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

+ CS(COMM) 25/2021

V GUARD INDUSTRIES LTD ..... Plaintiff  
Through: Mr. Sachin Gupta, Advocate.

versus

SUKAN RAJ JAIN & ANR. .... Defendants  
Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**(VIA VIDEO CONFERENCING)**

**ORDER**

% **18.01.2021**

**I.A. 802/2021 (Exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

**CS(COMM) 25/2021 & I.A. 803/2021 (under Order XXXIX Rules 1&2 CPC)**

1. Complaint be registered as suit.
2. Issue summons in the suit and notice in the application to the defendants on the plaintiff taking steps through speed post, courier as well as through WhatsApp and E-mail returnable before the learned Joint Registrar on 02.03.2021 for completion of service, pleadings and admission/denial of documents.
3. The summons shall indicate that the written statements to the suit and

reply affidavits to the application be filed by the defendants within thirty days along with affidavits of admission/denial of the documents filed by the plaintiff, failing which the written statements shall not be taken on record.

4. The plaintiff is at liberty to file replication and rejoinder affidavit thereto within three weeks after filing of the written statements/reply affidavits. The replication shall be accompanied by affidavits of admission/denial in respect of the documents filed by the defendants, failing which the replications shall not be taken on record.

5. The plaintiff has preferred the present suit seeking permanent injunction restraining infringement of trademark and design, passing off, unfair competition, rendition of accounts of profits/damages and delivery up etc.


6. Learned Counsel for plaintiff submits that the plaintiff is a company incorporated under the Companies Act, 2013 and is the registered owner of trademark 'V-GUARD' which was registered in the year 1983, claiming use since the year 1977, for machines, electrical and electronic apparatus and instruments, parts and fittings thereof falling in Classes 7, 9 & 11 and which, since then has become a well-known trade mark. In addition, the plaintiff





has secured/applied for the trade mark 'V-GUARD' and and/or its formative variants in all other classes and in this regard, learned counsel for the plaintiff has invited attention to para 8 of the plaint. Further, the plaintiff also owns the domain name '[www.vguard.in](http://www.vguard.in)' as well as other domain names containing the word 'vguard'. Additionally, the plaintiff also holds design registrations for its products being stabilisers.

7. It is further submitted that the plaintiff's trademark/trade dress has

become a household name across India and is also available in other parts of the world. It is stated that in the year 2018-19, the total sales and the amount spent on advertisement and promotions was Rs.2566.44 crores and Rs.64.95 crores respectively and for the year 2019-20, was Rs.2481.96 crores and Rs.56.81 crores respectively.

8. It is the grievance of the plaintiff that the defendants have been illegally using a deceptively similar mark 'N-GUARD' and  and the domain name 'www.nguard.in'. It is submitted that the defendants have also copied the distinctive design of the plaintiff's products by imitating the overall shape, get-up, layout and colour combination. The defendant is also stated to be using similar sub-brands and models which are identical/deceptively similar to the plaintiff's sub-brands and models, details of which are mentioned in para-1 of the plaint.

9. Lastly, it was stated that the defendant no.1's initial applications for registration of trademark 'N-Guard' and label  on 'proposed to be used basis' in class 9 and 11, filed on 26.02.2009, was not pursued by the defendants after the plaintiff had filed its opposition to the same. Subsequently, the defendants filed applications for registration of trademark 'N-Guard' and  falling in Class 7 on 'proposed to be used basis' were wrongly registered on 19.12.2019 and against which, the plaintiff has already filed the cancellation applications before the Trade Marks Registry on 26.12.2020.

10. Considering the averments in the plaint and the documents filed

therewith, the plaintiff has made out a *prima facie* case in its favour and in case, no *ex-parte ad interim* injunction is granted, the plaintiff would suffer an irreparable loss. The balance of convenience also lies in favour of the plaintiff and against the defendants.

11. Consequently, keeping in view the averments made in the plaint and the documents filed therewith, the defendants, their directors, proprietor or partners as the case may be, their assignees in business, licensees, franchisee, distributors and dealers are restrained from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in machines, electronic, electrical, parts and fittings or any other products under the impugned mark 'N-GUARD'/ domain name 'www.nguard.in', any other trade mark /trade name / trade dress /domain name /designs as may amount to infringement of the plaintiff 's registered and well-known trade mark 'V-GUARD' registered under numbers mentioned in para-8 of the plaint and/or plaintiff's registered designs under nos. 202862 & 260771 and/or any other designs amounting to passing off its goods as those of the plaintiff.

12. Compliance under Order XXXIX Rule 3 CPC be done within one week.

13. List the suit and the applications before the Court on 23.04.2021.

**MANOJ KUMAR OHRI, J**

**JANUARY 18, 2021**

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*Click here to check corrigendum, if any*