024.

I.A. 34166/2024 (Order XXXIX Rules 1 and 2 CPC)

21. The plaintiff, vide the present application in a suit for permanent injunction restraining infringement of registered patents and registered



designs and other ancillary reliefs seek an ad interim ex parte order of injunction against the defendants.

22. As per complaint, the plaintiff is a company incorporated under the Companies Act of 1956 and is a leading entity in the manufacturing of injection molded containers for lubes, paints, food and other products and is the leader in rigid plastic packaging in India. The plaintiff has twelve processing plants and three stock points spread across India to ensure faster supplies.

23. The defendant no.1, Ideal Technoplast Industries Limited is a company incorporated in 2023 being run and managed by Mr. Prafulkumar Karsanbhai Vaghasiya (defendant no. 3), Mr. Vipulbhai Dulabhai Mendapara (defendant no.4) and Mr. Gauravbhai Chhaganbhai Gopani (defendant no. 5). Further, the defendant no. 2, Ideal Technoplast Industries, appears to be a partnership firm being managed and run by defendant no.3 and defendant no.4. It submitted that the defendant nos.3 to 5 are the persons responsible for day to day management of the defendant no.1 and the defendant no.2. The defendants are into business of manufacturing and selling of products like plastic container, pails, drums, lids etc., including the range of products which infringes the registered patents and designs of the plaintiff. The defendant no.1 has a website (<http://idealtechnoplasts.com>) and the defendant no.2 has a website (<https://www.idealtechnoplast.in/>) whereon more information about them is available. The said websites are also used by the defendants to sell the infringing products.

24. As per the learned senior counsel for the plaintiff, a description of the plaintiff's patent bearing Indian Patent No. 401417 is as follows:



Patent No.	401417		
Title	Tamper-Evidence Leak Proof Pail Closure System		
Granted Claims	9 claims (Claim 1 and Claim 6 are independent claims)		
Patentee	MOLD-TEK Packaging Limited		
Application Number	4705/CHE/2014		
Filing date	25/09/2014		
Date of Patent	25/09/2014		
Publication u/s 11A	01/07/2016		
Date of Grant	15/07/2022		
Publication u/s 43(2)	15/07/2022		
Date of expiry	25/09/2034		
Foreign counterpart	Jurisdiction	Application No.	Status
	PCT	PCT/IN2015/000369	Published
	UAE	P6000317/2017	Patent granted (Patent No. 5889)
	Bahrain	20170051	Application under examination
	Oman	OM/P/2017/00075	Patent Pending
	Saudi Arabia	517381152	Patent granted No.SA9112
	Qatar	QA/201703/00132	Patent granted (Patent No. 249/2022)
	Iran	139550140003015944	Abandoned

25. Similarly, as per the learned senior counsel for the plaintiff, a description of the plaintiff's patent bearing Indian Patent No. 298724 is as follows:



Patent No.	298724
Title	A Tamper Proof Lid Having Spout For containers And Process for its Manufacture
Granted Claims	13 claims (Claims 1 and 9 Packaging Limited (Plaintiff))
Patentee	Mold-Tek Packaging Limited (Plaintiff)
Application Number	20/KOL/2009
Filing date	01/01/2009
Date of Patent	01/01/2009
Publication u/s 11A	20/02/2009
Date of Grant	11/07/2018
Publication u/s 43(2)	13/07/2018
Date of expiry	01/01/2029
Foreign Counterpart	No corresponding foreign application has been made for the suit patent

26. Lastly, the description of the plaintiff's registered designs is as follows:

S. No.	Design No.	Date of Application	Description of Article
1	299039	01.11.2017	Container
2	299041	01.11.2017	Lid for Container

27. Further, sales figures for both the Indian Patent Nos.401417 and 298724 also reveal that they have continuously clocked sales of more than Rupees 150 crores, combined, in the past five financial years.

28. Learned senior counsel for the plaintiff submits that the plaintiff became aware of the defendants impugned counterfeit products being available for sale across various wholesale markets in Delhi NCR region and the same, as per the plaintiff, were visually identical to the plaintiff's products. Further, the defendants also market, sell and offer to sell the



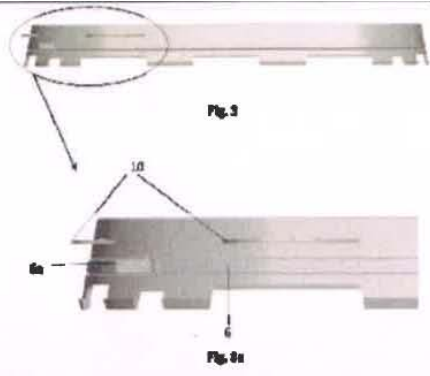
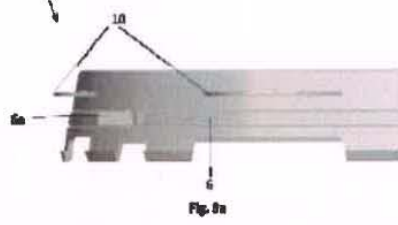
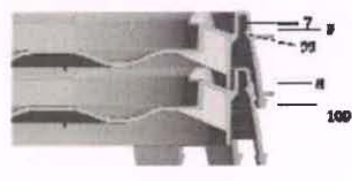
infringing products through third party online platforms like *Indiamart* (<https://www.indiamart.com/idealtechnoplastindustries/squarecontainer-html#22266037130>), *TradeIndia* (<https://www.tradeindia.com/products/5-ltr-plastic-square-containerc7127378.html>) which are interactive websites on which commercial transactions can be concluded.

29. This Court has heard the learned counsel for the plaintiff as also gone through the documents on record.

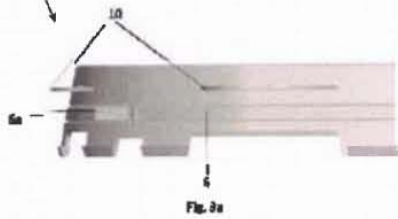
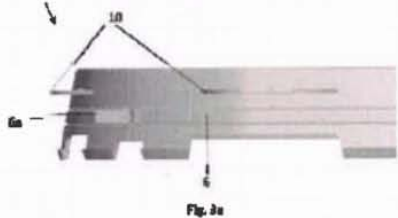
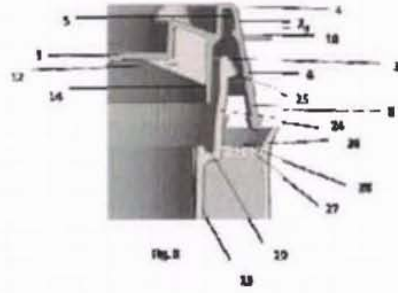
30. At the outset, a bare comparison to the naked eyes of any layman is most likely to result in the conclusion that the impugned products of the defendants are not only similar to that of the plaintiff but are/ can in fact be the same. Both the patents and the designs of the defendants are questionable. More so, since the basic outlay, shape, configuration, pattern and composition of the same are similar as that of the products with the registered designs of the plaintiff. For an ease of reference, the comparative table of the products of the defendants with that of the plaintiff is reproduced as under:-

Images of the product of the Defendants	Infringement of Suit Patent No.401417 (images shown from patent IN'417)
	The lid of the product of the Defendant contains tear band on outer wall and around the lid, which is protected under <u>claim 1 (i) & (ii) of Patent 401417.</u>

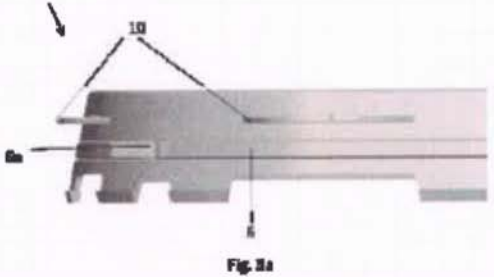
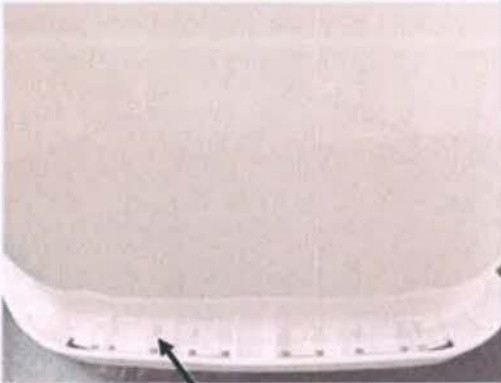
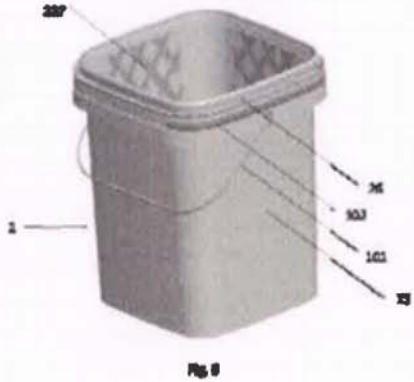


	 Fig. 3
	The lid of the product of the Defendant contains tear band knob in contact with the tear band, which is protected under claim 1 (iii) of Patent 401417.  Fig. 3a
	The lid of the product of the Defendant contains a secondary lock with protrusion, which is protected under claim 1.  Fig. 4a
	The tear band, which is present on the lid of the product of the Defendant, will create a visual indication of separation between the primary and secondary locks after



	being peeled off. This is protected under claim 1 of Patent 401417.  Fig. 3a
	The lid of the product of the Defendant also contains tear path defined by score lines of tear path as protected under claims 1 and 2 of Patent No. 401417.  Fig. 3a
	The lid of the product of the Defendant also contains lugs, which will penetrate into spring back hinges (secondary locks) of container (product), as protected under claim 3 of Patent No. 410417.  Fig. 3b

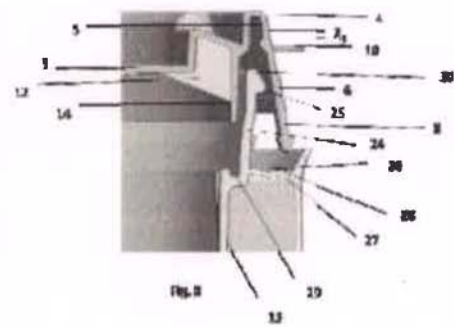
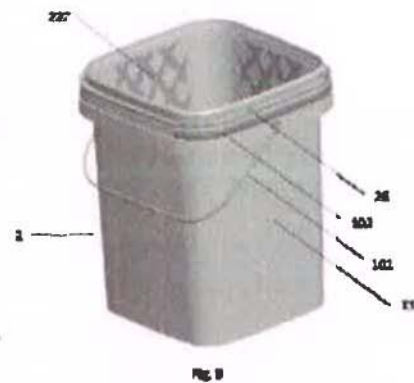


	The lid of the product of the Defendant also contains finger gripping portion as protected under claim 4.  Fig. 11a
	The product of the Defendant also contains an inverted U-shaped peripheral channel, a rim section and a primary section as protected under claim 5 of Patent No. 401417.  Fig. 9



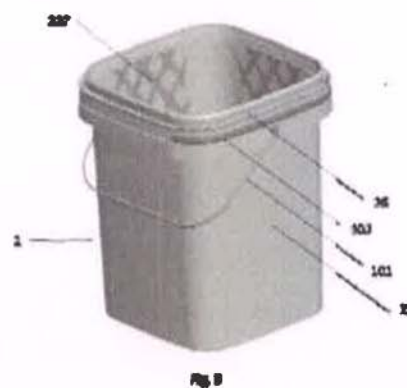
The side walls of the product of the Defendant are tapered as they project from the base to the top of the container (product) so that the rim section of the lid can snugly fit into the U channel of the container. This is covered under claim 6 of Patent No. 401417.

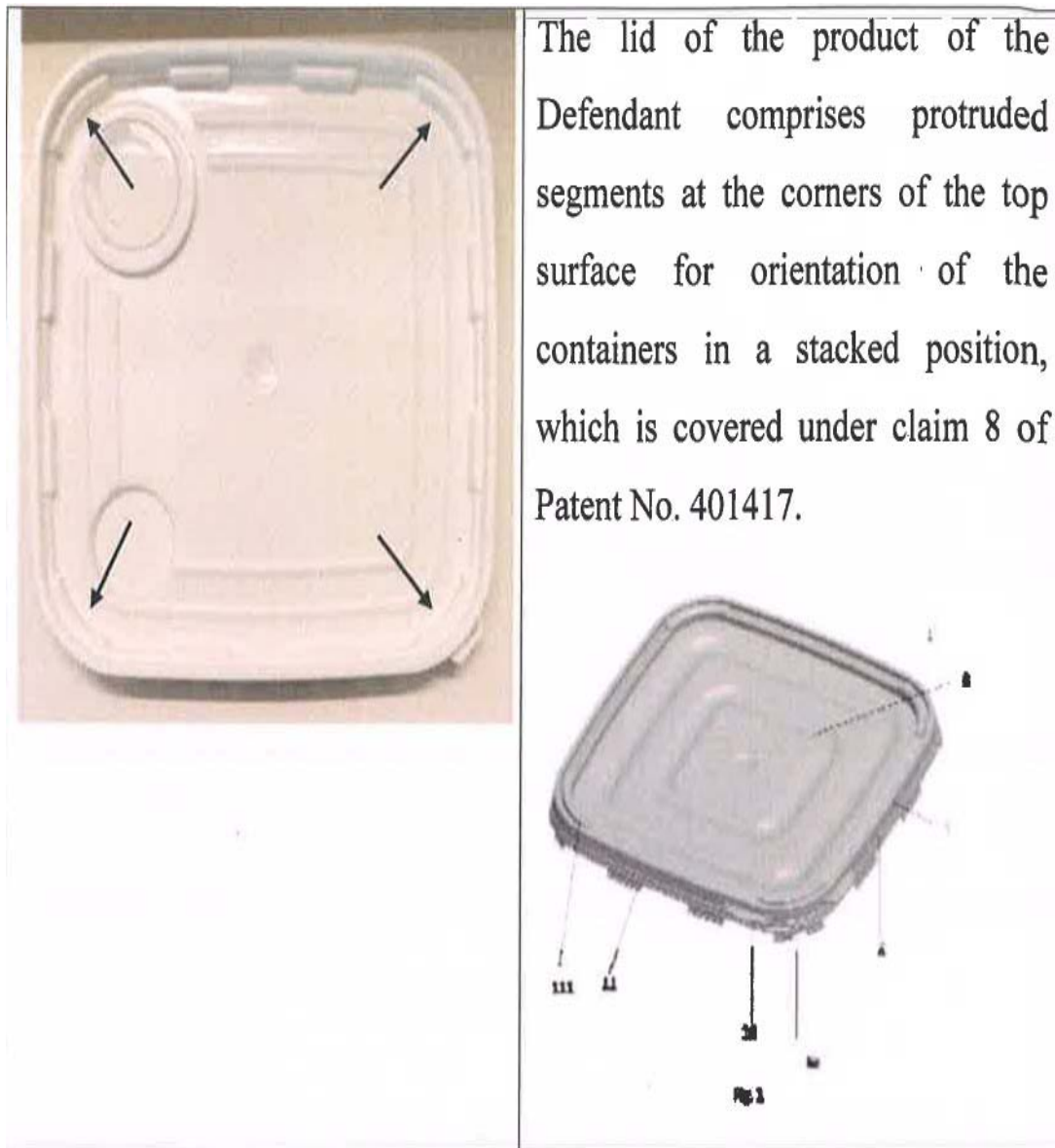
All other elements of claim 6 are also present in the product of the Defendant as can be seen from other images of the Patent 401417.



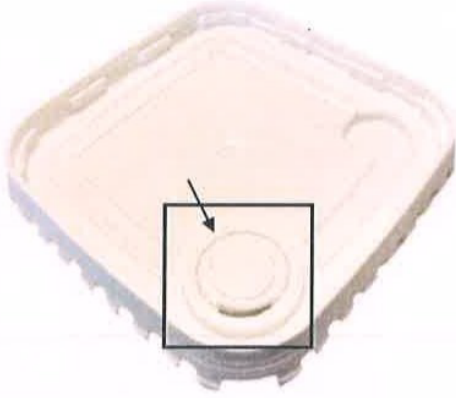


The product of the Defendant comprises a reinforcing web (being formed by an uninterrupted geometric pattern) on the sidewalls, as protected under claim 7 of Patent 410417.

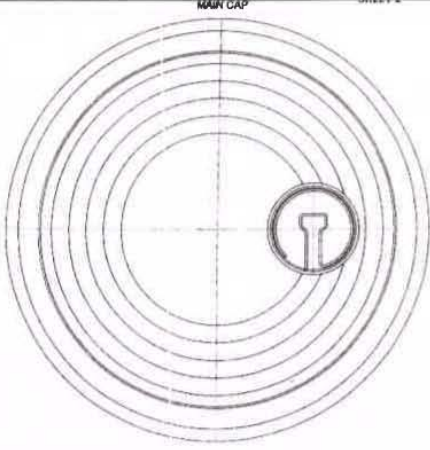






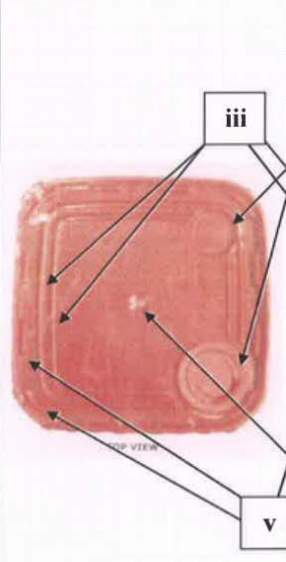
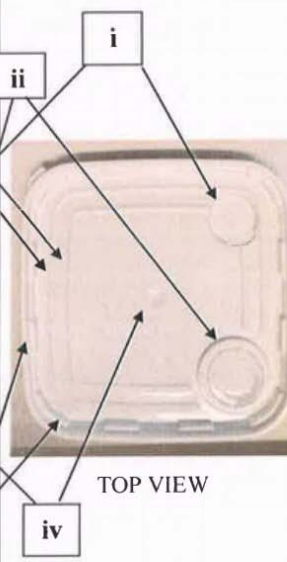
Images of the product of the Defendants	Infringement
	The lid of the product of the Defendant contains a <u>main lid body with spout</u> where comprising a spout base held with respect to said main body and a spout closure adapted for releasable operation of said spout means, which is protected under <u>claim 1 of Patent No.298724.</u>
	The lid of the product of the Defendant contains a <u>spout region adapted to secure said spout base and including a cylindrical downwardly and vertically extending wall defining a shrink fit area for leak proof press fit securing of the spout base with respect to a matching exterior profile of the spout base and a tail ring area contiguous to said vertically downwardly extending wall adapted for further leak proof securing of the sprout base with respect to the spout region in said main lid body</u>, which is protected under <u>claim 1 of Patent No.298724.</u>



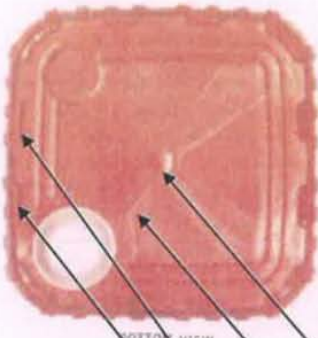
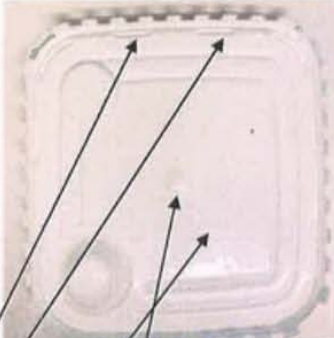
	 Spout is provided on the lid as per Patent No.298724.
	The lid of the product of the Defendant contains <i>circular spout region</i> to secure the spout base, wherein the spout base comprises a vertically and upwardly extending cylindrical portion and an circular gripper and leak-proof member integrally formed and originating from said base of said vertically and upwardly extending cylindrical portion which is adapted to provide for the desired leak proof securing of the said spout base with respect to the downwardly and vertically extending cylindrical wall defining a shrink fit area and said tail ring area contiguous to said vertically downwardly extending wall and required securing of the sprout base with respect to the sprout region in said main lid body; and



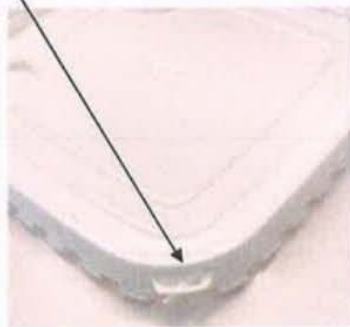
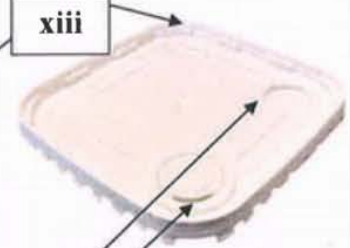
	wherein the spout closure having a downwardly protruding cylindrical portion with a closed top includes an inverted U type contour adapted to press fit against the cylindrical vertically upwardly protruding wall of the sprout base, which is protected under claim 2 of Patent No.298724.
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Design No. 299041	Images of the product of the Defendants	Infringement
	 TOP VIEW	On comparing the top view of the container's lid, the following similarities can be seen: i. Identical shape and construction of depression on the top corner of the lid. ii. Identical shape, position, and construction of the spout. iii. Identical placement of the two parallel indentions along the square shape of the lid. iv. Identical depression in the shape of a circle at the centre of the lid. v. Identical shape, size, and position of the raised ridges along the entire outer corner.

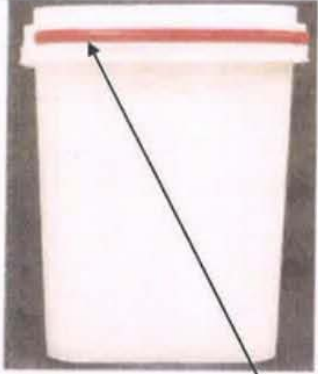
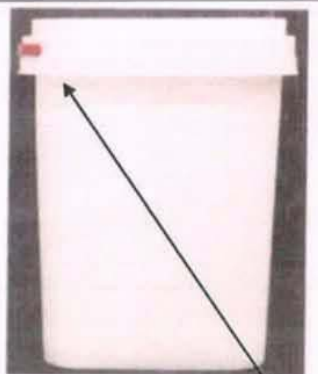


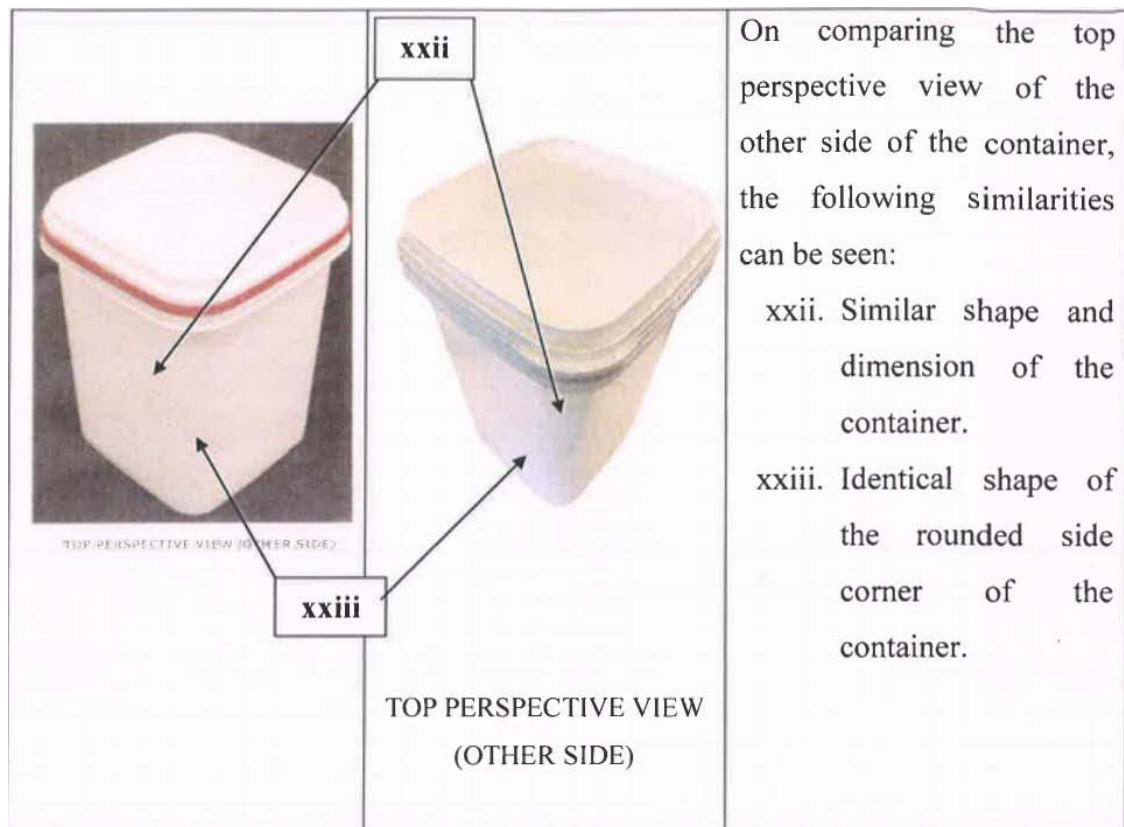
 BOTTOM VIEW	 BOTTOM VIEW	On comparing the bottom view of the container's lid, the following similarities can be seen: vi. Identical shape and size of the cross section in the shape of an X. vii. Identical shape, size, and position of the indented ridges along the entire outer corner. viii. Identical dot shape at the centre at the intersection of the cross section.
 SIDE VIEW	 SIDE VIEW	On comparing the side view of the container's lid, the following similarities can be seen: ix. Identical shape, size, and position of the locking teeth along the entire outer edge of the lid.
 SIDE VIEW	 SIDE VIEW	On comparing the other side view of the container's lid, the following similarities can be seen:



 OTHER SIDE VIEW	 OTHER SIDE VIEW	x. Identical outward projection along the outer edge of the lid.
xi  SIDE PERSPECTIVE VIEW	 SIDE PERSPECTIVE VIEW	On comparing the side perspective view of the container's lid, the following similarities can be seen: xi. Identical shape and placement of the opening hook at the corner of the lid.
 PERSPECTIVE VIEW (OTHER SIDE) xii	 PERSPECTIVE VIEW (OTHER SIDE) xiii	On comparing the perspective view of the other side of the container's lid, the following similarities can be seen: xii. Identical placement of the spout and the depression in relation to each other. xiii. Identical shape and curve on the corner of the lid, opposite the identical opening tab.



 SIDE VIEW	 SIDE VIEW	On comparing the side view of the container, the following similarities can be seen: xviii. identical positioning of the handle.
 OTHER SIDE VIEW	 OTHER SIDE VIEW	On comparing the side view of the other side of the container, the following similarities can be seen: xix. Identical shape and position of downward U-shaped edge at the top of the container.
 TOP PERSPECTIVE VIEW	 TOP PERSPECTIVE VIEW	On comparing the top perspective view of the container, the following similarities can be seen: xx. Identical shape and construction of the outer lip of the container. xxi. Identical outward projection along the top of the container.



31. Wholistically taken, since there is a likelihood of confusion, particularly since the area of operation of the defendants is similar to that of the plaintiff and they are purportedly dealing with the similar set of members of the trade and are visible/ within the similar market, the adoption and usage by the defendants *per se*, which are shrouded in mystery, the same calls for interference by this Court at this stage.

32. Unless done so, the same is very much likely to cause confusion and lead to deception in the minds of general public at large not to forget the others involved/ dealing in the products of the parties, especially the defendants. Rather, it may give an impression in the minds of general public at large as well as others dealing with the impugned products of the defendants that they are having some connection or bearing with the plaintiff or with the patents and/ or the registered designs of the plaintiff in



some manner or that the products are somehow emanating from the house of the plaintiff.

33. Further, since it is the plaintiff's case that it has not given any such authorisation and/ or permission to the defendants to do so and there exists no connection of any sort *inter se* them and/ or either of the patents and/ or the registered designs involved, an order of injunction is to follow.

34. Therefore, in the opinion of this Court, the plaintiff has been able to make out a *prima facie* case for the grant of an *ex parte ad interim* injunction in its favour and against the defendants. Under the existing facts, since the *balance of convenience* lies in favour of the plaintiff and against the defendants, if the defendants are not restrained and allowed to continue on 'as is where is basis', there is a likelihood of the plaintiff suffering *irreparable harm, loss and injury*.

35. Accordingly, till the next date of hearing, the defendants, their affiliates, employees, servants, agents, dealers and all other persons or entities acting for/on their behalf are restrained from manufacturing, marketing, using, selling or offering for sale, importing in India, distributing, advertising, exporting, and in any other manner, directly or indirectly, dealing in any product that infringes the plaintiff's Indian Patent Nos.401417 and 298724 and Design nos.299039 and 299041.

26. Issue notice to the defendants by all permissible modes returnable before the Joint Registrar on 15.10.2024.

27. Reply, if any, be filed within a period of *thirty days* from the date of service. Rejoinder thereto, if any, be filed within a period of *fifteen days* thereafter.



36. The provisions of *Order XXXIX Rule 3 CPC* be complied within a period of two weeks from the receipt of this order.

37. List before the Court on 16.12.2024.

I.A. 34168/2024 (*Order XXVI, R-9 CPC for appointment of LC*)

38. The plaintiff, vide the present application, seeks appointment of Local Commissioners to visit the premises of the defendants.

39. Learned senior counsel for the plaintiff submits that the defendants are aware of the plaintiff and their products and the infringing materials placed on record are clear evidence of the intention of the defendants to ride upon the goodwill and reputation of the plaintiff. The plaintiff believe that the infringing products are sold at the locations set out in the memo of parties annexed with the plaint and the defendants are likely to remove all physical evidence or deny their involvement in the infringing activities.

40. In view of the aforesaid as also considering the factual matrix involved, and most relevantly, in order to preserve the counterfeit and infringing materials involved, in the considered opinion of this Court, it is deemed appropriate to appoint Local Commissioners to visit the premises of the defendants.

41. Accordingly, the following are appointed as Local Commissioners with a direction to visit the premises of the defendants as specified against their names:

S. No.	Name and contact details of Local Commissioner(s)	Location
1.	Mr. Srivats Kaushal, Adv. [+91-9999318728]	<i>Ideal Technoplast Industries Limited</i> <i>Plot No. 1 to 4 and 78 to 81, Block No.572 & 572/B, Madhav</i>



		<i>Industrial Estate, Vill. Olpad, Gujarat, India, 394540</i>
2.	Mr. Anuj Shrotriya, Adv. [+91-8955221488]	<i>Ideal Technoplast Industries 78-81, Madhav Industrial Estate, Olpad-Sayan Road, Olpad, Surat- 394540, Gujrat (India)</i>

42. Each of the Local Commissioner to execute the commission in the premises of the defendants with the following directions:-

- a) Each of the Local Commissioners be accompanied by representative(s) and/or counsel of the plaintiff who shall be permitted to enter into the premises of the defendants.
- b) The Local Commissioner(s) to seize, pack and seal the infringing products and handover the same on *Superdari* to the respective defendant(s) upon the said defendant(s) giving an 'Undertaking' that he/they shall not tamper or remove the sealed products and produce the same before the Court as and when required.
- c) Each of the Local Commissioners is permitted to take photocopies and/or screenshots of all the books of accounts including ledgers, cashbooks, bill books, purchases and sales records or any document(s) found in the premises of the defendant(s).
- d) Each of the Local Commissioners is permitted to videograph the execution of the commission at the premises of the defendants.
- e) Each of the Local Commissioners is permitted to take the assistance of the Station House Officer [SHO] of the concerned local Police Station within whose jurisdiction the premises of the



defendant(s) is situated. The said SHO is directed to render and provide all and every assistance and protection to the Local Commissioner(s), as and when sought for ensuring unhindered and effective execution of the commission at the premises of the defendant(s).

f) If the premises of the defendant(s) is found locked, the Local Commissioner(s) is permitted to break open the said lock(s) in the presence of the SHO/any designated Police Officer.

43. The fee of each of the Local Commissioners is fixed at Rupees *Two Lakhs Only* [Rs.2,00,000/-] to be borne by the plaintiff and paid in advance. The plaintiff shall also bear the expenses for travel and other miscellaneous out of pocket expenses for execution of the commission.

44. The commission be executed within two weeks from today.

45. Each of the Local Commissioners to serve a copy of the complete set of paperbook as filed before this Court (to be provided by the plaintiff) and intimate the next date of hearing to the defendant(s), who shall have a right to put forth his/its/their case.

46. The report of the Local Commissioner be filed within a period of two weeks from the execution of the commission.

47. A copy of this order be provided to each of the Local Commissioners named hereinabove.

48. Accordingly, the application is allowed and is disposed of.

Copy of this order be given *Dasti*.

SAURABH BANERJEE, J.

JULY 30, 2024/So

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