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

Reserved on: 9 September 2025
Pronounced on: 5 January 2026

\+ RFA(OS)(COMM) 8/2025, CM Appl 25908/2025

MAJ (RETD.) SUKESH BEHL PROPRIETOR, M/S PEARL ENGINEERING COMPANY & ANR. .....Appellant

Through: Mr. J. Sai Deepak, Sr. Adv. with Ms. Anuradha Salhotra, Mr. Rahul Chaudhry, Mr. Nikhil Sharma and Ms. Mugdha Palsule, Mr. Avinash, Advs.

versus

KONINKLIJKE PHILIPS NV .....Respondent

Through: Mr. Dayan Krishnan, Sr. Adv. with Mr. Pravin Anand, Ms. Vaishali R Mittal, Ms. Pallavi Bhatnagar, Ms. Saijal Arora, Mr. Siddhant Chamola Advs.

\+ RFA(OS)(COMM) 12/2025, CM APPLs. 28541/2025, 28542/2025, 28543/2025 & 28544/2025

MAJ (RETD) SUKESH BEHL & ANR. .....Appellant

Through: Mr. J. Sai Deepak, Sr. Adv. with Ms. Anuradha Salhotra, Mr. Rahul Chaudhry, Mr. Nikhil Sharma and Ms. Mugdha Palsule, Mr. Avinash, Advs.

versus

KONINKLIJKE PHILIPS NV .....Respondent

Through: Mr. Dayan Krishnan, Sr. Adv. with Mr. Pravin Anand, Ms. Vaishali R Mittal, Ms. Pallavi Bhatnagar, Ms. Saijal Arora, Mr. Siddhant Chamola Advs.

\+ RFA(OS)(COMM) 13/2025, CAV 197/2025, CM APPLs.

31118/2025, 31119/2025 & 31120/2025

SURINDER KUMAR WADHWA & ANR. .....Appellants

Through: Mr. Kanhaiya Singhal, Mr. Shaswat Tiwari, Ms. Avantika Shankar, Mr. Rishabh Bharadwaj, Mr. Kanav Gupta, Mr. Pulkit Jolly, Mr. Rhythm Bharadwaj, Mr Binwant Singh, Advs.

versus

KONINKLIJKE PHILIPS N.V. .....Respondent

Through: Mr. Dayan Krishnan, Sr. Adv. with Mr. Pravin Anand, Ms. Vaishali R Mittal, Ms. Pallavi Bhatnagar, Ms. Saijal Arora, Mr. Siddhant Chamola Advs.

\+ RFA(OS)(COMM) 14/2025, CAV 198/2025, CM APPLs. 31125/2025, 31126/2025, 31127/2025 & 31128/2025

G.S. KOHLI & ANR. .....Appellant

Through: Mr. Kanhaiya Singhal, Mr Binwant Singh, Ms Avantika Shankar, Advs.

versus

KONINKLIJKE PHILIPS N.V. .....Respondent

Through: Mr. Dayan Krishnan, Sr. Adv. with Mr. Pravin Anand, Ms. Vaishali R Mittal, Ms. Pallavi Bhatnagar, Ms. Saijal Arora, Mr. Siddhant Chamola Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT

% 05.01.2026

C. HARI SHANKAR, J.

The *lis*

1. By judgment dated 20 February 2025, a learned Single Judge of this Court disposed of CS (Comm) 423/2016[1], CS (Comm) 499/2018[2] and CS (Comm) 519/2018[3].

2. The aforesaid suits were instituted by Koninklijke Philips N.V.[4] against the appellants in the present appeals, alleging that the appellants had infringed Indian Patent IN 218255[5], of which Philips was the proprietor, pertaining to a "Method of Converting Information Words to a Modulated Signal". The suits therefore, sought decrees of permanent injunction, restraining the appellants from infringing the suit patent and also claimed damages and costs.

3. During the currency of the suits, the suit patent expired by efflux of time. The prayers for injunction, therefore, were rendered infructuous.

4. The impugned judgment, therefore, decrees the suits only to the extent of damages and costs. Damages of ₹ 6,22,50,000/-, along with interest at the rate of 12% per annum from the date of filing of the suit till the date of payment of the damages awarded, and additional damages of ₹ 1,00,00,000/- have been awarded against the appellants in RFA (OS) (Comm) 8/2025, damages of ₹ 1,61,85,000/- along with

[1] **Koninklijke Philips N.V. v. Maj. (Retd) Sukesh Behl & anr**
[2] **Koninklijke Philips N.V. v. G.S. Kohli and Others**
[3] **Koninklijke Philips N.V. v. Surinder Wadhwa and Others**
[4] "Philips", hereinafter
[5] "IN'255", also referred to, hereinafter, as "the suit patent"

interest at the rate of 12% per annum from the date of filing of the suit till the date of payment of the damages awarded and additional damages of ₹ 1,00,00,000/- have been awarded against the appellants in RFA (OS) (Comm) 13/2025, and damages of ₹ 12,43,25,700/- along with interest at the rate of 12% per annum from the date of filing of the suit till the date of payment of the damages awarded and with additional damages of ₹ 1,00,00,000/- have been awarded against the appellants in RFA (OS) (Comm) 14/2025.

5. Along with the present appeals, the appellants have filed CM Appl 25908/2025 [in RFA (OS) (Comm) 8/2025], CM Appl 31118/2025 [in RFA (OS) (Comm) 13/2025] and CM Appl 31125/2025 [in RFA (OS) (Comm) 14/2025], under Order XLI Rule 5[6] of the Code of Civil Procedure, 1908[7], have been filed along with

[6] **5. Stay by Appellate Court**.—
(1) An appeal shall not operate as a stay of proceedings under a decree or order appealed from except so far as the Appellate Court may order, nor shall execution of a decree be stayed by reason only of an appeal having been preferred from the decree; but the Appellate Court may for sufficient cause order stay of execution of such decree.
Explanation.—An order by the Appellate Court for the stay of execution of the decree shall be effective from the date of the communication of such order to the Court of first instance, but an affidavit sworn by the appellant, based on his personal knowledge, stating that an order for the stay of execution of the decree has been made by the Appellate Court shall, pending the receipt from the Appellate Court of the order for the stay of execution or any order to the contrary, be acted upon by the Court of first instance.
(2) Stay by Court which passed the decree.—Where an application is made for stay of execution of an appealable decree before the expiration of the time allowed for appealing therefrom, the Court which passed the decree may on sufficient cause being shown order the execution to be stayed.
(3) No order for stay of execution shall be made under sub-rule (1) or sub-rule (2) unless the Court making it is satisfied—
(a) that substantial loss may result to the party applying for stay of execution unless the order is made;
(b) that the application has been made without unreasonable delay; and
(c) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.
(4) Subject to the provisions of sub-rule (3), the Court may make an ex parte order for stay of execution pending the hearing of the application.
(5) Notwithstanding anything contained in the foregoing sub-rules, where the appellant fails to make the deposit or furnish the security specified in sub-rule (3) of Rule 1, the Court shall not make an order staying the execution of the decree.

[7] "CPC", hereinafter

appeals, seeking stay of execution of the impugned judgment and decree.

6. We have heard Mr. J. Sai Deepak, learned Senior Counsel for the appellants in RFA (OS) (Comm) 8/2025 and RFA (OS) (Comm) 12/2025, Mr. Kanhaiya Singhal, learned Counsel for the appellants in RFA (OS) (Comm) 13/2025 and RFA (OS) (Comm) 14/2025 and Mr. Dayan Krishnan, learned Senior Counsel for the respondents in the stay applications filed with the appeals, and have reserved orders thereon.

7. This judgment adjudicates the said stay applications.

8. Law relating to Order XLI Rule 5 of the CPC – The decision in ***Lifestyle Equities***

8.1 The principles relating to adjudication of applications under Order XLI Rule 5 of the CPC stand recently crystallized by the Supreme Court in its judgment in ***Lifestyle Equities C.V. v. Amazon Technologies Inc***[8]**.**

8.2 The Supreme Court has, in the said judgment, held that the principles that govern grant of stay under Order XLI Rule 5 of the CPC are the same, whether the decree under challenge is, or is not, a money decree. Nonetheless, in respect of money decrees, the Supreme Court has taken note of the entire preceding legal position, as contained in ***Sihor Nagar Palika Bureau v. Bhabhlubhai Virabhai &***

[8] **2025 SCC OnLine SC 2153**

Co.[9]***, Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd.***[10] and ***Malwa Strips Pvt. Ltd v. Jyoti Ltd***[11]**,** to hold that while, ordinarily, money decrees are not to be stayed in appeal, stay may be granted in exceptional cases. The principle that stay of a money decree is not completely foreclosed under Order XLI Rule 5 of the CPC was specifically enunciated in ***Malwa Strips*** and, after noting the relevant passages from the said decision, the Supreme Court has, in para 70 of ***Lifestyle Equities,*** observed as under:

> "70. Thus, in ***Malwa Strips (supra)***, this Court unequivocally observed that although the word "shall" has been used in Order XLI Rule 5 CPC, yet the same is not mandatory in character. The Court further observed that the purpose for which such a provision has been inserted, should be taken into consideration. An exceptional case has to be made out for unconditional stay of execution of a money decree. Thus, it is necessary to imply that if an exceptional case is made out, the Appellate court has the discretion to stay the execution of the money decree without imposing any condition."

8.3 This principle is reiterated in para 78:

> "78. Thus, it cannot be said as a principle of universal rule that in all cases of money decree, the defendant should be directed to deposit the amount in court and then only the question of stay be considered."

8.4 Having so observed, in para 80 of the judgment, the Supreme Court reiterated the normal principle that stay of execution of money decrees is ordinarily not to be granted and, even while observing that the principle was more a rule of prudence than a principle of law of universal application, specifically "(believed) and (held) that this

[9] **(2005) 4 SCC 1**
[10] **(2005) 1 SCC 705**
[11] **(2009) 2 SCC 426**

practice based on the rule of prudence should ordinarily be followed by appellate courts". Para 80 of the ***Lifestyle Equities*** read thus:

> "80. Then the question is: Is there an established practice that the execution of money decree should not be stayed unless the judgment debtor deposits the decretal amount in court, and on such deposit, the successful party be permitted to withdraw the money on furnishing security to the satisfaction of the court. We do observe that in a large number of cases where a money decree is passed, this Court generally does not grant stay unless the defendant deposits the amount in court. But this appears to be a rule of prudence and not a principle of law of universal application. *We also believe and hold that this practice based on the rule of prudence should ordinarily be followed by appellate courts. The practice of not granting stay in money decrees except on condition that the decretal amount be deposited in the court, and the successful party be permitted to withdraw the same on furnishing security to the satisfaction of the trial court appears to have been well entrenched, and for good reasons*."
>
> (Emphasis supplied)

8.5 The Supreme Court thereafter went on to examine the scope and ambit of the expression "sufficient cause" as contained in Order XLI Rule 5, as would enable a Court to justifiably stay execution of a money decree. In this regard, the Supreme Court held, in paras 82 to 87 of ***Lifestyle Equities***, thus:

> "82. Having regard to the case law discussed above and for reasons to be recorded, we are inclined or rather persuaded to take the view that the benefit of stay of execution of a money decree may be granted by the Appellate Court unconditionally, if it:
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> i. is egregiously perverse;
> ii. is riddled with patent illegalities;
> iii. is facially untenable; and/or
> iv. such other exceptional causes similar in nature.
>
> 83. The aforesaid factors would bring the case within the purview of "exceptional case" for the purpose of granting benefit of unconditional stay of the execution of money decree.

> 84. We are at one with the submission canvassed on behalf of the defendant that in contradistinction to Order XLI, the word "deposit" does not figure in Rule 1(3), Rule 5(5) and Rule 5(3) respectively.
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> 85. Under Rule 5(3) sub-clause (c) - security has to be furnished for "due performance" of the decree. We find it difficult to read any mandate for direction to deposit the decretal amount.
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> 86. As noted above, the provision under Order XLI Rule 5(3) of the CPC provides for satisfaction regarding sufficient cause as a pre-condition for granting benefit of stay of execution of decree. It casts an obligation upon the court to record its satisfaction for stay of execution such decree. Therefore, security can be in the shape of property, bond, or by undertaking from the appellant to abide by the decree, seeking stay of execution.
>
> 87. However, there is no provision under Order XLI Rule 5 of the CPC imposing a mandate to deposit cash security as the only mode of security for execution of the decree."

8.6 The prayer for stay of execution of the money decree under challenge in the present case has to be examined in the light of the principles now laid down by the Supreme Court in ***Lifestyle Equities***, particularly para 82 thereof.

9. Arguments, in these applications, were heard on 20 August 2025, 21 August 2025, 2 September 2025 and 9 September 2025. The arguments were lengthy and compendious. Detailed written submissions have also been filed by learned Counsel.

10. While we, no doubt because of the persuasive abilities of learned Counsel who addressed us, were probably over-indulgent in allowing arguments, we pen this judgment in acute awareness of the fact that we are only adjudicating interim applications for stay of the

judgment and decree under challenge. We cannot, therefore, allow this judgment to become a pre-emptive adjudication of all the issues involved in the appeals. Our task is only to examine whether, within the parameters of the law laid down in para 82 of ***Lifestyle Equities***, stay of execution of the impugned judgment and decree ought to be granted and, if so, the terms to be fixed in that regard.

The dispute

11. The suit patent IN'255 relates to a method of converting information words to a modulated signal. The technology used in this regard, which forms subject matter of the suit patent is known as "Eight-to-Fourteen Modulated + Coding"[12]. The suit patent is in the nature of a Standard Essential Patent[13], as it proffered to claim an essential and integral industry standard in the manufacturing, storage and replication of data in digital formats, as in Digital Versatile Discs[14]. This exercise involved converting a series of m-bit information words into a modulated signal, with each information word being converted into an n-bit code word, where both m and n are integers with n being greater than m. These code words generate a modulated signal, whereby 8-bit information words are encoded into 16-bit code words. This encoded information is then transmitted on to lands and pits contained on the DVD which refer to elevated and recessed areas on the surface of the DVD readable by laser.

[12] "EFM+ coding", hereinafter
[13] "SEP", hereinafter
[14] "DVDs", hereinafter

12. Claims in the Suit Patent

12.1 There is no dispute that the principal subject matter of the suit patent essentially claimed the technology involved in the EFM+ coding process. The claims in the suit patent read thus:

> "1. Method of converting information words (1) to a modulated signal (7), in which method a series of m-bit information words is converted to a series of n-bit code words (4) according to rules of conversion, and the series of code words are converted to the modulated signal, with m and n being integers and n exceeding m, the rules of conversion being such that the modulated signal satisfies a predetermined criterion, and in which method one code word (4) is delivered for one received information word (1), which code word is selected from one of a plurality of sets (Vl,V2,V3,V4) of code words, which one set is associated with a coding state (Sl,S2,S3,S4) established when the preceding code word was delivered, characterized in that the code words (4) are spread over at least a group of a first type (G11, G12) and at least a group of a second type (02), and in that the delivery of each of the code words belonging to a group of the first type (G11, G12) establishes a coding state (S1,S4) of a first type determined by said group of the first type and the delivery of each of the code words belonging to a group of the second type (G2) establishes a coding state (S2,S3) of a second type determined by said group of the second type and by the received information word (1), while any set (V2,V3) of code words associated with a coding state (S2,S3) of the second type contains no codewords in common with any other set (V2,V3) of code words associated with any other coding state (S2,S3) of the second type, and while at least one set(VI, V2, V3, V 4) of code words comprises a codeword of a group of the second type being associated with a plurality of information words, each information word of said plurality establishing a different coding state of the second type, thereby allowing to distinguish the respective information word from said plurality by detecting the following codeword.
>
> 2. Method as claimed in Claim 1, wherein the sequence of information words is converted to the sequence of code words according to such rules of conversion that the corresponding modulated signal presents substantially no frequency components in a low-frequency area in the frequency spectrum and in which each number of successive bit cells having a same signal value in

the modulated signal is at least d+ 1 and at most k+ 1, the sets (Vl,V2,V3,V4) of code words for each of at least a number of information words comprising at least a pair of code words, low-frequency components in the modulated signal (7) being avoided when the information words are converted by selected code words from the pairs of core words.

3. Method as claimed in Claim 2, wherein a running digital sum value is established as a measure for current DC contents, which value is determined over a preceding portion of the modulated signal (7) and denotes for this portion the current value of a difference between the number of bit cells having a first signal value and the number of bit cel1 having a signal second value, while the pairs comprising two code words have opposite effects on the digital sum value and the code words are selected from the pairs in response to certain digital sum values so that the digital sum value continues to be limited.

4. Method as claimed in Claim 2 or 3, wherein the information words are converted to a sequence of code words which establish a bit string having bits of a first logical value and bits of a second logical value, a number of successive bits having the first logical value and situated among bits having the second logical value being at least d and at most k, and the bit string being converted to the modulated signal (7), in which transitions from bit cells having the first signal value to bit cells having the second signal value or vice versa correspond to the bits having the second logical value in the bit string.

5. Method as claimed in one of the preceding Claims, wherein the sets (V2,V3) of code words belonging to the coding states (S2,S3) of the second type can be mutually distinguished on the basis of the logical values of bits at predetermined bit positions· in the code words, where p is an integer smaller than n.

6. Method as claimed in Claim 5, wherein the synchronization (sync) words (100,101) are inserted into the series of code words, the sync words showing bit patterns that cannot occur in the bit string formed by the codewords, while the sync words are used· having different bit patterns and the sync word used depends on the coding state, in that a predetermined coding state is established for the conversion of the next information word after a sync word has been inserted, while the sync words are mutually distinguishable on the basis of the logical values of bits at predetermined bit positions in a manner corresponding to the manner in which the sets of code words belonging to coding states of the second type are mutually distinguishable.

7. Method as claimed in one of the preceding Claims, wherein d is equal to 2 and k is equal to 10 and in that the ratio of n to m is 2:1.

8. Method as claimed in Claim 7, wherein m is equal to 8 and n is equal to 16.

9. Method as claimed in one of the preceding Claims 5, 6, 7, or 8,wherein p is equal to 2.

10. Method as claimed in Claim 6, 7, 8, or 9, wherein a first group (G 11) of the first type of code words is formed by code words ending in a bits having the first logical value, where a is equal to 0 or 1, in that a second group (G12) of the first type of code words is formed by code words ending in successive bits having the first logical value, where b is an integer greater than or equal to 6 and smaller than or equal to 9, the group (G2) of the second type being formed by code words ending in c bits having the first logical value, where c is an integer greater than or equal to 2 and smaller than or equal to 5,and the coding state (S1,S2,S3,S4) related sets (Vl,V2,V3,V4) of code words from which the code words assigned to the information words are selected are formed by code words beginning with a number of bits of the first logical value, which number of bits depends on the coding state related to the set, so that the number of successive bits having the first logical value in the bit string formed by two successive code words is at least equal to d and at most equal to k.

11. Method as claimed in Claim 9, wherein the p predetermined bit positions are the first and thirteenth bit position in the following code word.

12. Record carrier on which the modulated signal obtained by the method claimed in any one of the preceding claims is provided in a track.

13. Method of converting information words to a modulated signal, substantially as herein described with reference to the accompanying drawings."

12.2 The dispute principally relates to Claim 12 of the claims in the suit patent.

13. As is apparent from a bare glance at the Claims in the suit

patent, each of the Claims 1 to 11 and 13 are expressly method claims. On the other hand, Claim 12, claims a "record carrier on which the modulated signal obtained by the method claimed in any one of the preceding claims is provided in a track".

14. The essential dispute in so far as the aspect of infringement is concerned, is whether the appellants have infringed Claim 12 in the suit patent.

Contentions and Analysis

15. We now proceed to deal with the various issues raised by the appellants by way of challenge to the impugned judgment, the findings of the learned Single Judge on the said issues, and our view on whether they make out a case to stay the execution of the impugned judgment within the parameters identified in para 82 of ***Lifestyle Equities***.

16. <u>The aspect of infringement</u>

16.1 The stand of the appellants, pared down to its essentials, is that they merely undertake a process of replication. This process of replication does not involve EFM+ coding at any stage. They merely replicate, on to their DVDs, the data which is already stored in stampers which they obtained from Moser Baer India Ltd[15]. It is in the process of creation of these stampers that EFM+ coding is involved.

[15] "Moser Baer" hereinafter

The process of replication of the data contained on the stampers on to the DVDs of the appellants, which are then sold in the market, does not involve any process of EFM+ coding. The data contained on the stampers is merely transmitted into lands and pits contained on the appellants' DVDs. Inasmuch as EFM+ coding is the very *raison d'être* of the suit patent and the process undertaken by the appellants in replicating the data contained on the stampers obtained from Moser Baer on to their DVDs does not involve the said EFM+ coding process, it is contended that the DVDs of the appellants do not infringe the suit patent. Paras 8, 12.1 to 12.1.7, 155 and 196 of the impugned judgment set out the above stand of the defendant as recorded by the learned Single Judge:

> "8. The Defendants, on the other hand, acknowledge replicating DVDs in significant volumes, but deny any infringement of the Plaintiff's patent. They argue that claims of the Suit Patent essentially entail a process for compression of data applied in the manufacturing of an original DVD, that is distinct from replication process deployed by them, which is purely a mechanical process. The Defendants maintain that their replication process does not involve the steps claimed in the Suit Patent, and assert that they have obtained necessary documentation, including copyright permissions from content owners to reproduce the copies. Their defence also hinges on the argument that the EFM+ encoding process, which is one of the steps in their replication process is outsourced to third parties, thus denying that their own activities amount to infringement. In addition to the above, the Defendants have also filed counter-claims challenging the validity of the Suit Patent. They argue that the Suit Patent was wrongly granted, raising allegations of fraud, concealment, and non-compliance with the stipulations of the Patents Act.
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> **12.1. On the aspect of infringement of the Suit Patent:**
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> 12.1.1. The Defendants are well-regarded in the industry and replicate the DVDs only after securing the necessary copyright

documentations from the rightful owners. They have invested substantial resources and labour to build their standing. The Plaintiff, fully aware of Defendants' market position, has initiated these lawsuits solely to damage their reputation and disrupt their business.

12.1.2. Defendant's DVD replication business does not infringe on any of the Plaintiff's rights. They are conducting lawful and legitimate businesses, while the Plaintiff is attempting to enforce rights that are either inapplicable or likely to be revoked. The suits have been filed with the intent to harass and extract unwarranted financial gains from the Defendants, and therefore, the suits are not maintainable.

12.1.3. The suits are barred by delay, laches, and acquiescence. Admittedly, the Plaintiff has been aware of the activities of Siddharth Optical, Pearl Engineering, and Powercube Infotech since 09th May, 2005, 31st August, 2006, and 25th April, 2007, respectively. Yet, the Plaintiff chose to file these suits between May-September, 2012, after a delay of nearly six years. The Plaintiff has offered no explanation for this extended delay. This inaction amounts to acquiescence, rendering the suits unsustainable, and liable to be dismissed.

12.1.4. The Suit Patent, which relates to channel modulation, neither discloses a process nor a product necessary for the replication of DVDs or the DVDs resulting from the replication process in India. The Defendants have detailed their replication processes, outlining each step involved, which shall be discussed later in this judgment. The Defendants contended that at no stage, either directly or indirectly, do they utilize the methods disclosed in the claims of Suit Patent.

12.1.5. Taking into account the technical practices used in the industry and the state of the art, the Suit Patent does not contain any claims that are essential to the practice of DVD replication. In this regard, the Defendants disputed the opinion of the patent evaluator relied upon by the Plaintiff, which suggests that Suit Patent is necessary for the execution of even a single step of the DVD replication process.

12.1.6. The Defendants denied that the claims of the Suit Patent have been analysed for essentiality in relation to DVD specifications, particularly for Read-Only discs.

12.1.7. The Defendants are not bound by the Plaintiff's licensing program as they do not use the method claims covered by the Suit Patent, which makes the licensing program inapplicable to them.

They further disputed the legitimacy of the alleged licensing program of the Plaintiff, arguing that the alleged licensing company, One-Red, and the website www.one-red.com was found to be non-functional. Further, manufacturers and replicators of DVDs and VCDs worldwide, including in India, have not obtained relevant licenses from the Plaintiff for mass replication, as alleged. The Plaintiff has concealed the fact that a significant number of replicators have resisted the Plaintiff's so-called licensing requirements and considerable litigation on this issue is pending globally.

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155. The Defendants' objections regarding the construction of claim 12 focus on its scope and applicability. They contended that claims 1 to 11 of the Suit Patent pertain exclusively to the method of converting information into a modulated signal using EFM+ coding. Claim 12 is directed at the resulting product, a record carrier which stores the modulated signal obtained through the execution of this method. They further asserted that none of the claims encompass the physical manifestation of modulated data as represented by the lands and pits on a DVD. According to the Defendants, the Suit Patent covers only the process of compressing and encoding information using EFM+ technology, and does not extend to the final physical arrangement of data on the disc. Therefore, they contended that the Plaintiff's assertion that any DVD with this specific pattern automatically infringes the Suit Patent overreaches the scope of its claims.

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196. Next, the Court shall analyse the argument of indirect infringement. As elaborated above, despite clear evidence of infringement, the Defendants sought to deflect liability onto Moser Baer and other suppliers of glass stampers, who execute the patented process by asserting that they themselves do not engage in the EFM+ encoding process protected by the Suit Patent. Instead, the Defendants argued that their role is limited to replication, which does not directly infringe the method claims of the Suit Patent."

16.2 Findings of the learned Single Judge

16.2.1 The learned Single Judge has addressed this submission, in

paras 154, 154.1, 154.2, 160, 161, 165 to 168, 171 to 174, 178, 182, 184, 188, 192, 199 to 201 and 204 to 205 of the impugned judgment, thus:

> "154. *The Defendants have admitted that the DVDs they manufacture contain data stored in the land and pit format, conforming to the DVD Standard specifications.* Despite this acknowledgment, their defence hinges on the argument that their replication process does not involve the initial laser beam burning process described in the Suit Patent. Instead, they claim to rely on mechanical replication techniques to reproduce an already encoded master disc.
>
> 154.1 *By making this distinction, the Defendants do not dispute that the structure and data arrangement on their DVDs align with the method of modulation and data encoding described in claims 1 to 11 of the Suit Patent.* Rather, their contention is that because they do not perform the EFM+ encoding process themselves, their actions do not amount to infringement. However, *this argument implicitly acknowledges that the claims of the Suit Patent, particularly those related to encoding and modulation, are reflected in their end products.*
>
> 154.2 *In light of the above, the mapping of claims 1 to 11, and 13 to the infringing product becomes redundant for further analysis.* The crux of the Defendants' defence rests on the interpretation of claim 12, which pertains to the record carrier with the modulated signal. Accordingly, the Court now proceeds to examine the construction of claim 12 in the context of the Defendants' arguments.
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> 160. *Claim 12, however, diverges from the process focus and includes a "record carrier on which the modulated signal obtained by the method claimed in any one of the preceding claims is provided in a track." Claim 12 covers the tangible product which stores the modulated signal resulting from the method covered in claims 1 to 11 and 13 : a record carrier, such as a DVD, that stores the modulated signal created using the EFM+ coding process described in the preceding claims. This claim emphasizes the outcome of the patented method by covering any disc encoded using the EFM+ process, ensuring that the data stored on the*

medium adheres to the constraints and benefits of this particular modulation technique.

161. *The term 'record carrier' refers to any medium or material that serves as a vessel for storing information, whether in analogue or digital form.* The complete specification of the Suit Patent, delineates two primary types of record carriers - the 'optically detectable type' and the 'magnetically readable type.'. *Medium such as CDs, DVDs, tapes, and cassettes. CDs and DVDs fall under the optically detectable type of record carriers as they are read or written using optical technologies, such as lasers.* On the other hand, magnetically readable record carriers include cassette tapes and vinyl records. *Claim 12, shifting the focus from procedural aspects to the resulting product, describes a record carrier that embodies the technical characteristics imparted by the EFM+ coding process. This enables the claim to extend its scope to any medium that stores high-density data encoded according to the EFM+ method.* The flexibility of the term 'record carrier' allows it to cover a range of storage media, including but not limited to DVDs, CDs, Blu-ray discs, or future technologies capable of adopting similar encoding formats. *The defining criterion for the applicability of claim 12 lies not in the type of medium, but in its encoded content - specifically, whether it holds a modulated signal created using the patented EFM+ process. This means that any storage medium meeting these technical specifications falls within the protection of claim 12.*

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165. *Upon a careful analysis of the claims and specifications, the Court concludes that claim 12 is not restricted to discs produced through any particular manufacturing process, such as laser burning, nor is it confined to a specific technological method. Instead, it broadly encompasses any record carrier that incorporates the encoded EFM+ signal, irrespective of how it was created. This distinction between the process of manufacturing and the existence of a product is clearly articulated in the complete specification of the Suit Patent.*

166. *The broad language of claim 12 implies that any record carrier containing the EFM+ modulated signal, regardless of the method of creation, falls within the scope of the Suit Patent. This interpretation counters the Defendants' argument that their replication process does not infringe because it only reproduces content from a master DVD, and does not involve the original burning or encoding process. The Plaintiff's claim rests on the presence of the EFM+ modulated signal within the replicated product, which aligns with claim 12's requirements.*

167. The DVDs at issue in these proceedings are Read-Only Memory DVDs, which are not writable with a laser. Instead, these DVDs are produced through a process known as mould replication used by the Defendants. It is important to note that the EFM+ signal specified in the Suit Patent can only be recorded using a laser on writable DVDs, such as DVD-R or DVD-RW formats. Therefore, *should the Defendants' replicated DVDs embody the EFM+ signal created as described in claim 1, they would, without a doubt, infringe upon claim 12. This conclusion holds regardless of the method used for replication, as claim 12 encompasses any record carrier that contains the modulated EFM+ signal. The essential element is the presence of the specific encoded signal on the disc, aligning with the scope of claim 12. Consequently, if the Defendants' actions result in producing DVDs that replicate the patented modulation, it constitutes infringement of claim 12, confirming liability under the asserted patent rights.*

V.II.II. *The Replication Process of the Defendants*

168. *The arguments raised by the Defendants require the Court to assess whether the replication process, as carried out by them, implicates the use of the patented technology itself, or whether it merely reproduces the final product that incorporates such technology, thereby shifting the focus to copyright protection*. To make this determination, it is essential to first examine the replication process employed by the Defendants.

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171. *The Plaintiff's patent claims are drafted to cover not only the process of encoding data through EFM+ modulation, but also the resultant record carrier that embodies this encoded data. The Defendants' interpretation, which restricts the scope to the act of laser burning alone, disregards the clear intent and language of the claims*. Such an interpretation not only misrepresents the scope of the Suit Patent, but also undermines the technological advancements it seeks to protect, including the compatibility and standardization achieved through EFM+ encoding.

172. The Courts are required to interpret the claims as written, without rewriting or narrowing them in ways that conflict with the patentee's intended protection. *In this case, the Defendants' narrow interpretation overlooks the invention, which explicitly encompasses the creation and use of record carriers containing the encoded signal, irrespective of the specific method used to produce them. By attempting to limit the Suit Patent to certain production methods, the Defendants fail to recognize that the claims extend to*

any DVDs that incorporate the patented EFM+ technology, including those produced using pre-encoded stampers. This misinterpretation reflects a fundamental misunderstanding of the scope of the claims, and ignores the principle that the patentee's definition of their invention, as captured in the claims, is legally binding.

173. *The Defendants' replication process for manufacturing DVDs comprises two critical stages : (i) the creation of the glass master and stamper, and (ii) the replication process. In the first stage, which is outsourced to entities like Moser Baer, the EFM+ encoding is embedded onto the stamper. This step is pivotal, as it incorporates the modulated signal described in the Suit Patent onto the stamper, ensuring compatibility with the standardized DVD format. The second stage, executed by the Defendants, involves a mechanical stamping process, where the encoded stamper is pressed against hot, moulded polycarbonate material to replicate DVDs. This method enables mass production, yielding hundreds or thousands of discs that inherently contain the EFM+ encoded signal. The evidence and disclosures provided by the Defendants thus, unequivocally establish infringement.*

174. *The oral evidence of PW-1 and PW-2 recorded during crossexamination also suggests that all steps of replication - from stamper production to the final disc - infringe the Suit Patent. …*

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178. *Regarding direct infringement, as discussed above, the Defendants' replication process involves discs that incorporate the EFM+ modulated signal, which directly infringes the Suit Patent. All stages of replication process of the Defendants - from stamper production to the final DVD - fall within the scope of the Suit Patent's claims. Furthermore, under Section 48 of the Patents Act, the patentee holds the exclusive right to prevent third parties, from using the patented process or from selling products obtained directly from that process, without their consent. Consequently, the Plaintiff is entitled not only to prevent the use of their patented method, but also to stop the sale of DVDs produced using the patented process by the Defendants.*

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182. *The Plaintiff has presented test reports prepared by their expert, analyzing the Defendants' DVDs purchased by the Plaintiff [Ex. PW-2/10 in CS (Comm) 423/2016]. These test reports conclude that the Defendants' tested discs were encoded using the EFM+ coding rules of the DVD Standard…….*

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184. *Pertinently, during the final arguments, the Defendants did not dispute the findings of PW-2 on this issue. Nonetheless, on analysis of the uncontroverted evidence adduced by the Plaintiff, and material on record, it is clear that the DVDs produced by the Defendants conform to the DVD Standard. Therefore, the Defendants have infringed the Suit Patent, which is an SEP.*

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188. *It is evident that the Defendants' defence that Moser Baer produced the stampers under a valid license, was introduced for the first time during final arguments, without any foundation in the pleadings. Introducing this argument at the final stage undermines the credibility of the Defendants' defence*. It suggests an attempt to introduce an exculpatory explanation without foundational support in the original pleadings or affidavits by way of evidence. Such omissions are particularly significant given that *the Plaintiff has adduced documentary evidence, including correspondence from Moser Baer, confirming the delivery of 3031 stampers to Pearl Engineering and 5427 to Powercube Infotech. The Defendants have neither asserted nor proven that Moser Baer was authorized to pass on replication rights under any valid licensing agreement*. The absence of this defence in their written statement and failure to substantiate their claim or present any evidence, raises serious doubts about the Defendants' case. On the contrary, *it lends credence to the Plaintiff's allegations that the replication activities in question were unauthorized and in violation of the suit patent.*

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192. Clause 2.8 thus, explicitly clarifies that the license does not include authorization for equipment, such as stampers, used in the replication process. *As per this clause, Moser Baer's activities under the DVD License Agreement were not intended to involve creating or distributing stampers for third-party use, such as the Defendants' replication processes*.

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199. *The above chart indicates that Moser Baer/suppliers, acting on the Defendants' behalf, conducted steps that included EFM+ encoding, thus potentially infringing claims 1 to 11 and 13 of the Suit Patent. The chart's layout delineates the specific stages where the EFM+ encoding occurs, highlighting how the Defendants sourced the encoded master for their replication activities. By stressing upon their involvement, the Plaintiff has invoked the doctrine of 'indirect infringement,' arguing that the*

Defendants' utilization of the stampers that admittedly entail the patented claims, constitutes infringement of the Suit Patent.

200. *There can be no cavil that the manufacture of the stampers by Moser Baer or other suppliers of the Defendants necessarily involves encoding data using the EFM+ method outlined in claims 1 to 11 and 13 of the Suit Patent*. This process entails converting information words into a series of code words through modulation, aligning precisely with the Plaintiff's patented method. *These encoded stampers form the foundation for the replication process that the Defendants' use, embedding the EFM+ encoding in the resulting DVD-ROMs. Claim 12 specifically covers a record carrier, i.e., an object or article that carries the EFM+ encoded data on it, including a DVD. The DVDs replicated by the Defendants, using stampers produced by Moser Baer, meet the criteria of claim 12 by embodying the modulated signal. Thus, the end-product produced through the Defendants' replication process matches claim 12. The Defendants' argument regarding the origin of the EFM+ encoding - whether performed by Moser Baer or otherwise - is immaterial to the question of infringement. The existence of the EFM+ encoded signal on the replicated DVDs alone establishes infringement of claim 12, as corroborated by the testimony of PW-2. The replication process directly results in DVDs that satisfy the parameters of claim 12, rendering the Defendants liable for indirect infringement.*

201. *Even if the Defendants themselves do not perform the process detailed in the claims of the Suit Patent, they are producing and selling DVDs that are the direct outcome of the patented process. This activity also infringes the Plaintiff's exclusive rights under Section 48 of the Patents Act.*

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204. *The Defendants, in an attempt to deflect liability, raised the defence that their manufacturing activities were outsourced to a licensee of the Plaintiff only at the stage of final arguments. This argument was neither pleaded nor substantiated during trial, and no evidence was led to demonstrate that Moser Baer or any other supplier held a valid and subsisting license covering the production of stampers for third-party replication. The belated nature of this defence, coupled with the absence of supporting evidence, renders it untenable.*

204.1 *Under the doctrine of indirect patent infringement, a third-party infringer can be held liable for the actions of others if they collaborated and acted in a concerted manner to undermine the patentee's rights. In cases involving SEPs, the doctrine of indirect infringement gains significance. A party may be held liable for indirect infringement if they facilitate or enable the use of a patented technology covered by the standard. For instance, this could include manufacturing or supplying components specifically designed for standard-compliant products, or providing technical assistance to implementers.*

204.2 *The replication process ordered and outsourced by the Defendants involves steps directly covered by the Suit Patent. The final DVD-ROMs replicated under this process contain the EFM+ encoded signals as stipulated in claims 1 to 11 and 13 of the Suit Patent. Thereafter, the Defendants employ a process of physical stamping, by which the same pits and bumps are transferred onto discs in large quantities. This act of replication, which culminates in DVDs produced by the stamping process described above, constitutes an infringement of claim 12. By commissioning and utilizing stampers embedded with the patented encoding, the Defendants knowingly facilitate the production of infringing DVDs. The acts of third parties such as Moser Baer, who manufacture the stampers containing the EFM+ encoding at the Defendants' request, does not absolve the Defendants' liability. Under the law of agency and vicarious liability, the Defendants bear responsibility for the acts of Moser Baer as their agent. This shared intention and execution of actions that result in the production of infringing DVDs underscore the existence of a common design, making both the Defendants and their collaborators equally liable for patent infringement.*

204.3 *The Defendants and Moser Baer acted collaboratively, contributing to the production and replication of DVDs that incorporated the patented technology. This collaboration does not exonerate the Defendants from liability, as both parties contribute to the same infringing outcome and are equally accountable under the principles of joint tortfeasance.*

Findings

205. *In view of the foregoing analysis, the following issues are answered in favor of the Plaintiff, and against the Defendants holding them liable for infringement of the Suit Patent:*

i. Issues No. 3 and 4 in CS (Comm) 423/2016,
ii. Issues No. 4 and 5 in CS (Comm) 519/2018, and

iii. Issues No. (v) and (viii) in CS (Comm) 499/2018."

16.2.2 In the afore-extracted paragraphs, the learned Single Judge has essentially held as under:

(i) The appellants admitted that the DVDs manufactured by them contained data stored in the lands and pits conformed to the DVD standard specifications and that the arrangement of the data on their DVDs aligned with the method of modulation and data encoding described in Claims 1 to 11 of the suit patent. Thus, they implicitly acknowledged the fact that the claims in the suit patent, particularly relating to encoding and modulation, were reflected in their end products.

(ii) *While Claims 1 to 11 were method claims, Claim 12 was not exclusively a method claim. Claim 12 claimed a record carrier on which the modulated signal obtained by the method claimed in Claims 1 to 11 was provided in a track. Thus, Claim 12 claimed a tangible product, which stored the modulated signal forming subject matter of Claims 1 to 11.* Whereas the creation of the modulated signal claimed in Claims 1 to 11 involve the EFM+ coding process, it was not necessary that the EFM+ coding process was involved in Claim 12. Claim 12 emphasized the outcome of the method claimed in Claims 1 to 11.

(iii) The learned Single Judge has interpreted the expression "record carrier" to mean any medium or material, which serves

as a vessel for storing information, whether in analog or digital form. CDs and DVDs are also, therefore, "record carriers". *Claim 12, therefore, shifted the focus from the methods claimed in claims 1 to 11 to the carrier in which the data encoded using the EFM+ encoding technique was stored or replicated. Claim 12 was, therefore, in the nature of a product claim, whereas unlike claims 1 to 11, which were method claims. Any medium which stored high density data encoded according to the EFM+ method would, therefore, fall within Claim 12.*

(iv) The interrelationship between Claim 12 and Claims 1 to 11 has been understood in para 161 of the impugned judgment as only involving the issue of whether the record carrier claimed in Claim 12 held the modulated signal created using the EFM+ process claimed in Claim 1 to 11. Any storage medium, which did so, would be covered by Claim 12, which broadly encompassed any record carrier which incorporated the encoded EFM+ signal. The manner in which the record carrier was created was irrelevant. What had to be seen was whether, in the entire process from the conversion of 8-bit information words to 16-bit code words to the replication of the converted information into the lands and pits contained in the appellants' DVDs, the EFM+ coding process was involved at any stage.

(v) Inasmuch as *Claim 12 covered the record carrier containing the EFM+ modulated signal*, the learned Single Judge has found the submission of the appellants that DVDs

manufactured and sold by them did not infringe Claim 12, as they were not involved in the original wording and encoding process, to be without substance. Inasmuch as the EFM+ modulated signal was contained on the replicated DVDs of the appellants, the learned Single Judge has found the DVDs to infringe Claim 12.

(vi) In other words, the learned Single Judge has effectively held that, *if the data was encoded using the EFM+ technique and that data was contained on the DVDs manufactured and sold by the appellants, the DVDs would themselves infringe the suit patent, irrespective of the process involved in replicating the data on to the DVDs. So long as the link between the data encoded using the EFM+ process and the DVDs of the appellants were found to exist, the learned Single Judge has held that infringement stands committed*.

(vii) *Claim 12 has been interpreted by the learned Single Judge to cover not only the process of encoding data through EFM+ modulation, but also the resultant record carrier that embodies its encoded data.* The interpretation placed on Claim 12 by the appellants has been found to unduly restrict the scope of the claim and to be contrary to its clear intent and language. Claim 12 could not be restricted to production methods.

(viii) In para 173 of the impugned judgment, the learned Single Judge acknowledges the fact that *the replication process*

resulting in the emergence of the final DVD, which was released in the market, comprised both the stage of creation of the stamper, which was outsourced to Moser Baer, and replication of the DVD from the stamper. The learned Single Judge also acknowledges, in the same paragraph, the fact that the process actually undertaken by the appellants was of mechanical stamping, whereby the stamper was pressed against hot molded poly carbonate material to replicate DVDs. The DVDs which emerged from this process, however, contained the EFM+ encoded signal. This very fact, according to the learned Single Judge, resulted in the DVDs infringing Claim 12 of the suit patent.

(ix) The learned Single Judge has also sought to support his conclusion by applying the principle of indirect infringement. For this purpose, the learned Single Judge has noted that the suit patent claimed a SEP. Inasmuch as the final DVD which was created by the appellants, and the SEP forming subject matter of the suit patent, mapped to the same standard, the DVDs infringed the suit patent, applying the principle of indirect infringement.

(x) *The learned Single Judge has, in para 199 of the impugned judgment, acknowledged the fact that the actual process which infringed Claims 1 to 11 and 13 of the suit patent, i.e. the EFM+ encoding procedure, was undertaken, not by the appellants, but by Moser Baer.* The DVDs which were

manufactured and sold by the appellants, however, replicated the data contained on the stampers of Moser Baer which had itself been encoded using the EFM+ technique. The fact that the EFM+ method, forming subject matter of Claims 1 to 11 and 13 of the suit patent, was involved in incorporating the data on the stampers which were thereafter supplied to the appellants, was not in dispute. The record carrier manufactured and sold by the appellants, which carried the said EFM+ encoded data, was, therefore, *ex facie* covered by Claim 12 of the suit patent. Coverage under claim 12 was not dependent on the entity which undertook the EFM+ coding procedure. In the words of the learned Single Judge, "the existence of EFM+ encoded signal on the replicated DVDs alone establishes infringement of claim 12". By producing and selling DVDs, which were direct outcomes of the process claimed in Claims 1 to 11 and 13, the learned Single Judge has found the appellants to be infringing Claim 12.

(xi) In any event, the very manufacture and distribution of DVDs containing the data encoded using the EFM+ technology, in the ultimate manufacture of which the encoding of the data on the stampers was also an essential part, amounted to infringement of the suit patent, within the meaning of Section 48[16] of the Patents Act.

[16]**48. Rights of patentees**.—Subject to the other provisions contained in this Act and the conditions specified in Section 47, a patent granted under this Act shall confer upon the patentee—
(*a*) where the subject-matter of the patent is a product, the exclusive right to prevent third parties, who do not have his consent, from the act of making, using, offering for sale, selling or importing for those purposes that product in India;

(xii) Paras 204 and 204.1 to 204.3 of the impugned judgment summarized the above findings.

16.3 Submission of the appellants, and our view

16.3.1 The submissions advanced before us, by learned Counsel for the appellants, we find, were also advanced before the learned Single Judge and have been adequately addressed in the impugned judgment. Essentially, the appellants have once again sought to distance themselves from the procedures culminating in the production of the stampers by Moser Baer. They have reiterated the submission that, in the process of replication of data onto the DVDs by them, which are later sold in the market, the process of EFM+ Coding has no part to play. The entire thrust of their submissions is that the suit patent is essentially claiming the method/process of EFM+ Coding and that, as the purely mechanical process of stamping, undertaken by the appellants, does not involve this process, it cannot be said that the appellants infringe any claim in the suit patent.

16.3.2 We find the submissions to have been comprehensively addressed by the learned Single Judge in the impugned judgment. The learned Single Judge has, in paras 171 and 172 of the impugned judgment, disagreed with the appellants' contention that Claim 12 in the suit patent was also intended only to cover the EFM+ encoding

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(*b*) where the subject-matter of the patent is a process, the exclusive right to prevent third parties, who do not have his consent, from the act of using that process, and from the act of using, offering for sale, selling or importing for those purposes the product obtained directly by that process in India:

process. The learned Single Judge has interpreted the words used in Claim 12, particularly the reference to "a record carrier" to include any tangible medium, including a DVD, which carried material, the incorporation of which involved the EFM+ coding process. The learned Single Judge has, in para 173 of the impugned judgment, adopted the view that the creation of the glass master and stamper was an integral part of the complete process for manufacturing the DVDs. The mere fact that this process might have been outsourced to Moser Baer, according to the learned Single Judge, would not make a difference to the character of the ultimate product, the creation of which involved, as an integral step, the encoding of data onto the stamper, using the EFM+ Coding procedure.

16.3.3 This interpretation may, or may not, ultimately sustain scrutiny when the appeals are heard. It is clear, however, that it is not an impossible interpretation of Claim 12. In any event, it cannot be treated to be "egregiously perverse", "ridden with patent illegality" or "facially untenable" and cannot, therefore, constitute a basis to stay the execution of the impugned judgment and decree, in view of the enunciation of the law in para 82 of ***Lifestyle Equities***.

17. Validity of the Suit Patent

17.1 Before the learned Single Judge, the appellants also questioned the validity of the suit patent. No detailed submissions on this aspect were advanced before us in Court. However, in the written submissions that the appellants have filed, they have also reiterated

these grounds.

17.2 To our mind, the question of validity of the suit patent is essentially a matter to be considered while appreciating evidence in the appeals. Nonetheless, we advert briefly to the appellants' contentions in that regard.

17.3 Re: Section 64(1)(m) of the Patents Act

17.3.1 The appellants contended that the suit patent was vulnerable to revocation under Section 64(1)(m)[17] of the Patents Act as it had failed to disclose complete information as required by Section 8(1)[18], inasmuch as details of previous applications filed by the respondent were not disclosed.

17.3.2 The learned Single Judge has, after examining the entire matter and taking into account the available evidence, held that there was no

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[17] **64. Revocation of patents**.—
(1) Subject to the provisions contained in this Act, a patent, whether granted before or after the commencement of this Act, may, [be revoked on a petition of any person interested or of the Central Government or on a counter-claim in a suit for infringement of the patent by the High Court] on any of the following grounds, that is to say,—
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(*m*) that the applicant for the patent has failed to disclose to the Controller the information required by Section 8 or has furnished information which in any material particular was false to his knowledge;

[18] **8. Information and undertaking regarding foreign applications**.—
(1) Where an applicant for a patent under this Act is prosecuting either alone or jointly with any other person an application for a patent in any country outside India in respect of the same or substantially the same invention, or where to his knowledge such an application is being prosecuted by some person through whom he claims or by some person deriving title from him, he shall file along with his application [or subsequently [within the prescribed period as the Controller may allow]]—
[(*a*) a statement setting out detailed particulars of such application; and]
(*b*) an undertaking that, up to the date of [grant of patent] in India he would keep the Controller informed in writing, from time to time, of [detailed particulars as required under] clause (*a*) in respect of every other application relating to the same or substantially the same invention, if any, filed in any country outside India subsequently to the filing of the statement referred to in the aforesaid clause, within the prescribed time.

evidence to indicate that any material information had been withheld by the respondent as would have altered the grant of the suit patent.

17.3.3 The conclusion of the learned Single Judge on this aspect reads thus:

> "63. Section 64(1)(m) provides for the revocation of a patent on the ground that the patentee has failed to disclose to the Patent Office the required information, or has furnished materially false information. While the errors in handling the disclosures ideally should have been avoided, they cannot be construed as a deliberate act of suppression by the Plaintiff.
>
> 63.1 The Defendants, for their part, have failed to establish that any material information was knowingly withheld by the prosecuting attorney or that the omission was intended to mislead the Patent Office. More importantly, they have not demonstrated how the omitted details, if provided, would have altered the grant of the Suit Patent, particularly when the corresponding foreign applications remained valid and enforceable throughout the patent term.
>
> 63.2 In contrast, the Plaintiff has placed evidence on record showing that, at the time of filing, the disclosures made under Section 8 were based on the best available data within its internal records. Given the dynamic nature of patent portfolios across multiple jurisdictions, the process of updating such records is inherently complex and subject to administrative oversight.
>
> 63.3 A mere clerical or inadvertent error in updating foreign patent statuses, without any evidence of bad faith or intent to mislead, cannot be a ground for revocation.
>
> 63.4 For these reasons, the Court finds that the objections under Section 64(1)(m) are without merit and do not justify invalidating the Suit Patent."

17.3.4 The afore extracted findings of the learned Single Judge are pure findings of facts and have not been seriously traversed by the appellants. In any event, in view of the said findings, it cannot be said

that the appellants have made out a *prima facie* case regarding the plea that the suit patent was vulnerable to revocation under Section 64(1)(m) of the Patents Act as would justify staying the impugned judgment and decree.

17.4 Re. Section 64(1)(e)[19] of the Patents Act

17.4.1 The appellants contended that the claims in the suit patent were obvious from the disclosures contained in US patent 5206646[20] of Sony Group Corporation, which was titled 'digital modulating method'.

17.4.2 The learned Single Judge has differentiated US'646 from the suit patent thus in paras 79 to 83 of the impugned judgment, which read thus:

> "79. The Court has examined the submissions and evidence on record. For a patent to be invalidated on the grounds that the invention claimed was not new, or was publicly known or used before the priority date, the prior art must comprehensively disclose or anticipate the claimed invention. Therefore, in assessing the Defendants' challenge, it is essential to consider whether the Sony Patent discloses or anticipates the invention claimed in the Suit Patent, in its entirety. This means that the Sony Patent must disclose every feature of the Suit Patent, with the same arrangement and functionality.

[19] **64. Revocation of patents**.—
(1) Subject to the provisions contained in this Act, a patent, whether granted before or after the commencement of this Act, may, [be revoked on a petition of any person interested or of the Central Government [* * *] or on a counter-claim in a suit for infringement of the patent by the High Court] on any of the following grounds, that is to say,—

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(*e*) that the invention so far as claimed in any claim of the complete specification is not new, having regard to what was publicly known or publicly used in India before the priority date of the claim or to what was published in India or elsewhere in any of the documents referred to in Section 13;

[20] "US'646", hereinafter

80. The Sony Patent describes a digital modulation method that converts 8-bit data into 16-bit channel bits. This process uses successive 14-bit channel bits, similar to the Eight-to-Fourteen Modulation method, and includes two consecutive '0.' Figures 2A-2G of the Sony Patent clearly illustrate this encoding process. In contrast, the Suit Patent introduces EFM+ encoding, a novel mechanism that addresses a key limitation of earlier EFM technologies, including the Sony Patent. Specifically, the Suit Patent resolves the ambiguity in decoding that arises when a 16-bit channel code corresponds to multiple 8-bit data words. This issue is inherent in the Sony Patent, but is not addressed or resolved therein. The Suit Patent, on the other hand, provides a unique solution through a method that ensures one-to-one correspondence between code words and data words, achieving unambiguous decoding. This feature is explicitly detailed in the specification and claims of the Suit Patent.

81. A fundamental difference between the two patents lies in the capacity of the Suit Patent to eliminate the decoding ambiguity present in the Sony Patent. In the Sony Patent, a 16-bit channel code may not uniquely identify a single 8-bit data word, leading to potential errors during decoding. The Suit Patent resolves this limitation by employing advanced classification and coding techniques, as described in its claims and look-up tables. This novel feature differentiates the Suit Patent from the Sony Patent, making it new. The Sony Patent is primarily focused on channel modulation, with its innovation residing in the specific arrangement of channel bits for the EFM process. While it may perform 8-bit to 16-bit conversion, it does not go beyond this to address challenges such as decoding precision and storage efficiency. In contrast, the Suit Patent provides a framework that not only encodes data but also ensures efficient storage and unambiguous decoding, making it distinct in both scope and functionality.

82. To better understand the distinction between the Suit Patent and the Sony Patent, we imagine a situation where one is translating a message into a secret code. In the Sony Patent, the translation process converts 8-letter words into 16-letter encoded words. However, some of these encoded words may correspond to more than one original 8-letter word, making it unclear which message was initially sent - a problem akin to receiving two identical keys for different locks. This ambiguity can lead to errors when decoding the message. In contrast, the Suit Patent introduces

> an innovative mechanism that ensures each encoded 16-letter word corresponds to only one unique 8-letter word. It achieves this by classifying and selecting code words in such a way that decoding is precise and unambiguous, akin to having a unique key for each lock. Furthermore, the Suit Patent achieves this while maintaining higher data efficiency, allowing more information to be stored on a DVD. This critical advancement solves the ambiguity problem and ensures the compatibility and reliability of DVDs, setting it apart from the Sony Patent.
>
> 83. The EFM+ modulation, which constitutes the heart of the Suit Patent, is more than just an 8-to-16-bit conversion. It involves a specific set of rules and processes for encoding that allow unique identification of information words during decoding - elements absent from the cited prior art. PW-2 categorically denied that the Sony Patent discloses the EFM+ modulation as claimed in the Suit Patent. He clarified that while the Sony Patent does disclose a converter that receives 8-bit binary input signals and outputs 16-bit signals, it implements a different method of conversion compared to the method claimed in the Suit Patent. This assertion reinforces the Plaintiff's position that the specific conversion methodology in the Suit Patent is distinct and not disclosed by prior art. The testimony of PW-2 directly challenges the Defendants' contention that the Sony Patent anticipates the claimed invention.

17.4.3 Apart from reiterating the contention that the US'646 patent anticipated the suit patent, the appellants have not, either in oral or in written submissions, traversed the findings of the learned Single Judge as contained in paras 79 to 83 of the impugned judgment, extracted *supra*. On this aspect, too, therefore, it cannot be said that a case for granting stay of execution of the impugned judgment and decree is made out, especially considering the fact that it is a money decree.

17.5 Re. Section 64(1)(j)[21] of the Patents Act

[21] **64. Revocation of patents**.—
(1) Subject to the provisions contained in this Act, a patent, whether granted before or after the commencement of this Act, may, [be revoked on a petition of any person interested or of the Central Government or on a counter-claim in a suit for infringement of the patent by the High

17.5.1 The appellants contended that the suit patent was initially filed *vide* Application No.136/CAL/1995 before the Kolkata Bench of the Patent Office. This application was abandoned. Thereafter, the suit patent was filed as a divisional patent to the parent application in accordance with Section 16(1)[22] of the Patents Act, at the Chennai Branch of the Patent Office. The contents and the documents of the parent and divisional applications were identical, so that the divisional application, it was submitted, was not maintainable. These facts, it is submitted, were suppressed in the suits instituted by the respondents.

17.5.2 The learned Single Judge has examined the submission that there was no difference between the parent application and the divisional application.

17.5.3 The learned Single Judge dealing with this aspect, has observed that the suit patent, along with the five other patents, stemmed from the same parent application. However, as one application could claim only one invention, the suit patent had to be filed as a divisional application. No infirmity was found in this procedure. The findings of the learned Single Judge on this aspect as contained in para 101 of the impugned judgment, which reads thus:

> "101. The Defendants' argument that the Divisional Application for the Suit Patent impermissibly overlaps with the Parent

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Court] on any of the following grounds, that is to say,—

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(*j*) that the patent was obtained on a false suggestion or representation;

[22] **16. Power of Controller to make orders respecting division of application**.—

(1) A person who has made an application for a patent under this Act may, at any time before the [grant of the patent], if he so desires, or with a view to remedy the objection raised by the Controller on the ground that the claims of the complete specification relate to more than one invention, file a further application in respect of an invention disclosed in the provisional or complete specification already filed in respect of the first mentioned application.

> Application overlooks the statutory mandate that a single patent application cannot encompass multiple inventions. The Defendants have failed to establish a credible challenge to the Suit Patent based on non-compliance with Section 16. Their objection is solely premised on the alleged overlap of claims between the Parent and Divisional Applications, lacking substantiation. Given that the Divisional Application originated from the Parent Application, the Parent Application is expected to originally contain the same or related claims. The afore-noted analysis confirms that the claims in Suit Patent are distinct from those in the Parent Application, thereby meeting the legal requirement under Section 16 to avoid double-patenting."

17.5.4 Before us, the appellants have contended that the issue was not as to whether the divisional application was, or was not maintainable, but of suppression of facts.

17.5.5 Given the findings of the learned Single Judge, we are of the opinion that no *prima facie* case of suppression of facts, as would justify staying the impugned money decree, can be said to exist. Even otherwise, the issue of suppression of facts is essentially a matter which would require examination of the merits of the appeal.

17.6 In view of the aforesaid, no such *prima facie* case, on the aspect of validity of the suit patent can be said to have been made out by the appellants, as would satisfy the requirements of para 80 of the judgment of the Supreme Court in ***Lifestyle Equities***, which sets out the grounds on which a money decree can be stayed.

18. Re. plea of vicarious liability

18.1 Learned counsel for the appellants have also sought to contend

that, without any factual foundation in that regard, contained in the pleadings in the suits, the learned Single Judge has made the appellants vicariously liable for the infringement of the suit patent, if any, which took place at the end of Moser Baer.

18.2 In view of our findings and observations on the aspect of infringement, as well as the findings of the learned Single Judge in that regard, we are unable to agree with this contention of the appellants. The learned Single Judge has proceeded on the premise that Claim 12 in the suit patent is not a mere method claim but also claims the device on which the data, which was incorporated on the stampers by using the EFM+ modulation technique, was replicated. As the appellants had manufactured and sold the said DVDs, the learned Single Judge has held that the appellants had infringed the suit patent, especially given the width and amplitude of Section 48 of the Patents Act.

18.3 Inasmuch as the learned Single Judge has found the appellants themselves to be complicit in infringing the suit patent, the question of vicarious liability does not arise.

18.4 The entire controversy, ultimately narrows down to the interpretation of Claim 12 in the suit patent. If the interpretation as provided by the learned Single Judge is upheld, the appellant would be as liable for infringing the suit patent as Moser Baer. We have already held, that at this *prima facie* stage, that the findings of the learned Single Judge are not so egregiously perverse as would merit a stay of

the impugned judgment on that basis. The plea of vicarious liability, therefore, cannot come to the aid of the appellants.

19. Re. Computation of damages

19.1 The appellants have also questioned the manner in which the damages have been computed by the learned Single Judge and, on this point, we are of the opinion that the appellants *have* a talking point.

19.2 Royalty rate

19.2.1 In view of the fact that the suit patent is an SEP, damages, consequent to a finding of infringement, would have to be computed on the basis of the royalty to which the respondent would be entitled at FRAND[23] rates. On this aspect, there is no dispute.

19.2.2 The impugned judgment has, in paras 211 to 213, worked out the FRAND royalty rate payable to the respondent as US $ 0.03 per DVD. The appellants have not, either in their oral or in their written submissions, questioned the correctness of this royalty rate or pleaded that it is not FRAND. Once the FRAND royalty rate of US $ 0.03 per DVD was thus determined, all that remained was for the learned Single Judge to assess the number of DVDs, which had been replicated by the appellants.

19.3 Re. number of stampers sourced from Moser Baer, and number

[23] Fair, Reasonable and Non-Discriminatory

of DVDs replicated

19.3.1 From this point, we will have to deal with the individual appeals separately.

19.3.2 Re. RFA (OS) (Comm) 8/2025

19.3.2.1 The main appellant, in this appeal, is Appellant 2, Pearl Engineering Company[24].

19.3.2.2 The learned Single Judge has, towards this end, noted, in detail, as to how Pearl Engineering was not forthcoming with data regarding the number of DVDs which had been replicated by it out of the stampers provided by Moser Baer. As a result, the respondent had to communicate with Moser Baer seeking details regarding the number of stampers supplied by them to Pearl Engineering. Moser Baer, in its reply, provided the requisite details, which confirmed that, during the period 14 July 2008 to 30 May 2015, Moser Baer had supplied 3031 stampers to Pearl Engineering. The learned Single Judge notes in para 242 of the impugned judgment that the authenticity of this document was not questioned by the appellants. From this, the learned Single Judge has extrapolated the number of stampers supplied to the appellants during the period of three years prior to filing of the suit, till expiry of the suit patent on 12 January 2015, as 2500.

[24] "Pearl Engineering" hereinafter

19.3.2.3 The correctness of this figure has not been questioned by the appellants. Even otherwise, at this *prima facie* stage, we are not inclined to discredit the finding of the learned Single Judge in that regard. Even otherwise, given the fact that Pearl Engineering was not forthcoming regarding the number of stampers that they had procured from Moser Baer, we find no reason, at this *prima facie* stage, to discredit the figure of 2500, as representing the number of stampers supplied by Moser Baer to Pearl Engineers during the relevant period.

19.3.2.4 The last and final task which remained with the learned Single Judge, once the per DVD applicable FRAND royalty rate of US $ 0.03, and the number of stampers supplied by Moser Baer to Pearl Engineering as 2500, had been determined, was to assess the number of DVDs, which could be replicated from 2500 stampers.

19.3.2.5 Here, in our considered opinion, the impugned judgement falters, seriously.

19.3.2.6 Regarding the number of DVDs which could have been replicated by Pearl Engineering out of 2500 stampers sourced from Moser Baer, the learned Single Judge holds, in para 259.2 of the impugned judgement, thus:

> "259.2. Since Pearl Engineering has failed to provide sales records despite court directions, which warrants an adverse inference, *the Court must estimate the number of DVDs replicated by them based on the best available evidence*. In this context, *the only reliable evidence that provides a definitive figure is the communication from Moser Baer [Mark Q-1], which confirms the supply of 3031 stampers to Pearl Engineering from 18th July, 2008 to 30th May, 2015.* Considering these figures, the Court will

> extrapolate the figures *for the stampers for the period three years prior to the filing of the suit until the expiry of the Suit Patent on 12th February, 2015 as 2500*. The Defendants' own promotional material (Ex. DW-1/P9) advertised delivering over 100 million DVDs, which directly contradicts their attempt to downplay replication volumes. *Sans any definitive evidence regarding the number of DVDs that can be produced from a single stamper, the Court adopts a reasonable estimate of 10,000 DVDs per stamper which shall apply in all the three suits. Accordingly, the total number of DVDs replicated is estimated as 2,50,00,000 DVDs*."

19.3.2.7 It is plainly apparent that the reasoning of the learned Single Judge, in the afore-extracted para 259.2, is flawed. The learned Single Judge first observes that, in the absence of any material having been provided in that regard by Pearl Engineering, the Court would have to estimate *the number of DVDs replicated* on the basis of the best available evidence. There can be no cavil whatsoever with this proposition. The "best available evidence" would, however, have to be *evidence regarding the number of DVDs replicated* from the stampers sourced from Moser Baer.

19.3.2.8 Unfortunately, *no such evidence* was forthcoming, and the learned Single Judge has, therefore, proceeded on the basis of a hypothetical presumption that 10,000 DVDs could be replicated from one stamper. *There is no basis whatsoever, on the record, or otherwise disclosed in the impugned judgement, to sustain this presumption. It appears, therefore, to be entirely the ipse dixit of the learned Single Judge.*

19.3.2.9 One may ask – Why 10,000? Why not 50,000, or, for that matter, 1000?

19.3.2.10 *There is no basis forthcoming, from the impugned judgment for the figure of 10,000 DVDs per stamper, which the learned Single Judge has adopted in para 259.2. Though the learned Single Judge characterizes this figure as a "reasonable estimate", there is no material on the basis of which it can be asserted that this figure is reasonable.* By applying the said figure of 10000 DVDs per stamper, the learned Single Judge has assumed that, during the period in issue, Pearl Engineering replicated 2,50,00,000 DVDs.

19.3.2.11 Such a conclusion, based on the presumptive estimate of 10,000 DVDs being replicated from one stamper, is *prima facie* unsustainable.

19.3.2.12 In fact, in the cross-examination of DW-1 in CS (Comm) 499/2018, the proprietor of Powercube Infotech LLP [Appellant 2 in RFA (OS) (Comm) 14/2025], a specific suggestion was put by the respondent, to which the witness answered, thus:

> "Q.162 I put it to you that although the capacity per stamper is 25000 PVP Video Discs, to put it at the very lowest, you have produced a minimum of 10,000., DVD Video Discs per stamper.
>
> Ans. Since I was not involved in the day to day activities *but I think this is your wrong calculation."*

19.3.2.13 We may note that, even in arguments before us, both oral as well as in their written submissions, the respondents have not been able to support the presumption of the learned Single Judge that one stamper would replicate 10,000 DVDs.

19.3.2.14 This finding, in our considered opinion, would make out a case for consideration of the appellant's case of stay of the impugned judgement, even within the criteria envisaged in para 80 of ***Lifestyle Equities***.

19.3.3 Re. RFA (OS) (Comm) 12/2025

19.3.3.1 This *prima facie* conclusion of ours applies *mutatis mutandis* to RFA (OS) (Comm) 12/2025. In that case, based on the information provided by Moser Baer, the learned Single Judge has worked out the number of stampers supplied to Powercube Infotech, Appellant 2 in the appeal, during the relevant period, as 4993. We presume, for the purpose of the present order, that this figure is acceptable.

19.3.3.2 Here again, by applying the assumed figure of 10,000 DVDs per stamper, the learned Single Judge has worked out the number of DVDs replicated by Powercube Infotech, as 4,99,30,000 DVDs.

19.3.3.3 For the reasons already set out by us in paras 19.3.2.6 to 19.3.2.14 *supra*, this conclusion is *prima facie* unsustainable in law, as there is no basis, whatsoever, for the assumption that, from one stamper, 10000 DVDs could be replicated.

19.3.4 Re. RFA (OS) (Comm) 13/2025

19.3.4.1 In the case of RFA(OS)(Comm) 13/2025, in which the main appellant is Siddharth Opticals, the learned Single Judge has, in para 259.4 of the impugned judgment, held as under:

> "259.4. DW-1, in his deposition, stated that Siddharth Optical ceased operations in 2011-2012. The evidence further suggests that additional DVDs were produced beyond the 2006 to 2009 period. Considering the lack of sales records, the Court applies a reasonable and conservative projection based on the assumption that the production rate remained stable over the subsequent years. Since no evidence suggests a decline in output, and considering the industry practice of maintaining consistent production levels, the Court estimates that the DVD production would have only grown. 259.5. The Suit was filed on 28th May 2012 and Patent remained in force until 12th February 2015. Therefore, damages are being assessed from three years prior to the suit filing date (i.e., from 28th May 2009) until the cessation of business operations in 2012. Applying this estimation methodology, the Court determines that Siddharth Optical likely manufactured and sold approximately 65,00,000 DVDs during this period. This estimate shall serve as the basis for computing royalty damages."

19.3.4.2 There is no basis forthcoming, in the impugned judgment, for the assumption that Siddharth Opticals manufactured and sold 65,00,000 DVDs during the period in issue.

19.3.5 Resultantly, we have no option but to hold that, on the aspect of computation of damages, precisely on the aspect of the estimation of the number of DVDs which could be replicated from one stamper, and the number of DVDs replicated by the appellants, therefore, during the period in issue, the finding of the learned Single Judge is based on a presumption for which no supportive material is forthcoming. We are convinced, therefore, that, on the aspect of computation of damages, the prayer for stay, by the appellants, merits

some degree of favourable consideration, even within the limited parameters delineated in para 80 of ***Lifestyle Equities***.

20. The Sequitur

20.1 As a result, the position which emerges is as follows.

20.2 The learned Single Judge has returned findings on five issues, i.e., (i) infringement, (ii) validity of the suit patent, (iii) the appropriate FRAND rate of royalty, (iv) the number of stampers supplied by Moser Baer to the appellants and (v) the number of DVDs replicated by the appellants during the period of dispute.

20.3 We have to assess whether these findings justify grant of stay of the impugned order. While doing so, we have to be mindful of the fact that the impugned order is in the nature of a money decree which is ordinarily not to be stayed. The circumstances in which a money decree can be stayed, have been specifically enumerated by the Supreme Court in para 80 of ***Lifestyle Equities*** *supra.*

20.4 The findings of the learned Single Judge on the aspect of infringement, validity of the suit patent, appropriate FRAND rate of royalty and the number of stampers supplied by Moser Baer to the appellants cannot be said to suffer from any of the infirmities envisioned by the Supreme Court in para 80 of ***Lifestyle Equities***. These, therefore, cannot constitute grounds on which a stay of the impugned money decree can be sought.

20.5 That, however, is not the position with the findings of the learned Single Judge in respect of the fifth aspect, regarding the number of DVDs which could be replicated from one stamper, and, therefore, the number of DVDs replicated by the appellants during the period in issue.

20.6 In the case of RFA (OS) (Comm) 8/2025 and RFA (OS) (Comm) 14/2025, the learned Single Judge has proceeded on a presumption that 10,000 DVDs could be replicated from one stamper. No basis for this figure is forthcoming on the record. The figure is, therefore, entirely presumptuous in nature. It is well settled that damages cannot be fastened on a litigant on the basis of mere presumption.

20.7 Similar is the situation with respect to the appellants in RFA(OS)(Comm) 13/2025. In that case, too, the learned Single Judge, though he has not proceeded on the basis of the number of DVDs which could be replicated from one stamper, has presumed a production, by the appellants, of 65,00,000 DVDs during the period of dispute, without any supportive material.

20.8 The presumptions, of the learned Single Judge, that 10,000 DVDs could be replicated from one stamper and that, in the case of RFA(OS)(Comm) 13/2025, 65,00,000 DVDs had been replicated during the period in issue, being completely without foundation, *prima facie* attract para 80 of the judgment of the Supreme Court in ***Lifestyle Equities***.

20.9 In these circumstances, we are convinced that the appellants cannot be directed, under Order XLI Rule 5 of the CPC, to deposit the entire decretal amount.

20.10 At the same time, as we are not inclined, at this stage, to disturb the findings of the learned Single Judge regarding infringement, or validity of the suit patent, it would not be equitable to grant a blanket stay to the appellants.

Conclusion

21. Keeping in the view the aforesaid facts, we dispense with the requirement of deposit *per se*, by the appellants, of the decretal amount.

22. However, we direct the appellants to, in each case, furnish an unconditional and irrevocable bank guarantee, with auto-renewal facility, drawn on a Nationalized Bank, covering the principal amount of damages awarded by the learned Single Judge in the impugned judgment and decree, within a period of eight weeks from the date of uploading of this judgment on the website of this Court.

23. On the said amount being deposited, there shall be a stay of execution of the impugned judgment and decree till further orders.

24. Needless to say, the deposit is subject to the outcome of the present appeals and shall abide by further orders to be passed thereon.

25. CM Appl 25908/2025, 31118/2025 and 31125/2025 stand disposed of in the aforesaid terms.

RFA(OS)(COMM) 8/2025, RFA(OS)(COMM) 12/2025, RFA(OS)(COMM) 13/2025 and RFA(OS)(COMM) 14/2025

26. The appeals be listed for further hearing on 15 January 2026.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

JANUARY 5, 2026
AKY/YG/AR