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

+ **CS(COMM) 821/2024**

VGP IPCO LLC & ANR.

.....Plaintiffs

Through: Mr. Krisna Gambhir and Mr. C.A.
Brijesh, Advs

versus

**MR SURESH KUMAR TRADING AS OM SHIV LUBRICANTS &
ORS.**

.....Defendants

Through: Defendant Nos. 1, 2 and 4 are ex-
parte
Mr. Durgesh Singh, Adv. for D-3

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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22.08.2025

1. The present suit has been filed seeking permanent injunction against the Defendants restraining them from infringing Plaintiffs registered trademark/ passing off, and copyright, along with other ancillary reliefs.

Factual Matrix

2. The relevant facts, as stated in the pleadings, are as under: -

2.1 Valvoline, established in 1866 as the world's first lubricant brand, is a prominent global marketer and supplier of premium lubricants. With a legacy exceeding 150 years, Valvoline has cultivated strong brand recognition across various product and service channels and operates in over 150 countries. Valvoline ranks as the third-largest passenger car oil brand by volume in the United States.



2.2 Plaintiff No. 1 is a Delaware corporation operating under the laws of the USA, functioning as an IP holding company for Valvoline International Inc. Plaintiff No. 1 is authorized to use Valvoline trademarks



‘VALVOLINE’ and ‘

2.3 Plaintiff No. 2 is an Indian company established under the Indian Companies Act, 1956, engaged in manufacture and sale of automotive lubricants, transmission fluid, gear oils, hydraulic lubricants, automotive filters, speciality products, greases and cooling system products. It is a 50:50 joint venture between Valvoline International Inc. and Cummins India Ltd.

2.4 The Plaintiffs have been selling its products under the trademark



‘VALVOLINE’ and ‘. The word mark ‘VALVOLINE’ has been registered in Class 4 as far back in the year 1942 with a user claim



dating back to 01.12.1895; and the device mark ‘ has been registered in the year 1994 in Class 4. The various other registrations of the Plaintiffs in respect of the word mark ‘VALVOLINE’ and its formatives is described in paragraph 20 of the plaint.

2.5 Plaintiff No. 2 has provided the details of the volume of the products sold and revenue generated therefrom in paragraph 16 of the plaint. It is pertinent to note that in FY 2022-23, the sales turnover of Plaintiff No. 2 was to the tune of INR 2150.25 crores.

2.6 It is the case of the Plaintiffs, that trademark VALVOLINE and its



formatives have achieved significant success in the Indian lubricants and automotive market. Their goods are recognized for their distinctive trade dress, which serves as a source identifier among consumers due to extensive use and sales.

2.7 In the last week of August 2024, the Plaintiffs came across the Defendants who were selling the products using the mark ‘VIVOLINE /



VIVOLINE



’ (‘impugned marks’) in respect of the identical products, i.e., engine oils. It is averred that the Defendants are not only using the deceptively similar trademarks, but are also using trade-dress/packaging layout etc. similar to that of the Plaintiffs.

2.8 It is averred in the plaint that, Defendant No. 1 is the manufacturer of the infringing goods bearing the impugned marks; Defendant No. 2 is a wholesaler who further supplies the infringing goods to retailers such as Defendant No. 3 and Defendant No. 4; the Defendants are soliciting, offering for sale and selling the infringing goods bearing the impugned marks not only through offline channels but also through third party websites such as IndiaMart and Facebook.

Submissions on behalf of the plaintiffs

2.9 Learned counsel appearing on behalf of the Plaintiffs states that on 22.12.2018, Defendant No. 1 filed an application bearing no. 4034952 for the device mark ‘**VIVOLINE**’ in Class 4 on ‘proposed to be used’ basis, to which Plaintiffs filed an opposition on 25.09.2020. He states that subsequently, Defendant No. 1, on 06.12.2024, filed a withdrawal application against the said application, which is pending before the Trade Marks Registry.



2.10 The Plaintiffs claim that the Defendants are unlawfully using impugned marks similar to their registered trademark, VALVOLINE and its formatives, which they allege infringes upon their proprietary rights.

2.11 He states that Plaintiffs filed the present suit on 13.09.2024, alleging trademark infringement and unfair competition due to the Defendants' use of impugned marks, which is similar to the Plaintiffs' registered trademark 'VALVOLINE' and its formatives.

2.12 He states that the predecessor Bench issued summons in the present suit, pursuant to which, on the next date of hearing, i.e., 22.10.2024, Defendant No. 2 appeared in person and Defendant No. 3 was represented by Mr. Varun Chandiok, Advocate.

2.13 He states that Defendant Nos. 2 and 3 submitted on 22.10.2024 that they have not used the impugned marks and without prejudice to their rights and contentions they have no objection if an injunction is passed in favour of the Plaintiffs.

2.14 He states that on 22.10.2024, an ad-interim injunction was granted in favour of the Plaintiffs.

2.15 He states that the right to file the written statement for all Defendants was closed on 24.03.2025, and neither any written statement was filed by any of the Defendants, nor any appearance was marked on behalf of Defendant Nos. 1 and 4.

2.16 He states that this Court vide order dated 18.08.2025, recorded that, Defendant Nos. 1, 2 and 4 are to be proceeded ex-parte, and Defendant No. 3 is merely a re-seller and is willing to suffer an injunction in terms of prayer clause 40A (i), (ii) and (iii) as well as 40B of the plaint. On the same date, the Court also recorded that Plaintiffs are not pressing for the reliefs at



prayer clauses 40C, 40D, 40E, 40F and 40G of the plaint.

2.17 He prays that, in view of the fact that none of the Defendants have filed any written statement, therefore all the averments made in the plaint have to be taken to be admitted, and thus, an ex-parte decree may be passed in favour of the Plaintiffs in terms of the prayer clause 40A (i), (ii) and (iii) of the plaint.

3. He submits that the Plaintiffs' rights and reputation in the VALVOLUME trademarks have been previously upheld by a Coordinate Bench of this Court in a case against similar trademarks, WALWOSHINE vide Order dated 24.01.2024, in CS(COMM) 573/2023 titled as **Valvoline Licensing and Intellectual Property LLC & Anr. v. Vivek Kumar Chadha Trading.**

4. Learned counsel for the Plaintiffs has handed over a written note along with judgments he seeks to rely upon.

Findings and Analysis

5. The Court has heard the learned counsel for the Plaintiffs and perused the record of the case.

6. The predecessor bench of this Court vide order dated 22.10.2024 had granted an ad-interim injunction in favour of the Plaintiffs, restraining the Defendants its promoters, directors, assigns, relatives, successors-in-interest, licensees, franchisees, partners, representatives, servant, distributors, employees, agents etc. or anyone associated with them from using the marks

‘VIVOLINE /  / **VIVOLINE** / ’, or any other mark/s, identical to or deceptively similar to or containing the Plaintiffs' registered



trademark 'VALVOLINE /  ' in any manner whatsoever.

7. Furthermore, the Defendants were also restrained from using



or any other trade-dress/packaging/get-up/layout/artwork of the Plaintiff.

8. The Defendants were also directed to remove all references to the

marks 'VIVOLINE /  / **VIVOLINE** /  ' and the offending packaging/trade-dress/overall get up of the products from any and all e-commerce platforms/social networking sites including but not limited to indiamart.com and all other online trade portals etc.

9. The learned Joint Registrar (J) vide order dated 24.03.2025 recorded that Defendant no. 1 was served with summons on 16.10.2024, but neither any appearance was marked, nor any written statement was filed on his behalf. It further recorded that Defendant no. 2 was present in-person and no written statement was filed by him; Defendant no. 3, represented by his counsel, was served with summons, and no written statement was filed on his behalf. It is recorded that Defendant no. 4 was served with summons on 14.10.2024, through WhatsApp, and neither any appearance nor any written statement was filed on his behalf.

10. The learned Joint Registrar (J) vide said order dated 24.03.2025



closed the right for all the Defendants, to file written statements as the maximum permissible period was expired.

11. It is pertinent to mention that this Court vide order dated 18.08.2025 recorded that Defendant Nos. 1, 2 and 4 are to be proceeded ex-parte, and Defendant No. 3 is merely a re-seller and is willing to suffer an injunction in terms of prayer clause 40A (i), (ii) and (iii) as well as 40B of the plaint.

12. Learned counsel for the Plaintiffs states that the Plaintiffs are not pressing for the reliefs at prayer clauses 40C, 40D, 40E, 40F and 40G of the plaint and is only pressing for decree of permanent injunction in terms of prayer clause 40A.

13. At this stage, it would be apposite to refer to Order VIII Rule 10 of CPC. The said rule reads as under: -

“10. Procedure when party fails to present written statement called for by Court.— Where any party from whom a written statement is required under rule 1 or rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment a decree shall be drawn up.”

14. It would be relevant to refer to the dicta of **Satya Infrastructure Ltd. & Ors. v. Satya Infra & Estates Pvt. Ltd.**¹, wherein the Co-ordinate Bench of this Court held as under: -

“4. The next question which arises is whether this Court should consider the application for interim relief and direct the plaintiffs to lead ex parte evidence. The counsel for the plaintiff’s states that the plaintiffs are willing to give up the reliefs of delivery, of rendition of accounts and of recovery of damages, if the suit for the relief of injunction alone were to be heard today.

5. I am of the opinion that no purpose will be served in such cases by

¹ 2013 SCC OnLine Del 508



directing the plaintiffs to lead ex parte evidence in the form of affidavit by way of examination-in chief and which invariably is a repetition of the contents of the plaint. The plaint otherwise, as per the amended CPC, besides being verified, is also supported by affidavits of the plaintiffs. I fail to fathom any reason for according any additional sanctity to the affidavit by way of examination-in-chief than to the affidavit in support of the plaint or to any exhibit marks being put on the documents which have been filed by the plaintiffs and are already on record. I have therefore heard the counsel for the plaintiffs on merits qua the relief of injunction.”

(Emphasis Supplied)

15. The Plaintiffs have placed documents on record which evidence that Plaintiffs adopted VALVOLINE word mark internationally in 1866 and was granted international registration in 1873. The Plaintiffs have placed on record the registration granted to it in USA on 14.10.1973 for lubricating oils in class-04. The Plaintiffs have placed on record the fact that it is the registered proprietor of the word mark ‘VALVOLINE’ in India with its earliest registration dating back to 29.06.1942 with a user claim of 01.12.1895 for the class of goods being lubricating oils and greases.

16. The Plaintiffs have also placed on record documents evidencing that



its device mark ‘’, which was granted registration in India in class-04 on 13.04.1994 for the goods being motor oil, lubricants and greases.

17. The Plaintiffs have placed reliance on the judgment of the coordinate Bench in **Valvoline Licensing v. Vivek Kumar** (supra) to show that Plaintiff’s statutory rights, goodwill and reputation in its trademarks



VALVOLINE and  has been recognized.



18. The Plaintiff has averred that it has sales in more than 150 countries including India. The sale figures of Plaintiff No. 2 for India has been pleaded and it is stated that for the year 2022-23 it was INR 2150.25 crores.

19. A comparison chart of Plaintiffs and Defendants' competing trademarks and products, as set out in the written submissions, is extracted hereinbelow:

<u>Particulars</u>	<u>Plaintiffs</u>	<u>Defendants</u>
Trade Marks	VALVOLINE 	VIVOLINE  VIVOLINE 
Trade Dress		   



20. The aforesaid comparison table clearly indicates that the Defendants have replicated the trade dress and overall representations of Plaintiffs' goods in respect of identical goods, and the Defendants' impugned marks are deceptively, visually, and phonetically similar to those of the Plaintiffs', which is bound to contribute to confusion in the marketplace. Defendant No. 3 has already stated that he is not contesting the grant of permanent injunction. Since the said Defendant Nos. 1, 2 and 4 have failed to take any requisite steps to contest the present suit, despite having suffered an ad-interim injunction order, it is evident that they have no defence to put forth on merits. Infact, Defendant No. 1 stated to have already filed a withdrawal application dated 06.12.2024 before the trademark registry for its impugned mark VIVOLINE.

21. This Court finds merit in the submission of the Plaintiffs that given the volume of sales of the Plaintiffs in India, Defendants would have been



aware about the Plaintiffs' mark for identical products. Thus, this Court finds that the adoption of the impugned marks by Defendants, which is deceptively similar to that of the Plaintiffs' mark, is not an honest adoption.

22. The unrebutted averments made in the plaint and the documents on record show that the Defendants are engaging in unfair competition by manufacturing and marketing their products using mark/trade-dress/packaging/get-up/layout/artwork that infringes upon the Plaintiffs' trademarks registrations. The Defendants, knowingly or unknowingly, aim to mislead consumers into believing their products are associated with the Plaintiffs, thus violating the trademark rights that the Plaintiffs have cultivated over years of business and marketing endeavours.

23. Given the fact that the plaint has been duly verified and is supported by the affidavit of the plaintiff and in view of the aforesaid, this Court is of the view that this suit does not merit trial, and the suit is capable of being decreed in terms of Order VIII Rule 10 of CPC.

24. In view of the aforesaid, this Court is of the view that the Plaintiffs are entitled to relief of permanent injunction as claimed in the plaint. Accordingly, a decree of permanent injunction is passed in favour of the plaintiff and against Defendants in terms of the prayer clause 40A (i), (ii) & (iii) of the plaint. The interim order dated 22.10.2024 shall merge into the decree.

25. The trademark registry is directed to process Defendant no.1's withdrawal application dated 06.12.2024 expeditiously and preferably within a period of four (4) weeks, in accordance with law. The plaintiff is granted liberty to place this direction before the trademark registry. The relief sought at prayer clause 40B of the plaint is decreed in terms hereof.



26. Let the decree sheet be drawn up.
27. With the aforesaid directions, this suit along with pending applications (if any) stands disposed of.
28. All future dates stand cancelled.

MANMEET PRITAM SINGH ARORA, J

AUGUST 22, 2025/mt/AM