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

% ***Judgment Reserved on: 30th April, 2025***
Judgment pronounced on: 1st August, 2025

\+ **CS (COMM) 860/2024, I.A. 41112/2024 & I.A. 4591/2025**

AQUESTIA LIMITED .....Plaintiff

Through: Mr. Pravin Anand, Ms. Vaishali Mittal, Mr. Siddhant Chamola, Mr. Gursimran Singh Narula and Ms. Saijal Arora, Advocates.

Versus

AUTOMAT INDUSTRIES PRIVATE LIMITED & ORS. .....Defendants

Through: Mr. J. Sai Deepak, Sr. Advocate with Ms. Somya Chaturvedi, Mr. Shrey Sharma & Mr. Shreesh Chadha, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

AMIT BANSAL, J.

I.A. 41112/2024 (*under Order XXXIX Rule 1 and 2 CPC*)

1. By way of the present judgment, I shall decide the above-captioned application filed on behalf of the plaintiff company under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 [hereinafter the 'CPC'].

2. The present suit has been filed seeking relief of permanent injunction restraining the defendants from infringing the plaintiff's registered patent no.IN 427050, titled as '*A Fluid Control Valve*' [hereinafter the 'suit patent'] along with other ancillary reliefs. The bibliographic details of the suit patent are given below:

S.NO.	**PARTICULARS**	
1.	Title of the patent	A FLUID CONTROL VALVE
2.	Patentee	Aquestia Limited
3.	Assignor	Dorot Management Control Valves Ltd.
4.	Priority Date	09 June 2016
5.	Priority application	Israel Patent Application No.246151
6.	International filing date	05 June 2017
7.	International Application number	PCT/IL2017/050625
8.	Date of filing in India	23 November 2018
9.	Application Number	201827044214
10.	Date of Publication (under Section 11A)	07 June 2019
11.	Date of First Examination Report	25 October 2019
12.	Date of Response to the First Examination Report	24 April 2020
13.	Date of Grant	27 March 2023

14.	Date of Expiry	05 June 2037
15.	Corresponding Foreign Patents	Granted in 5 countries, i.e. India, Israel, the United States of America, Brazil and Mexico.

3. On 3rd October 2024, this Court issued summons in the suit and notice in the interim injunction application. Further parties were referred for mediation before the Delhi High Court Mediation and Conciliation Centre. However, the mediation proceedings were not successful.

4. Replies to the interim injunction application and written statements in the suit were filed on behalf of the defendants no.2 and 4 and defendant no.5 on 26th December 2024 and 8th January 2025, respectively.

5. Arguments in the application for interim injunction were heard on 16th January 2025, 19th February 2025, 25th March 2025, and 30th April 2025, when judgment was reserved. Subsequently, written submissions have also been filed on behalf of the parties.

CASE SETUP BY THE PLAINTIFF

6. The case set up by the plaintiff company in the plaint is as follows:

6.1. The plaintiff, Aquestia Limited, a company duly incorporated under the laws of Israel, is recognised as a global leader in the field of control, monitoring, and management of liquid conveyance systems. The plaintiff has developed solutions for the management of liquids across multiple sectors, including but not limited to waterworks, fire protection, aviation fueling, irrigation, mining, oil and gas, and commercial plumbing etc.

6.2. The plaintiff has, over the years, developed a wide range of modern valves, including but not limited to mechanical and hydraulic valves, and has successfully expanded its business operations to several international export markets, including Argentina, Mexico, Europe, China, Australia, Africa, the United States of America, Canada, and India.

6.3. At present, the plaintiff's active patent portfolio comprises approximately 145 patents. The plaintiff has undertaken significant investments, both monetary and technical, towards the protection, enforcement, and global registration of its intellectual property rights.

6.4. The suit patent was originally granted in favour of Dorot Management Control Valves Ltd. Pursuant to the merger between the plaintiff and Dorot Management Control Valves Ltd, the plaintiff has been duly assigned all rights, title, and interest in the suit patent.

6.5. The plaintiff's invention, as claimed in the suit patent, is novel and involves an inventive step, offering substantial and distinct advantages over conventional solutions disclosed in the prior art.

6.6. The plaintiff's products are widely recognised for their safety, reliability, and high quality. Over the years, the plaintiff has built substantial goodwill and a strong reputation in global markets, which is reflected in its consistently high revenues. Notably, in the financial year 2023, the plaintiff's total global revenue exceeded USD 100 million.

6.7. The plaintiff's products are being distributed both in India and internationally through various established trade channels. The commercial success of the plaintiff's products covered by the suit patent is evident from the sales performance. Till date, approximately 28,000 units of the said valves

have been sold worldwide and have generated a revenue of around USD 5 million.

6.8. The defendant no.1, Automat Industries Pvt. Ltd., is a company engaged in manufacture, sale, and export of irrigation solutions, including a range of valves marketed under the name 'Hydromat Valves'. The defendant no.2, Automat Irrigation Private Ltd., a sister concern of defendant no.1, is exclusively involved in the manufacturing and marketing of irrigation solutions. It is averred that defendant no.2's manufacturing facilities are being utilised by defendant no.1 for the production of the infringing products.

6.9. Defendants no.1 and 2, having no prior experience in the development of pilot-operated valves before 2020, have entered the industrial valves market without any substantial research or development history, and they have resorted to the imitation of established industry products including the plaintiff's 'Series 75 valve'.

6.10. Defendant no.3, Delhi Mill Stores, operating from Chawri Bazar, Delhi, is a distributor of defendants no.1 and 2 and is engaged in the sale of the infringing products within Delhi. Defendant no.4, Mr. Tushar Jain, is the Managing Director of defendant no.1 company and Director of defendant no.2 company, and is stated to be directly involved in the infringing activities. The defendant no.4 has filed and obtained Indian Patent No. IN 478536 [hereinafter 'IN'536'] for a fluid control valve. Defendant no.5, Mr. Orlans Yitzhak *alias* Issac Orlans, currently serving as Chief Technical Officer of defendant no.1, is a former employee of Netafim (plaintiff's distributor) and is named as one of the inventors of the said IN'536.

6.11. In January 2023, the plaintiff became suspicious about the defendants upon learning that defendant no.5 had joined defendant no.1 as its Chief Technology Officer. Defendant no.5, a former employee of Netafim, the plaintiff's distributor, was aware of the technical details of the suit patent since 2015. During his tenure as Product Manager at Netafim, defendant no.5 was involved in the development phase of the plaintiff's 'Series 75 Valve' technology covered by the suit patent.

6.12. In January 2023, the plaintiff also came across an announcement by the defendants regarding the proposed launch of valves under the 'Hydromat' brand, with promotional emphasis on an alleged innovation termed as a 'Curved Bridge.' An online publication titled 'Irrigazette' featured an article on the defendants' 'Hydromat' valves, but did not disclose any technical details about the internal components.

6.13. In February 2023, during the World Ag Expo in Tulare, California, USA, the plaintiff noticed a third-party, USA-based company, marketing valves under the brand 'TORO'. Although this company was unrelated to the defendants, the externally visible features of the 'TORO' valves appeared visually similar to the defendants' 'Hydromat' valves. However, there was no manufacturer information displayed, and the plaintiff could not ascertain whether these valves were connected to the defendants.

6.14. Between March and September 2023, the plaintiff conducted further internet-based investigations to clarify the position. These investigations revealed that the 'TORO' branded valves were identical to the defendants' 'Hydromat' valves. Around August–September 2023, the plaintiff was able to

confirm that the defendants were manufacturing 'Hydromat' valves for third-party brands, including for export to the United States.

6.15. Despite this, the plaintiff was still unable to procure an actual sample of the defendants' product for physical inspection and claim mapping. To conclusively determine whether the defendants' products were implementing the claims of the suit patent, the plaintiff, through its associate entity, Hidroglobal India Pvt. Ltd., purchased Hydromat Valves in October 2023. The purchased valves were sent to Israel for detailed examination and comparison with the suit patent.

6.16. In February 2024, the plaintiff initiated an investigation into the defendants' activities within India. An investigator, engaged on behalf of the plaintiff, purchased a 'Hydromat' valve from defendant no.3, based in Delhi. The investigation revealed that the defendants were offering for sale and selling 'Hydromat' valves in various sizes both within India and in international markets, and were being manufactured at the premises of the defendant no.2. Further, Toro, a US-based entity, was a client of the defendants, and Toro-branded valves were also being offered for sale by defendant no.3 in India.

6.17. In parallel, further surveillance of the defendants' activities conducted by the plaintiff revealed that the defendants had filed a patent application in India concerning the 'Hydromat' valve on 4th September 2021. The said application was granted as Indian Patent No. IN'536 on 7th December 2023. The IN'536 patent was filed in the name of defendant no.4, with defendant no.5 listed as an inventor. During the prosecution of the IN'536 patent, the Indian Patent Office cited the suit patent as prior art, raising objections on the

grounds of lack of novelty and inventive step. However, the defendants secured the grant of IN'536 by making false, misleading, and incorrect submissions before the Indian Patent Office.

CASE SETUP BY DEFENDANTS NO.2 AND 4

7. The case set up by the defendants no.2 and 4, in their written statement, is as follows:

7.1. Defendant no.2 is one of the leading global manufacturers of plastic impact sprinklers, irrigation equipment, and related accessories. Its product portfolio includes, *inter alia*, impact sprinklers, disc filters, screen filters, venturi injectors, air release valves, hydro cyclones, head units, throttle valves, PVC and PP ball valves, various types of non-return valves, fertilizer tanks, landscape irrigation products, and a wide variety of allied fittings used in the micro-irrigation industry.

7.2. Defendant no.2 is engaged by both private entities and government agencies for executing irrigation and water management projects on a turnkey basis. It manufactures and supplies fluid control valves across various ranges to the general public as well as to government bodies. Presently, defendant no.2 is supplying fluid control valves, including the allegedly infringing valves, for use in several large-scale government projects of significant public importance, such as the Narmada Valley Corporation Project. As a result, the defendant no.2's fluid control valves, incorporating the patented technology, are available in substantial volumes in the market.

7.3. Defendant no.4, the managing director of defendant no.1 company and holds a Master of Science in Economics and a Master's degree in

Management Studies from BITS, Pilani. With over three decades of professional experience, defendant no.4 began his career in investment banking and later founded a micro-irrigation business in response to the 1995 drought with the objective of providing indigenous technology solutions for farmers.

7.4. Defendant no.4 has undertaken various initiatives, including the establishment of over 500 demonstration farms across India and 100 farms internationally, as well as the development of innovative agricultural solutions such as drones, with the goal of enhancing agricultural productivity and sustainability.

7.5. Defendants no.2 and 4, through their independent research and development efforts, have made innovations in the field of valves, culminating in the grant of Indian Patent No. IN'536 in the name of defendant no.4, with defendant no.5 named as one of the inventors.

7.6. The invention in IN'536 addresses the specific technical problem of reducing inlet turbulence and outlet energy loss by incorporating the curved sealing bridge, resulting in smoother flow dynamics and precise pressure regulation. The bridge design in the defendants' product is distinct and does not infringe the suit patent. The present suit is a *mala fide* attempt to obstruct the defendants no.2's business operations, despite the technical distinctions between the two patents.

7.7. Defendant no.2 has been selling its patented product since January 2022. The sales figures of defendant no.2 are given in paragraph 42 of the written statement.

CASE SETUP BY THE DEFENDANTS NO.5

8. The case set up by the defendant no.5 in its written statement is as follows:

8.1. Defendant no.5 is the Chief Technical Officer of defendant no.2 company and commenced his employment on 16th March 2020. Defendant no.5 possesses extensive experience in the fields of filtration, sprinkler irrigation, and other irrigation products.

8.2. Defendant no.5 is a highly qualified professional with a Master's degree in Mathematics, Physics, and Hydraulics. Defendant no.5 has held senior leadership positions across prominent companies in the irrigation industry. After returning to Israel, he was appointed Chief Technical Officer at NDJ Ltd., leading the development of drip and sprinkler irrigation technologies. Defendant no.5 is widely regarded for his expertise in irrigation technology development.

8.3. Between 2013 and December 2019, defendant no.5 was employed with Netafim Ltd., the plaintiff's exclusive distributor, one of the largest micro-irrigation companies, to head a global filtration technology project and establish manufacturing facilities in Turkey and China. During his tenure at Netafim, defendant no.5 was involved only in commercial discussions relating to the plaintiff's predecessor, Dorot Management Control Valves Ltd., which was facing commercial challenges. Defendant no.5 provided market-related inputs but was not involved in any technical design or development of the plaintiff's products.

8.4. In 2020, defendant no.2 engaged defendant no.5 to design a line of control valves tailored to Indian conditions, addressing low irrigation

uniformity caused by short irrigation cycles and low-pressure pumps. To solve this, defendant no.5 developed the concept of a 'curved sealing bridge' to reduce turbulence and enable faster valve opening. This curved design allowed the valve to achieve full opening faster than comparable valves available in the market. As a result of these independent research and development efforts, defendant no.4 (as applicant) and defendant no.5 (as inventor) secured Indian Patent No. IN'536 for their innovations in valve technology.

8.5. The objections now being raised by the plaintiff have already been addressed and examined during the course of the said patent prosecution proceedings. The present suit has been instituted, raising frivolous and baseless allegations of infringement.

8.6. The fluid control valves are well known in the prior art and predate both the suit patent and the defendants' IN'536 patent. Notwithstanding the same, the defendants undertook dedicated research and development efforts to address the technical problem of reducing turbulence at the inlet portion, which was causing energy loss at the outlet. The defendants accordingly developed a novel technical solution, resulting in a valve design that ensures smooth fluid flow by eliminating vortex formations. The defendants' invention is directed towards a fluid control valve capable of handling high flow volumes with minimal pressure loss.

SUBMISSIONS ON BEHALF OF THE PLAINTIFF

9. Mr. Pravin Anand, Counsel appearing on behalf of the plaintiff, has made the following submissions:

9.1. The defendants, in their written statement, have admitted that the asymmetric valve includes unequal diaphragm areas and unequal path lengths of the inlet and outlet chambers.

9.2. The defendants have failed to produce any technical measurements, claim mapping, or product-to-patent comparison rebutting the plaintiff's infringement analysis.

9.3. The sole defence raised by the defendants is that their actions are protected under patent IN'536. The validity of patent IN'536 has been challenged by the plaintiff in the revocation petition bearing CO.(COMM.IPD-PAT) 1/2025. Further, mere grant of a patent in favour of the defendants does not constitute a defence to an allegation of infringement of the plaintiff's prior and subsisting patent. Reliance in this regard is placed on the judgment in ***Hindustan Lever Limited* v. *Lalit Wadhwa***[1].

9.4. The written statements of the defendants are contradictory to the Complete Specification of the defendants' patent, i.e., IN'536. Although the defendants plead their valve is symmetric, the Complete Specification of the IN'536 patent admits to unequal areas and unequal path lengths, which satisfy the key limitations of the suit patent.

9.5. 'Curved Shape of the Sealing Bridge' is immaterial to infringement/non-infringement, as Claim 1 of the suit patent is directed to a sealing bridge, regardless of its shape. The shape of the sealing bridge, whether curved or straight, is immaterial to the question of infringement, as the suit patent claims cover both straight and curved embodiments.

[1] 2007 SCC OnLine Del 1077

9.6. The defendants themselves have admitted that the suit patent covers curved/concave bridges and have used the terms ‘curved’ and ‘concave’ interchangeably.

9.7. The defendants have relied on a flawed report of their patent agent that compares the two patents, not the suit patent versus the infringing product. Further, the report lacks any credibility as it is drafted by the patent agent, who is not an expert in the field of irrigation or valve technology. The report does not cite any measurements or testing data, unlike the plaintiff’s testing reports.

9.8. Defendant no.5, an ex-employee of Netafim (plaintiff’s distributor), was actively involved in technical aspects of the suit patent, contrary to his claim that he was only involved in commercial aspects of the fluid control valve. The same is duly supported by the communications which have been filed as confidential documents before this Court. Defendant no.5 has failed to explain how he could be named as an inventor on the IN’536 patent despite claiming to have no knowledge of the technical aspects of the fluid control valve.

9.9. Defendant no.4 misled the Indian Patent Office by falsely stating that the plaintiff’s patent was limited to a ‘straight sealing bridge’, when the Complete Specification of the suit patent discloses both straight and curved embodiments.

9.10. There is no delay in filing the present suit as the plaintiff procured the defendants’ product in October 2023 and sent it for testing to Israel. However, due to the terrorist attack on 7th October 2023 at Kibbutz Dorot, located near the Gaza Strip, where the plaintiff’s facilities and several employees are

based, the plaintiff was unable to conduct the testing immediately. Investigation into the defendants' activities in India commenced in February 2024, following which additional products were purchased in February and July 2024. Thereafter, third-party testing was completed, and results were received on 23rd August 2024. Subsequently, the present suit was filed in October 2024.

SUBMISSIONS ON BEHALF OF THE DEFENDANTS

10. Mr. J Sai Deepak, Senior Counsel appearing on behalf of the defendants, has made the following submissions:

10.1. The Defendants' product is based on IN'536 patent, which was granted after due consideration by the Indian Patent Office, wherein the suit patent was explicitly cited and examined as prior art. The patent was granted on the basis that the defendants' invention has distinct features, including the '*curved sealing bridge'*, '*symmetrical diaphragm'*, and '*equal inlet and outlet path lengths'*. Reliance is placed on ***Guala Closures SPA* v. *AGI Greenpac Limited*[2].**

10.2. There is no commonality between the suit patent and the defendants' patented product, and therefore, no case of infringement arises, either literally or by purposive construction.

10.3. The diaphragm, being used by the defendants, is symmetrical and the sealing bridge is curved. The term 'curved sealing bridge' in the defendants' product refers to a sealing bridge that is curved along the horizontal axis, i.e., in the direction of the water inlet flow, as opposed to the plaintiff's alleged vertically curved sealing bridge, which allows the diaphragm to rest over it.

[2] 2024 SCC OnLine Del 3510

The defendants' horizontally curved design reduces turbulence and energy loss by streamlining the flow of water through the valve, in contrast to the plaintiff's focus on diaphragm area manipulation for low-pressure operation.

10.4. The operational principle of the defendants' product is entirely different from the plaintiff's invention, which depends on varying diaphragm area for pressure responsiveness. Since the operational mechanisms and technical advancements differ, infringement cannot be alleged.

10.5. The plaintiff has failed to place on record any relevant material to substantiate its allegations regarding the validity of the defendants' patent. The plaintiff has merely made bald and unsubstantiated averments in the plaint, alleging that the defendants obtained Indian Patent No. IN'536 by making false, incorrect, and misleading submissions before the Indian Patent Office, without providing any supporting evidence.

10.6. Defendant no.2's valves are being extensively supplied for various government projects across India, and the grant of an interim injunction would severely disrupt ongoing public infrastructure projects, which would be against the public interest. Reliance is placed on ***Boehringer Ingelheim Pharma GmbH* v. *Vee Excel Drugs***[3].

10.7. Defendant no.5 was never an employee of the plaintiff and was only commercially associated with Netafim (plaintiff's distributor) during the years 2013–2019. Defendant no.5 was not involved with the plaintiff's fluid control valve technology. The emails cited by the plaintiff do not show defendant no.5 engaging in any technical discussion. The plaintiff has not

[3] 2023 SCC OnLine Del 1889

alleged that the defendants' technology was conceived by or stolen from the plaintiff by defendant no.5.

10.8. The suit is motivated by *mala fide* intent to stifle competition. Defendants no.1 and 2 are larger players in the fluid control valve market. The plaintiff, unable to compete on the merits, has filed the present suit as a tactic to harass the defendants.

10.9. The plaintiff has failed to place on record any invoice or document evidencing its commercial presence within the territory of India.

10.10. The present suit suffers from delay and laches, as the plaintiff, despite allegedly becoming aware of the defendants' activities as early as November 2022, failed to initiate any action for nearly two years. Furthermore, the plaintiff has not provided any legitimate or satisfactory explanation for this undue delay.

ANALYSIS AND FINDINGS

11. I have heard the counsel for the parties and perused the record.

12. In the present suit, one of the defences raised by the defendants is that their impugned product 'Hydromat' is covered by the Patent IN'536, which was granted in their favour. Therefore, their product does not infringe the suit patent.

13. In ***Hindustan Lever*** (supra)**,** a co-ordinate Bench of this Court held that **the mere grant of a patent in favour of the defendant does not constitute a valid defence in a suit for infringement of the plaintiff's patent**. The grant of a patent merely confers a negative right under Section 48 of the Patents Act, 1970, to exclude others from making, using, or selling the invention, and does not *ipso facto* establish that the defendant's product does

not infringe the plaintiff's patent. The relevant observations of the co-ordinate Bench are set out below:-

> **"14.** *On the other hand, it is argued by learned Counsel for the Plaintiff that the grant of a patent to a person does not entitle* (sic) *that patentee to infringe another patent. It is argued that the right of a patentee is an "exclusionary right" in the sense that it confers upon the patentee an exclusive right to prevent infringement of its patent by another. It does not confer the right to practice or use the invention. The plaintiff relies on the wording of section 48 of the Patents Act, 1970 and contrast the same with section 28 of the Trademarks Act, 1999.* ***While a patentee has the exclusive right to prevent third parties from infringing the patent, a registrant of a trademark has the exclusive right to use the trademark. The grant of a patent to the defendant gives no immunity or defence in an action for infringement of the plaintiff's patent.*** *Reliance is placed on "Patents for Chemicals, Pharmaceuticals and Bio Technology" (IV Edition) by Phillip W. Grubb on page 4 of the said commentary, the learned author states that:*
>
> > *"Exclusionary Right*
> >
> > ***It is important to realise that the rights given by the patent do not include the right to practise the invention, but only to exclude others from doing so. The patentee's freedom to use his own invention may be limited by legislation or regulations having nothing to do with patents, or by the existence of other patents. For example, owning a patent for a new drug clearly does not give the right to market the drug without permission from the responsible health authorities, nor does it give the right to infringe an earlier existing patent. In the very common situation where A has a patent for a basic invention and B later obtains a patent for an improvement to this invention, then B is not free to use his invention without the permission of A, and A cannot use the improved version without coming to terms with B. A patent is not a seal of government approval, nor a permit to carry out the***

invention. We very often hear 'This patent allows Company X' to do something or other. It does not, it only allows them to stop someone else from doing it. The right to prevent others from carrying out the invention claimed in a patent may be enforced in the courts; if the patent is valid and infringed the court can order the infringer to stop his activities, as well as providing other remedies such as damages."

15. *The plaintiff argues that the defendant is guilty of infringement of its patent, as the defendant's product is clearly covered by the claims contained in the plaintiff's patent. The plaintiff also argues that the defendants patent is subsequent to that of the plaintiff. The plaintiff, by relying upon section 45 of the Patents Act contents that the patent dates back to the date of publication of the patent. The plaintiff's application was published in December 2003, though granted in the year 2006, while the defendant's application was published in March 2004, though granted in May 2005. The plaintiff claims priority from 19th June 2002 whereas, according to them, the defendant's patent is of 29th March 2004. Plaintiff also relies on Alert India v. Naveen Plastics, 1997 PTC (17) 15, which holds that a prior proprietor of copyright in a design has a preferential right over a later proprietor of the copyright in design.*

16. I find no merit in the aforesaid submission of the defendant that no action for infringement of patent can lie against another patentee. As submitted by the plaintiff, section 48 of the Act grants the exclusive right to a patentee to prevent third parties, who do not have his consent, from undertaking the making, using, offering for sale, selling etc. the patented product in India. There is no exclusive right in the patentee to make use of, offer for sale, sell or otherwise exploit the patented product in India. I find myself in agreement with the statement of the law in the treatise of Philip W. Grubb wherein he states that the right of a patentee is an "Exclusionary Right"."

[Emphasis supplied]

14. In ***Guala Closures*** (supra)**,** another co-ordinate Bench of this Court was seized of a patent infringement suit where the defendant had also been granted a patent in respect of its impugned product. However, *de hors* the patent granted to the defendant, the court proceeded to analyse and examine the issue of infringement by comparing the suit patent with the impugned product of the defendant therein.

15. In light of the aforesaid judgments, it cannot be said that merely because the defendant has a patent which, according to the defendant, covers its product, the suit patent will not be infringed. For determining infringement, the Court is required to analyse and examine the scope of the suit patent and determine whether the impugned product of the defendant is covered by it.

COMPLETE SPECIFICATION AND CLAIMS

16. According to Section 10(4)(c)[4] of the Patents Act, 1970 the claims of a Complete Specification define the scope of the invention for which protection is claimed.

17. In ***Guala Closures*** (supra), it was also held that the crux of the invention claimed in the claims of a Complete Specification is described where the expression 'characterized' is used in the claim. The relevant portion is set out below:

> "*46. Whenever the expression "characterised" is used in a claim it is meant to describe the invention. Such characterisation forms the crux of the invention. The same has been explained in the claim construction*

[4] 10. Contents of specifications.—
xxx
(4) Every Complete Specification shall—
xxx
(c) end with a claim or claims defining the scope of the invention for which protection is claimed.

segment of "Landis on Mechanics of Patent Claim Drafting" by Robert C. Faber, Third Edition, as under:
"In European country applications, including ***claims separating prior art elements from the inventive contribution by a transition phrase, the transition phrase is usually translated into English as something like "characterized in that" or "characterized by comprising.""***"

[Emphasis supplied]

18. Now I proceed to analyse the claims of the suit patent. Independent Claim 1 of the suit patent is set out below:-

"I. A fluid control valve comprising:
a valve body (22) configured with an inlet port (24) extending into an inlet chamber (30), and an outlet port (26) extending from an outlet chamber (32). wherein the inlet chamber (30) and the outlet chamber (32) are partitioned by a sealing bridge;

a control chamber (111) accommodating a flexible sealing diaphragm deformable between a sealing position in which the sealing diaphragm sealingly bears over the sealing bridge and seals a fluid flow path extending between the inlet chamber (30) and the outlet chamber (32). and an open position in which fluid flow along the flow path is enabled; and

wherein an inlet path extending through the inlet chamber (30) along the fluid flow path is longer than an outlet path extending through the outlet chamber (32) along the fluid flow path, the fluid control valve ***characterized in that the sealing diaphragm is asymmetric with respect to an apex thereof, and a portion of the sealing diaphragm extending from the apex over the inlet path has larger area than a portion of the sealing diaphragm extending from the apex over the outlet path****."*

[Emphasis supplied]

19. It is a settled position of law that the novel features of a patent are described from the 'characterized' portion of the claim. In the present case, the novel features of the aforesaid claim are set out below-

1. **Asymmetric Sealing Diaphragm**

   "...the sealing diaphragm is asymmetric with respect to an apex thereof..."

   - The portions on either side of a central apex are different in geometry.

2. **Differential Diaphragm Surface Areas**

   "...a portion of the sealing diaphragm extending from the apex over the inlet path has larger area than a portion... over the outlet path."

   - The diaphragm covers more area on the inlet side than the outlet side.

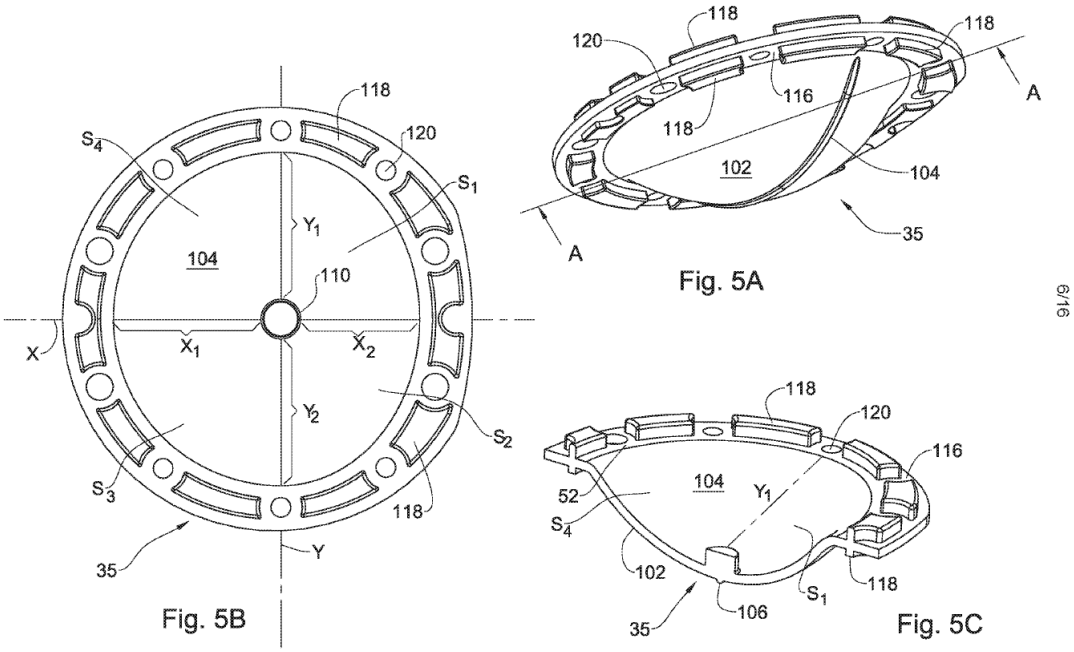
20. In ***Biswanath Prasad Radhey Shyam* v. *Hindustan Metal Industries***[5], the Supreme Court has observed that in infringement proceedings, the Complete Specification of the suit patent is sacrosanct and plays an important role in construing Claims of a patent. The same principle has been re-emphasized by me in ***Jay Switches India (P) Ltd.* v. *Sandhar Technologies Ltd.***[6] ***and Conqueror Innovations (P) Ltd.* v. *Xiaomi Technology India (P) Ltd.***[7] Therefore, for further clarifying the scope of the afore-extracted claim of the suit patent, I proceed to analyse the Complete Specification of the suit patent.

21. Under the section titled '***Technological Field***' in the Complete Specification of the suit patent, it is stated that the claimed invention in the

[5] (1979) 2 SCC 511
[6] 2024 SCC OnLine Del 8434
[7] 2025 SCC OnLine Del 4681

suit patent relates to a flow control valve and a diaphragm thereof configured with an elongated sealing bridge.

22. The Complete Specification also gives illustrations of the asymmetrical diaphragm in the drawings, which has been identified as the novel feature of the suit patent from the independent Claim 1. The relevant illustrations from the Complete Specification are set out below:



23. These features have also been described in the section titled '***Detailed Description***' of the Complete Specification. The relevant paragraph is set out below:

> ***"Turning now to the diaphragm 35 (independently shown in Figs. 5A to 5C), it is made of a resilient material and has a generally round shape, though non-symmetrical along a flow axis thereof, having a***

fist axis X and a second axis Y, the first axis X corresponding with the flow axis of the valve, and the second axis Y corresponding with a sealing axis, wherein X1 > X2 . According to the particular illustrated example Y1 = Y2 ≥ X1 > X2. However according to another example Y1 = Y2 >X1 > X2.

... ...

The arrangement is such that the smaller section area of the outlet chamber, as compared with the inlet chamber, and the corresponding smaller section area of the sealing diaphragm extending over the outlet chamber as compared with the section area of the sealing diaphragm extending over the inlet chamber results in preventing or substantially eliminating drifting of the diaphragm into the outlet chamber*. In addition, another result is that* ***the valve is more sensitive to operation under low pressure, i.e., will displace into its open position also at lower pressure as compared with a diaphragm having symmetry over its flow axis.*** *Furthermore,* ***a result of the asymmetric configuration is faster responding of the diaphragm and shifting between open/closed position as a result of the small control chamber volume. This arrangement provides that the non-symmetric diaphragm drifts less than a corresponding symmetric diaphragm (circular), whereby the valve has improved performance for opening also at low operating pressure As compared to a diaphragm at which Y>X1=X2, e.g., as the case is using an oval diaphragm****."*

[Emphasis Supplied]

24. From the above extracts, the following features of the suit patent can be discerned:

24.1. The inlet path of the fluid control valve is longer than the outlet path along the flow axis, and the inlet radius of the diaphragm is greater than the outlet radius.

24.2. The outlet chamber has a smaller cross-sectional area compared to the inlet chamber, and correspondingly, the portion of the sealing diaphragm

extending over the outlet chamber is smaller in area than that extending over the inlet chamber.

24.3. The asymmetric configuration prevents or substantially reduces drifting or buckling of the diaphragm into the outlet chamber, enhances sealing integrity, and enables the diaphragm to open at lower pressure differentials compared to a symmetric diaphragm.

24.4. The reduced volume of the control chamber in this configuration facilitates faster responsiveness of the diaphragm during transitions between open and closed positions.

25. The abovementioned features collectively contribute to the performance of the fluid control valve by improving fluid flow control, mechanical durability, and overall valve performance, particularly at low operating pressures. The configuration also allows material flexibility, making it suitable for diverse applications in fluid regulation systems.

INFRINGEMENT ANALYSIS

26. During the course of arguments, the major thrust of the submissions of the defendants regarding non-infringement was based on a 'product-to-product comparison', i.e., comparing the plaintiff's product to that of the defendants' product. Various handouts were also handed over by the defendant, illustrating a 'product-to-product comparison'.

27. The defendants' approach in placing reliance on a 'product-to-product comparison' rather than a 'claim-to-product' analysis is untenable. The correct approach is to compare the claims of the suit patent with the impugned product. In this regard, a reference may be made to a recent judgment of

Division Bench of this Court in ***Mold Tek Packaging Ltd.*** **v.** ***Pronton Plast Pack (P) Ltd.***[8] wherein the Division Bench has observed as follows :

> " *39.* ***Whether infringement has, or has not, taken place in a particular instance, has to be decided on the basis of a mapping between the product of the defendant and the complete specifications of the suit patent****. Mr. Mehta is correct in his submission that the comparison has to be product to patent and not product to product. What is prohibited, by Section 48, is the making, using, offering for sale, selling or importing of the product which forms "subject matter of" the patents held by another. In order to ascertain whether this right has been breached, therefore, the Court has to first ascertain the subject matter of the suit patent. This subject matter is to be found in the complete specifications of the suit patent.* ***In other words, the Court as to compare the goods of the defendant with the subject matter of the suit patent, as is contained in the complete specifications of the suit patent, in order to ascertain whether infringement has taken place. The comparison has, therefore, to be product-to-patent, and not product-to- product***."
>
> [Emphasis supplied]

28. With the aforesaid background, I shall now proceed with the infringement analysis.

29. The defendants claim that the sealing diaphragm of the defendants' product is symmetrical with respect to the apex, i.e., the inlet and outlet radius is equal. The image of the diaphragm of the defendants' product is given in paragraph 24 of the Written Statement, and the same is set out below:

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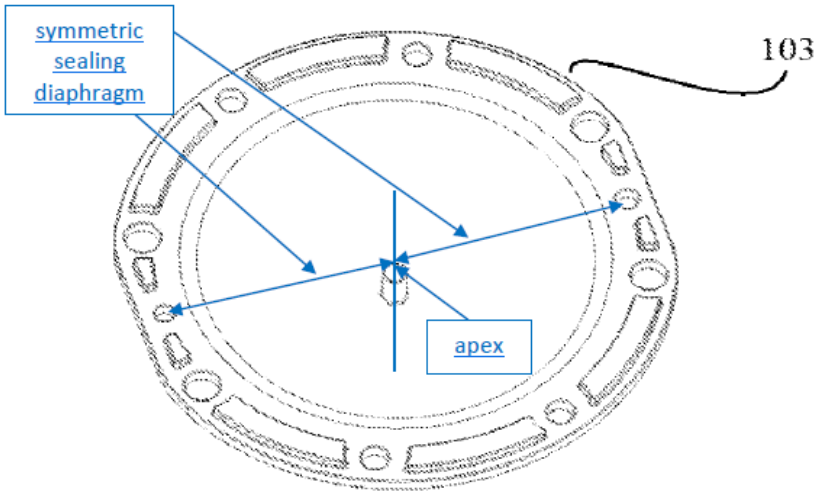


Figure 5

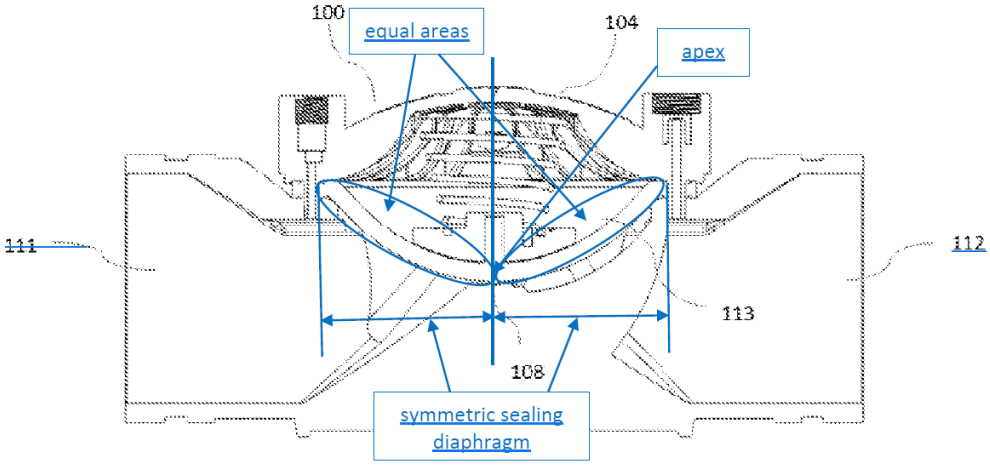


Figure 6

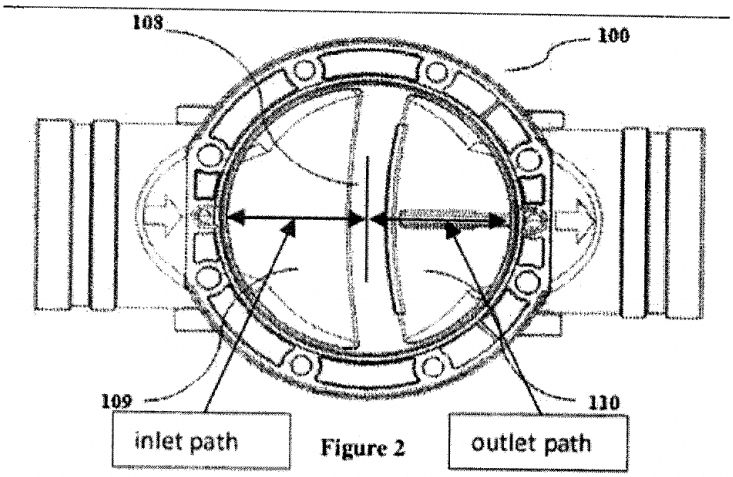


Figure 2

30. A sample of the defendants' product was also handed over by the counsel for the defendants during the course of the hearing. A visual examination of the defendants' product revealed the following:

a) The diaphragm is divided using a concave rib drawn through the apex.

b) The concave rib divides the diaphragm asymmetrically between the areas of the diaphragm on both sides of the apex.

c) The diaphragm portion over the inlet path of the defendants' product has a larger area than the diaphragm portion over the outlet path.

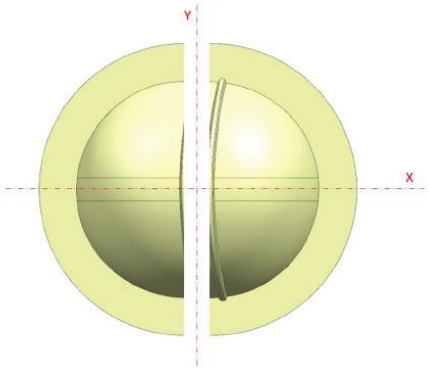
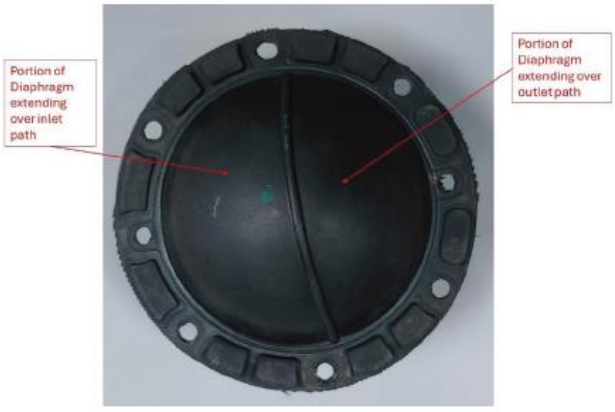
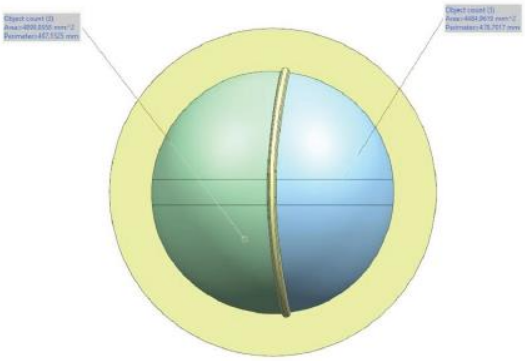
31. The novel features of the suit patent have been identified above as the '*asymmetric sealing diaphragm*' and '*differential diaphragm surface areas*'. As per the 'characterized' portion of Claim 1 of the suit patent, the portion of the sealing diaphragm extending from the apex over the inlet path must possess an area greater than the portion extending over the outlet path.

32. An examination of the written statement filed by the defendants, along with the drawings annexed thereto, makes it evident that no specific

measurements or values pertaining to the 'area' of the diaphragm have been provided by the defendants. Rather, both the written statements filed by defendants no.2 and 4 and defendant no.5 only depict the radii of the inlet and outlet paths, without demonstrating the comparative diaphragm areas as required by the suit patent.

33. A detailed infringement analysis has been given in paragraph 43 of the plaint. The plaintiff in the claim mapping as stated in the plaint has provided measurements of the two respective areas of the diaphragm in the defendants' product as being 4900 mm sq. and 4485 mm sq., respectively, which makes them unequal. For the present discussion, the claim mapping insofar as it relates to the novel features of Claim 1 of the suit patent, as provided in the plaint, is set out below:-

Features of IN'050	*Features of the Infringing Product*	*Mapping (Yes/No) Remarks*
Feature 1.8 *The fluid control valve characterized in that sealing diaphragm is asymmetric with respect to an apex thereof,*	 *In the above image of the Defendants' diaphragm, the Apex thereof is indicated.*	*Yes* *A visual inspection of the sealing diaphragm and the brochure reveals that the sealing diaphragm is asymmetric with respect to the apex.* *The asymmetry is even visible when splitting the diaphragm along*

	 *Image of diaphragm secured through a 3D scan of the Defendants' product, split, along the Y-axis through the apex and separated for visual inspection.*	*the Y-axis through the apex.* *A visual inspection of the valve also makes it clear that the rib is displaced towards the outlet side (and not forming a centre line) that results in the outlet side of the diaphragm to have a smaller area compared to the inlet side.*
Feature 1.9 *And a portion of the sealing diaphragm extending from the apex over the inlet path has larger area than a portion of the sealing diaphragm extending from the apex over the outlet path.*	 	*Yes* *A visual inspection of the sealing diaphragm and the brochure reveals that diaphragm portion over the inlet path has a larger area than the diaphragm portion over the outlet path.* *Furthermore, measurements of a 3-D Scan of the Defendants' diaphragm show that the area over the inlet is larger than the area over the outlet (in the specific valve,*

	(Measurements of Diaphragm obtained through 3-D Scan)	*~4900 mm^2 compared to ~4485 mm^2).*

34. In response, defendants no.2 and 4 and defendant no.5 in their written statements, have simpliciter denied the claim mapping filed on behalf of the plaintiff. It has been averred that the features highlighted by the plaintiff are not the distinguishing features of the product of the defendants.

35. Clearly, the defendants have provided no rebuttal to the aforesaid measurements provided by the plaintiff, in support of their claim for non-infringement. Therefore, on a *prima facie* view, I am convinced that the defendants' product is covered by the independent Claim 1 of the suit patent as the diaphragm in the defendants' product is asymmetric and the two areas divided by the concave rib, passing through the apex of the diaphragm are unequal, particularly, the area on the inlet side is greater than the outlet side.

36. The stand taken by the defendants in their written statement that the sealing diaphragm of the defendants is symmetrical is also contradicted by their patent application, wherein it has clearly been stated that the area on the upstream stripe would be greater than the area on the downstream side stripe. The relevant extracts of the Complete Specification of the defendants' patent are set out below:-

> "*[0031] Referring to figure 6, the curved sealing bridge [108] and diaphragm [103] rib 10 is in a curve shape* ***that makes for the valve an enlarged area at the upstream side of the valve*** *while maintaining the same passage length at both the upstream and downstream path of water from the curved sealing bridge [108].*"
>
> [Emphasis supplied]

37. Therefore, based on a detailed analysis of the claim mapping submitted by the plaintiff, the contradictory statements made by the defendants, and a thorough visual examination of the defendants' product, I am unable to accept the defendants' contention that their product, specifically the diaphragm, is not covered by the claims of the suit patent.

38. It has also been vehemently contended on behalf of the defendants that the curved sealing bridge is the novel part of the defendants' product, which is not covered by the suit patent.

39. It has rightly been argued on behalf of the plaintiff that the curved shape of the sealing bridge would not be a relevant feature to determine infringement, as Claim 1 is directed to a sealing bridge regardless of the fact whether the sealing bridge is curved or not. In any event, the dependent Claim 9[9] of the suit patent provides that one of the embodiments of the sealing bridge can be that of a curved/concave shape.

40. Therefore, the argument that the curved sealing bridge is a novel and distinguishing feature, not covered by the suit patent, in my *prima facie* view, is contrary to the language of the suit patent itself. Claim 1 of the suit patent makes no distinction between curved or straight sealing bridges, and dependent Claim 9, in fact, expressly contemplates a curved or concave sealing bridge as one of the embodiments. In fact, there is a specific admission in paragraph 32 of the written statement filed by defendants no.2 and 4 that the suit patent includes a curved/concave sealing bridge. The relevant extract from the written statement filed by the defendants no.2 and 4 is set out below:

[9] The fluid control valve as claimed in claim I, wherein the **sealing bridge is configured with a concave section** for sealing engaging with the flexible sealing diaphragm.

> "*32. It is a fundamental principle of claim construction that claims are always construed in the light of the specification. It is equally settled law that a patentee cannot claim more than what he has invented. Similarly, claims cannot be construed to cover something already in prior art. Sealing bridges in control valves are already well-known and established. It is a conventional component.* ***In all embodiments of the specification of the suit patent, for instance, as seen in Fig.2 of the suit patent, the sealing bridge is curved/concave in the direction perpendicular to the flow of fluid.*** *It is vertical/perpendicular to the flow of the fluid but curved on a different axis. The specification requires that the sealing bridge (40), also referred to as the partitioning wall, is "extending substantially normal to the flow path" (page 8, lines 8-10). The sealing bridge (40) in the suit patent extends substantially normal to the flow path extending between the inlet port (24) and the outlet port (26), with a concave sealing surface (42) in the direction perpendicular to the flow. The specification does not disclose any other embodiment whatsoever."*
>
> [Emphasis Supplied]

40.1. A similar averment has also been made in paragraph 33 of the written statement filed by the defendant no.5.

41. In light of the foregoing, I am *prima facie* satisfied that the novel features of Claim 1 of the suit patent are present in the defendants' product, and the argument raised by the defendants in this regard does not merit acceptance.

42. It is an undisputed position that defendant no.5 was an erstwhile employee of the plaintiff's distributor, Netafim, from 2013 to 31st December, 2019.

43. It is the contention of defendant no.5 that during the said employment, he was only involved in the commercial aspects of the plaintiff's product and not in the technical aspects.

44. In order to rebut this contention, the plaintiff has placed on record in sealed cover confidential e-mail communication between the plaintiff and its distributor, Netafim, to show that defendant no.5 was involved in the technical aspects of the suit patent.

45. The Court has perused the aforesaid documents filed in a sealed cover.

46. A perusal of the said e-mail communications dated 29th November 2015, 30th November 2015, 16th December 2015, 30th December 2015 and 28th February 2016, at least on a *prima facie* view, clearly reveals that defendant no.5 was involved in the technical aspects of the patent, such as the working of the valve. Further, defendant no.5 was actively participating in the meetings where the technological aspects of the plaintiff's product were being discussed in detail.

47. Even otherwise, the technical qualifications of defendant no.5, as well as his previous job assignments as detailed in his written statement, would reveal that he was technically qualified, had been holding technical posts in his previous employments and was involved in the technical aspects of products relating to irrigation. To be noted, defendant no.5 is shown as the inventor of defendant no.4's patent application, which clearly establishes his technical qualifications.

48. Therefore, on a *prima facie* view, it would be hard to accept the submission that defendant no.5 was only involved in the commercial aspects of the product during his employment with Netafim and was not aware of plaintiff's product, which is the subject matter of the suit patent.

49. Another submission made on behalf of the defendants is that the suit patent has not been worked in India, inasmuch as the plaintiff has failed to file any invoices of its products being sold in India.

50. There is no merit in the aforesaid contention as the plaintiff has filed invoices showing their sales in India from as far back as 31st May 2021.

51. Yet another submission made on behalf of the defendant was the delay in filing the present suit. On the aspect of delay, the plaintiff has provided a cogent and plausible explanation for filing the present suit in October 2024. In my considered view, there is no inordinate delay in filing the present suit, which would disentitle the plaintiff from the grant of an interim injunction.

52. In view of the discussion above, a *prima facie* case of infringement is made out by the plaintiff. The defendants are not only selling the infringing products in India, but they are also exporting the same, which would cause irreparable harm and injury. Clearly, the continuing sale of these products by the defendants would cause irreparable harm and injury to the plaintiff. The fact that the damages can be awarded at a final stage is not an absolute bar for the Court to deny an injunction. [See: ***Willowood Chemicals Pvt. Ltd.* v. *Indo-Swiss Chemicals Ltd.***[10]]

53. Balance of convenience is also in favour of the plaintiff and against the defendants. Reliance placed by the defendants on the judgment in ***Boehringer*** (supra) is misplaced, as in the said case, the court was dealing with an issue relating to public health and access to a medicine at an affordable price.

54. Consequently, the defendants, their partners, related parties, servants, employees, officers, agents, stockists, distributors, dealers and all others

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acting for and on their behalf are restrained from making, using, selling, distributing, advertising, offering for sale, selling, exporting, importing, and in any other manner, directly or indirectly, commercializing or dealing in any product or using any process that infringes the subject matter of the suit patent.

55. Further, the defendants, their partners, related parties, servants, employees, officers, agents, stockists, distributors, dealers and all others acting for and on their behalf are directed to remove listings, references to the infringing products from all e-commerce third-party platforms and their own platforms.

56. In light of the above, the present application stands disposed of.

57. Needless to state, the observations made herein are only for the purpose of deciding the present applications and shall have no bearing on the final outcome of the suit.

AMIT BANSAL
(JUDGE)

AUGUST 01, 2025
Vivek/-