

*Sh. Sanjiv Jain*  
Commercial Court-03 District Judge  
New Delhi  
Patiala House Courts, N. Delhi

**In the Court of Shri Sanjiv Jain,  
District Judge (Commercial Court)-03, Patiala House Courts  
New Delhi**

**18.09.2020**

**CS (COMM) No. 397/2020**

**Reckitt Benckiser India P.ltd**

The Executive Centre  
Level 3B, DLF Centre  
Sansad Marg, Connaught Place  
New Delhi-110001

..... Plaintiff

*versus*

**Daga Finmark India Ltd**

C-4, Sheetal Plaza, Shelat Bhavan  
Kankaria Maninagar Road  
Ahmedabad-380028  
Gujarat

Also at:

Survey No. 627, Plot No. 04,  
Under Green Lawn School  
Ground Floor, Near Jethabhai Vav  
Isanpur, Ahmedabad-382443  
Gujarat

..... Defendant no.1.

**M/s Goodlife Healthcare**

C-4 Sheetal Plaza, Shelat Bhavan  
Kankaria Maninagar Road  
Ahmedabad-380028  
Gujarat

.....Defendant no.2



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## ORDER

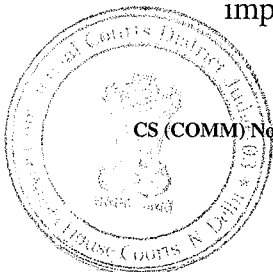
1. This commercial suit is for permanent injunction restraining the defendants i.e. DAGA Finmark India Limited & Others from infringing the trademark of the plaintiff M/s Reckitt Benckiser India Private Limited, passing off, unfair competition, rendition of accounts, delivery up etc.

Along with the suit, an application is moved under Order 39 Rule 1 & 2 r/w Section 151 CPC for *ad-interim* injunction restraining the defendants, their directors, partners etc as the case may be, distributors, dealers, stockists and agents etc from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in cleaning preparations, dish and utensil cleaner for any other cleaners and dis-infects under the impugned mark T-POL / T-POL X or any other trademark as may be deceptively to the plaintiff's trademark TEEPOL and passing of the plaintiff's trademark.

2. Briefly the facts as stated in the plaint are that the plaintiff is dealing in health, hygiene and nutrition products including cleaning preparations, which is used as a dish and utensils cleaner under the trademark TEEPOL since 2006. It has operations in more than 60 countries. The popular brands of the plaintiff are COLIN, HARPIC, BRASSO, ROBIN, DETTOL, DISPRIN, MORTEN, VEET, LIZOL/LYSOL, CHERRY, AIRWICK, STREPSILLS etc. It had adopted the mark TEEPOL in the year 1999 in respect of cleaning preparations, dish & utensil cleaner. It obtained the registration for its trademark TEEPOL *vide* application dated 28.09.1999 in class 3

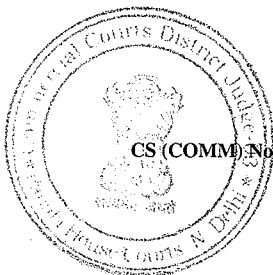
for the goods namely “dish & utensils cleaner”. It has the statutory and common law rights to the exclusive use of the above-mentioned trademark TEEPOL. Its products under trade mark TEEPOL has acquired immense reputation and goodwill due to quality and high efficacy. The net revenue for the year 2019 was Rs. 3 crores approximately. On account of long and continuous usage, its trademark TEEPOL has acquired a status under Section 2 (zb) of the Trade Marks Act giving statutory protection to it.

3. It is alleged that the defendant no.1 i.e. DAGA Finmark India Limited as appearing on the website is engaged in the business of manufacturing, marketing and exporting of hygiene and cleaning products. The defendant no. 2 i.e. M/s Goodlife Healthcare is the manufacturer of the products of the defendant no. 1. It is alleged that the defendants are manufacturing, dealing, advertising and selling cleaning preparations and dish and utensil cleaner under the mark T-POL / T-POL X, which is deceptively similar to the plaintiff's registered trademark TEEPOL. It is alleged that the plaintiff came across with the defendants impugned products under the impugned mark in the last week of August 2020, when its products were being sold on the 3<sup>rd</sup> party e-commerce website Pin O Pen ([www.pinopen.com/products/dage-t-pol-\(b.g\)-shine-5-litre/19639](http://www.pinopen.com/products/dage-t-pol-(b.g)-shine-5-litre/19639)), which delivers all over Delhi including within the jurisdiction of this Court. On conducting further search, it came to know that the defendants have mentioned the impugned products under the impugned mark on their own website, which is accessible at



www.dagaclenex.com/index.htm. They are also advertising and selling the impugned products under the impugned mark on IndiaMart (www.indiamart.com/daga-fin-mark-india-limited/). The business of the defendants is also listed on the websites Amazon, Trade India and Just Dial. It is alleged that to the knowledge of the plaintiff, the defendants have not filed any trademark application for the registration of the mark T-POL / T-POL X or its label in the relevant clause i.e. Clause no. 3. It is alleged that the dishonesty on the part of the defendants is writ large since they have adopted T-POL / T-POL X mark, which is deceptively similar to the plaintiff's non-trademark TEEPOL for identical goods i.e. cleaning preparations, dish and utensil cleaner. It is alleged that unethical and unlawful adoption of the impugned mark is with an intention to take undue advantage of the plaintiff's goodwill and reputation. They being in same trade are aware of the plaintiff well-known trademark and have adopted the same and their acts amount to infringement, passing off and unfair competition. It is stated that the impugned trademark T-POL / T-POL X is phonetically and structurally similar to the plaintiff's well-known trademark TEEPOL and is likely to cause confusion and deception in the minds of the customers on account of imperfect recollection and overall similarity.

4. I have heard Ld. Counsel Sh. Sachin Gupta for the plaintiff and gone through the material placed on record.



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5. On a careful perusal, I find that the plaintiff is in the field of consumer goods and has major presence across the globe in the products related to home and hygiene. Its products are sold in nearly 200 countries. It has built up a strong brand equity over a period of time. Besides other products / trademarks, it has adopted a trademark TEEPOL in 1999 in respect of cleaning preparations, dish and utensil cleaner. It got the trademark registered in the same year and since 2006, it has been using the trademark TEEPOL in respect of the above products without any interruption, thus has acquired statutory and common law right to the exclusive use of the above trademark. It has acquired reputation and goodwill and its net revenue in respect of the above products in the year 2019 was Rs. 3 crores. It has acquired a status of known trademark under Section 2 (zb) of the Trade Mark Act 1999. Its trademark has become distinctive.

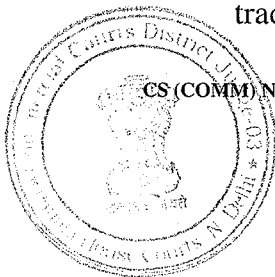
6. According to the plaintiff, the defendants, who were engaged in the business of manufacturing, marketing and exporting hygiene and cleaning products have started using the mark T-POL / T-POL X in a clandestine and surreptitious manner. It came to know about illegal activities of the defendants in the last week of August 2020, when the impugned products under the impugned trademark T-POL / T-POL X were being sold on the 3<sup>rd</sup> party e-commerce websites like India Mart, Amazon etc. It is stated that to the best of its knowledge, the defendants have not filed any trademark application for the registration of the mark T-POL / T-POL X or its label.



7. *Prima facie*, the impugned mark adopted by the defendants is deceptively similar to the known mark TEEPOL, which is being used for the identical products.

8. It was held in the case of *Midas Hygiene Industries (P) Ltd & Anr Vs. Sudhir Bhatia & Ors*, (2004) 3 SCC 90 that in cases of infringement either of trademark or of copyright normally an injunction must follow. In the case of *Kaviraj Pandit Durga Dutt Sharma Vs. Navaratna Pharmaceutical Laboratories*, AIR 1965 SC980, it was held that in an action for infringement, the plaintiff must no doubt make out that user of the defendant's mark is likely to deceive, but where the similarity between the plaintiff's and the defendant's mark is so close either visually, phonetically or otherwise and the court reaches the conclusion that there is an imitation, no further evidence is required to establish that the plaintiff's rights are violated.

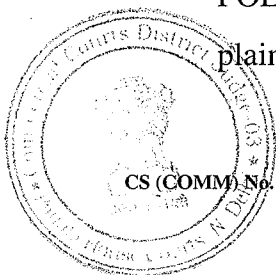
9. In the instant case, as evident from the material placed on record, the plaintiff and the defendants are in the manufacture and trade of cleaning preparations and dish and utensil cleaner. The plaintiff has been using the trademark for the above products TEEPOL since 1999. It also got its trademark registered. Defendants started using the mark T-POL / T-POL X in respect of the same products, which is phonetically the same giving impression to the general public that the products being marketed under the impugned trademark T-POL / T-POL X are the products of the plaintiff, thus,



causing deception and affecting the goodwill and reputation of the plaintiff. In the instant case, the defendants are allegedly aware of the plaintiff's rights, goodwill, reputation, benefits and uses etc in the plaintiff's said trademark at the time of the impugned adoption and use of the trademark. They have adopted the impugned trademark T-POL / T-POL X with the view to take advantage and to take upon the establish goodwill, reputation and proprietary rights of the plaintiff in the plaintiff's trademark TEEPOL. The defendants have been trying to convey to the common public that the impugned goods are coming from the source and origin of the plaintiff.

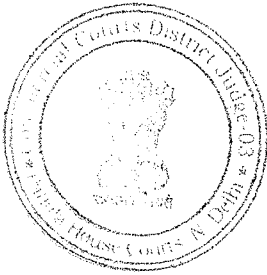
10. From the material available on record, I find that the plaintiff has a *prima facie* case in its favour. The balance of convenience also lies in favour of plaintiff and if *ex parte ad-interim* injunction is not granted in favour of the plaintiff, and against the defendants, it will suffer irreparable loss and injury and damage in its business.

11. As a result, *ex parte ad-interim* injunction is granted in favour of the plaintiff and against the defendants, their directors, partners etc as the case may be, distributors, dealers, stockists and agents etc and all others acting for or on their behalf restraining them from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in cleaning preparations, dish and utensil cleaner for any other cleaners and dis-infects under the impugned mark T-POL / T-POL X or any other trademark as may be deceptively to the plaintiff's trademark TEEPOL and passing of the plaintiff's



trademark till 20.10.2020.

12. The plaintiff is also directed to comply with the provisions of Order 39 Rule 3 CPC within 15 days.



*sd*

(Sanjiv Jain)

District Judge, (Commercial Court)-03

Patiala House/New Delhi

18<sup>th</sup> September, 2020

Commercial Court-03 District Judge

New Delhi

Patiala House Courts, N. Delhi