



The Whatman Judgment

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Anand and Anand represented Whatman International Limited in a suit before the Hon'ble High Court of Delhi seeking a permanent injunction restraining the Defendants from infringing the trademark "WHATMAN", and from copying the trade dress and copyright therein, despite having given undertakings and the operation of two criminal proceedings against them. The Plaintiff manufactures and sells various products including filter paper. The Defendants in the matter were habitual offenders, and despite an interim injunction operating against them since May 2014, continued to sell infringing products through different family members and related entities. In 2018, based on concrete information, a contempt application under Order XXXIX Rule 2A of the Code of Civil Procedure was filed before the Hon'ble High Court of Delhi against the Defendants. In view of the allegations against the Defendants, Defendant Nos. 1, 2, 3 and 8 were directed to appear before the court for recordal of their statements on 4th October 2018 and on 25th October 2018. On 25th October 2018, after lengthy oral arguments, the judgement was reserved, and pronounced on 1st February 2019. It was held that the packaging used by the Defendants was a substantial reproduction of the Plaintiff's "WHATMAN" packaging in colour combination, size, get-up, layout, arrangements, etc. It was also held that the denial of knowledge of the WHATMAN brand and the Plaintiff's rights in the trademark were a 'baseless and bare denial', and the intention was to clearly pass off the Defendants' products as those of the Plaintiff's. The Defendants' repeated infringing conduct was also taken into cognizance, the first FIR against them being filed in 1993, having made false statements in their pleadings and in the statements recorded before Court. It was recorded that the Defendants 'continue to indulge in illegal conduct of infringement and passing off since the year 1992 with scant regard to their own undertakings and to the orders passed by the Court', and 'do not have the slightest hesitation in making false statements before the Court'. The Defendants were held guilty of infringement and passing off and liable for making false statements before the Court, showing wilful disobedience. The suit was thus decreed in favour of Whatman International Limited and an award of:

- Rupees 1 crore against Defendant Nos. 1, 3 and 7;
- Rupees 25 Lakhs each against Defendant Nos. 2, 4 and 5;
- Damages against Defendant No. 8 for a sum of Rupees 10 lakhs against Defendant No. 8;
- All of the above-mentioned sum to be payable within three months from the date of the judgment.
- The court also held that Defendant Nos. 1 to 5, 7 and 8 were guilty for contempt of Court, for which hearing on punishment is listed for 5th March 2019.

Team Anand and Anand comprised of Pravin Anand, Shobhit Agrawal and Vibhav Mithal



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