recalling the said witness at the behest of the defendant as it seems that the application has been filed with the sole aim of filling lacunaes in the case of the defendant, which were exposed during final arguments.

The application is meritless and is, accordingly, dismissed.

Application is disposed off."

7. Keeping in view the fact that DW-4 is a witness of the petitioner/defendant who had already been examined by the learned counse on 4th February, 2025, and further considering the fact that the matter was listed for final arguments when the application was moved, this Court is of the view that the learned Trial Court has passed the impugned reasoned order i accordance with law. Therefore, this Court does not find any illegality or infirmity in the impugned order.

8. Accordingly, the present petition is dismissed as being devoid of any merits. Pending application(s), if any, also stands disposed of.

RAJNEESH KUMAR GUPTA, J

JANUARY 28, 2026/sdsi/sk

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision : 28th January, 2026

\+ CM(M) 209/2026 & CM APPL. 5588/2026 (for Stay)

SIDDHANTH MENDIRATTA .....Petitioner

Through: Mr. Rajat Wadhwa, Mr. Sahil Kakkar, Ms. Anshika Juneja and Ms. Saumitra Shikhar, Advs.

versus

MADHU CHAWLA AND ANR .....Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER (Oral)

Rajneesh Kumar Gupta, J.

1. This hearing has been conducted through hybrid mode.

2. The present petition has been filed by the petitioner under Article 227 of the Constitution of India, 1950, assailing the impugned order dated 01st December, 2025, passed by learned trial court in case bearing No. CS DJ ADJ 803/2019, whereby an application filed on behalf of the petitioner/defendant under Order XVIII Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 for recalling DW-4 namely Sh. Madan Lal Gupta has been dismissed.

3. Heard. Record perused.

4. Learned counsel for the petitioner submits that the witness who was summoned by him to prove his case has turned hostile to his interest and his recalling for further examination is necessary to bring on record the relevant

PROCEEDINGS BEFORE THIS COURT

$ 3 3 (/ / $ 1 7 ’ ( ) (1 ’ $ 1 7 ¶ 6 68 % 0 , 6 6 , 2 1 6

49. Mr. Saikrishna Rajagopal, learned Counsel for the Defendant submitted that the impugned interim injunction was granted in patent disregard of settled principles governing interlocutory relief. The learned Single Judge failed to apply the correct tests for infringement, misconstrued essential claim features, and inadequately assessed serious validity challenges. In such circumstances, appellate interference is clearly warranted in terms of Wander Ltd. v. Antox India P. Ltd.[9], which permits intervention where discretion is exercised on erroneous legal principles, irrelevant considerations, or non-application of mind.

50. Learned Counsel, in his usual erudite manner, has submitted that the linchpin and core inventive concept of the Suit Patent, 1 ¶ L V D three-layered architecture, enabling modification of slides without affecting the underlying video or the CTA. The Plaintiff themselves consistently asserted this three-layer structure as the basis of novelty, inventive step, and infringement, including in the Replication. The learned Single Judge also acknowledged this structure as the foundation of the invention.

51. The learned Counsel further submitted that the Canvas ‡ 3 U H V H Q W D Q G 5 H F H L Y H G Feature does not contain any independent third or

[9] 1990 Supp SCC 727.

sandwiched CTA layer. The alleged CTA in Canva is merely formatted or hyperlinked text embedded directly within the slide content itself. When a slide is deleted, the CTA is also deleted, conclusively demonstrating that no independent CTA layer exists. This is fatal to infringement.

52. Despite expressly recording the absence of the sandwiched layer, the learned Single Judge held in paragraph 68 of the impugned judgment that ³PHUH-existence of a sandwich layer would not REYLDWH LQIULQJHPHQW´ RQ WKH JURXQG W products is ³almost identical´. The learned Counsel contended that this approach is legally impermissible. Patent infringement is determined by element-by-element comparison, not by overall functional resemblance. The absence of even one essential claim feature is fatal to infringement.

53. The Learned Counsel has strenuously sought to highlight that the Plaintiff themselves identified seven essential inventive features of the Suit Patent in their Replication. These were adopted by the learned Single Judge as the benchmark for infringement analysis. Of these seven features, four are admittedly absent in the impugned CanvaAV product. Despite this, infringement was still found, contrary to settled law.

54. It was submitted that the Suit Patent expressly defines the PiP LQVHUW ZLQGRZ DV ³PRYDEOH´ WKURXJK KDSW not movable within the system, any perceived movement relied upon by the Plaintiff arose solely from browser-level functionality, not from

& D Q Y D L Q W H U Y H Q W L R Q Nevertheless, the learned Single Judge held in paragraph 66 that movability is irrelevant and not an essential feature. The Defendant contended that this finding violates the doctrine of patent lexicography, under which express definitions in the specification govern claim interpretation.

55. Reliance was placed on Phillips v. AWH Corp.[10], CCS Fitness Inc. v. Brunswick Corp.[11], and Thorner v. Sony Computer Entertainment America LLC[12], which establish that courts cannot ignore express definitional limitations provided by the patentee in the patent specification.

56. With regard to Feature C7 (CTA Display), it was contended that Feature C7 requires that the CTA is enabled and displayed only during rendering and playback, not during the authoring stage. In Canva, however, the hyperlink or CTA is fully enabled and visible to the author during creation itself. This is a direct deviation from the claim requirement.

57. The learned Counsel also submitted that the learned Single Judge failed to undertake the mandatory first step of claim construction, as held by the Division Bench of this Court in F. Hoffmann-La Roche Ltd. (supra). Merely referring to the principle in paragraph 59 without actually construing the claim renders the infringement analysis legally unsustainable.

[10] (415 F.3d 1303 (Fed. Cir. 2005))
[11] (288 F.3d 1359 (Fed. Cir. 2002))
[12] (669 F.3d 1362 (Fed. Cir. 2012))

58. Although acknowledging that infringement must be determined by a claim-to-product comparison, the learned Single Judge repeatedly compared Canva's features to the plaintiff's product, My Show Tell. This constitutes a foundational legal error, as infringement can only be assessed by mapping the claims to the accused product.

59. This error extended to the validity assessment. Prior art such as Microsoft PowerPoint 2016 was compared to the plaintiff's product rather than to the claims. Paragraph 76 wrongly concludes that MS PowerPoint cannot be equated with the plaintiff's product.

60. The learned Counsel for defendant has emphatically tried to drive home the point that the learned Single Judge reduced the Doctrine of Equivalents to a test of "same effect" i
way-result analysis. Although Sotefin SA v. Indraprashtha Cancer Society[13] was cited, the 'way' prong was omitted. FMC Corporation v. Natco Pharma Ltd[14] makes it clear that similarity of result alone is insufficient.

61. Learned Counsel further placed reliance on Rodi and Wienenberger A.G. v. Henry Showell Ltd[15] which holds that similarity in idea or functionality does not justify infringement. The learned Single Judge's reliance on "almost entire effect" impermissibly expands the doctrine to cover overall functional similarity.

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[13] (2022:DHC:595)
[14] (2022/DHC/005311)
[15] 1966 RPC 441

62. Further the learned Counsel invoked the settled principle that patentees cannot adopt narrow claim construction for validity and broad construction for infringement. This violates the quid pro quo of patent law. Claims must be interpreted consistently.

63. Reliance was placed on Wilfor (International) Ltd. v. MSN Laboratories Pvt. Ltd.[16], Novartis AG v. Union of India[17], and Raj Parkash v. M.R. Chowdhry[18], to show that the impugned judgment adopted inconsistent claim construction for validity and infringement.

64. It was contended that the learned Single Judge erroneously applied a novelty test instead of the correct inventive step analysis by requiring all features to be disclosed in a single prior art reference and refusing to mosaic multiple prior arts such as the Auditorium, Loom, and MS PowerPoint 2016.

65. The Defendant's non-infringement case rested on the settled principle that absence of even one essential element negates infringement.

66. Learned Counsel further laid emphasis on the alleged fundamental distinction that if the claimed invention is implemented as hardware devices (as asserted by the Plaintiff before the Patent Office in response to the FER), then the Defendant's product cannot infringe

[16] 2024:DHC:878-DB
[17] (2013) 6 SCC 1,
[18] AIR 1978 Delhi 1

If construed as software, the Suit Patent is invalid under Section 3(k) of the Patents Act. The Plaintiff cannot approbate and reprobate.

67. It was also contended that the inference in paragraph 87 of the impugned judgment by the learned Single Judge regarding alleged abandonment of the PCT application is erroneous and irrelevant. The PCT was not abandoned, and in any event, PCT status has no bearing on infringement analysis.

68. The learned Counsel also submitted that the direction to deposit Rs. 50 lakhs is disproportionate, unsupported by pleadings, and lacks empirical basis, especially when the learned Single Judge recorded that usage of the impugned feature was substantially low.

69. Finally, it was submitted that the learned Single Judge mechanically recorded findings on the triple test in paragraph 91 without any substantive analysis of irreparable hardship, balance of convenience, or inadequacy of damages, contrary to the principles in Wander Ltd. (supra).

5(6321'(176 3/$,17,))¶6 68%0,66,21

70. Per Contra, Ms. Swathi Sukumar, learned Senior Counsel for the Plaintiff submitted that the appeal is founded on a selective, distorted, and internally inconsistent reading of the record. It was contended that the Defendant have failed to demonstrate any perversity, manifest illegality, or jurisdictional error in the impugned judgment that would justify appellate interference.

71. The learned Senior Counsel submitted that the impugned judgment was passed in the exercise of discretionary jurisdiction under Order XXXIX Rules 1 and 2 of the CPC. Consequently, the scope of appellate review is extremely limited. Reliance was placed on the settled principle laid down in Wander Ltd. (supra), that interference is permissible only where discretion has been exercised arbitrarily, capriciously, perversely, or in disregard of settled principles of law.

72. Further reliance was placed on Ramakant Ambalal Choksi v. Harish Ambalal Choksi[19], wherein perversity was defined as a conclusion which is either against the weight of evidence or altogether unsupported by the record. It was contended that no such infirmity arises in the present case, as the learned Single Judge undertook a detailed and reasoned evaluation of prima facie infringement, balance of convenience and irreparable harm.

73. On the issue of infringement, it was argued that the Defendant's allegation that the learned Single Judge engaged in impermissible product-to-product comparison is factually incorrect and misleading. Reliance was placed on paragraph 59 of the impugned judgment, where the Court clarified that it ZDV [3]IRFXVLQJ QHLWKHU RQ WKH SURGXFW LQ FRPSDULVRQ ZLWK WKH FODLPV RI not comparing the rival products directly.

74. It was further submitted that the Court thereafter undertook a detailed claim mapping exercise, particularly recorded in paragraphs 68

[19] 2024 SCC OnLine SC 3538

to 70 of the impugned judgment, leading to a prima facie finding that all the essential elements of the asserted claims were present in the Defendants' product.

75. It was emphasised that infringement was found in respect of 40 claims (two independent and thirty-eight dependent claims), and that the Defendant were unable to raise even a credible challenge to this claim-based mapping, as recorded in paragraph 90 of the impugned judgment.

76. The Learned Senior Counsel further argued that the learned Single Judge had correctly adopted a purposive construction of the claims, consistent with Indian patent jurisprudence. Reliance was placed on paragraphs 62 and 63(a) of the impugned judgment, wherein the Court applied the principles laid down by the Division Bench in Hoffmann-La Roche Ltd (supra).

77. It was contended that the Defendants' criticism regarding the alleged absence of claim construction is unfounded, as the Court construed the claims in light of the specification, figures, and technical effect, rather than importing artificial limitations not present in the claims.

78. The learned counsel further relied upon the "Doctrine of Equivalents" was ignored. Reliance was placed on paragraph 61 of the impugned judgment, where the learned Single Judge expressly cited Sadolin S.A (supra), recording the correct legal test that the substituted element must perform the same

work, in substantially the same way, to achieve substantially the same result.

79. It was submitted that the learned Single Judge thereafter correctly held that trivial or minor differences cannot enable an infringer to escape liability, relying on *Raj Parkash v. Mangat Ram Chowdhury*[20] and *Sotefin S.A.* (supra). The Defendant sought to characterise the finding as one based merely RQ ³IXQFWLRQDO VLPLODULW\´ described as misleading and legally untenable.

80. Addressing the Defendant's ground of non-infringement FRQWHQWLRQ UHJDUGLQJ WKH DOOHJHG DEV ³VDQGZLFK´ the learned Counsel argued that such a contention is legally untenable and factually incorrect. It was pointed out that these expressions do not appear in either the claims or the specification. The patent consistently refers only to background and foreground layers, and that even the Defendant's own expert admitted that the PODLQWLII¶ SDWHQW GRHV QRW UHTXLUH D WKLUG OD\HU´

81. A specific procedural contention was raised that the Defendant's HQWLUH DSSHDO UHYROYHV DURXQG WKH H[LVWHQFH RI D ³WKLUG OD\HU´ ZKLFK ZHUH QHYHU SOHDGHG infringement in the Written Statement. It was submitted that although the PODLQWLII XVHG WKH SKUDVH ³VDQGZLFK´ LQ LWV Rejoinder dated 31.01.2022 and in replication to the invalidity response, the Defendant, despite having noticed, failed to plead absence

[20] AIR 1978 Delhi 1

of a third layer as a defence when filing their Written Statement of Reply. The Court therefore characterised this as a clear afterthought, raised only at the appellate stage, and impermissible in law.

82. Reliance was placed on screenshots and video evidence demonstrating that the CTA button in the Defendant's product exists in a separate selectable layer, is independently configurable, and is rendered during playback, thereby satisfying Feature C6.

83. It was emphasised that the configuration interface is functional in nature, and neither the claims nor the specification imposes any location-based restriction on how or where it must be displayed.

84. With respect to the dispute about PiP, the learned Senior Counsel submitted that movability is not the essence of PiP. The reference to "provide a video" merely describes that the PiP video is placed in a separate foreground overlay, which the Defendant admit exists in their product.

85. It was highlighted that the Defendant's own expert stated that PiP is optional in Claim 01, directly contradicting the Defendant's argument that absence of movability defeats infringement. In any event, video evidence cited in the plaint demonstrated repositioning of the PiP in the Defendant's product.

86. A procedural objection was raised to the PiP movability argument on the ground that it was never pleaded in the Written

Statement or in the reply to the injunction application. During oral arguments before the learned Single Judge, movement in the PiP was admitted, albeit attributed to browser behaviour. Such an argument, raised for the first time in appeal, was therefore impermissible and, in any event, a matter for trial.

87. On the issue of CTA visibility, it was submitted that the DHIHQGDQW¶V claim that the CTA must not be visible during authoring is unsupported by the claims or specification. Reliance was placed on the DHIHQGDQW¶V H[SHUW¶V VXSSOHPHQWDO UHSRUV claim or specification mandates invisibility of the CTA during authoring.

88. The Plaintiff¶s clarified that their reference to a CTA being ³VDQGZLFKHG´ ZDV QHYHU LQWHQGHG WR DV isolated third layer. The expression was used only to explain the CTA as a distinct interactive element from the end-user¶V SHUVSHFWLYH positioned between background (first media) and foreground (second media). Since the claims refer only to background and foreground, the DHIHQGDQW¶V attempt to convert descriptive language into a mandatory structural limitation was characterised as legally untenable.

89. It was also contended that the Defendant¶s own expert, Dr. Benjamin Bederson, expressly contradicts the DHIHQGDQW¶V case. 5HOLDQFH ZDV SODFHG RQ 'U %HGHUVRQ¶V U states in paragraph 28 that ³WKH LPSOHPHQWDWLRQ RI WKU SDUW RI WKH FODLP RU and in paragraph 29 that HYHQ WKH VSHFLILFD ³WKH ZRUG µOD\HU¶ GRHV QRW DSSHDU LQ DQ

S D W H Q W ¶V H[SHUW admits that the patent does not require a third or sandwiched layer, the entire appellate challenge collapses on its own footing.

90. The learned Counsel also submitted that ¶V GHVFULEH WKH LQWHUI is misleading. The patent specification defines a configuration interface as any interface enabling a user to add one or more CTA buttons at a specific position in the interactive content.

91. It was submitted that the Defendant¶V product clearly uses a separate interface (left-side User Interface) to add a CTA, adding the CTA does not alter the first media image, and the CTA sits on top of the background media as a separate selectable element. This squarely satisfies the claim language, regardless of how the Defendant choose to label the interface.

92. It was further submitted that Feature C7 concerns rendering and playback for the viewer, which the ¶V SURGXFW admittedly performs in the same manner.

93. Contention was also raised regarding the Defendant¶V post-grant opposition, which was rejected on all pursued grounds and the patent was found to be credibly valid. Reliance was placed on Dr. Aloys Wobben v. Yogesh Mehra[21] to submit that once a party invokes Section

[21] (Civil Appeal No. 6718 of 2013)

25(2) of the Patents Act, it is eclipsed from subsequently pursuing revocation under Section 64(1).

94. It was further contended that the learned Single Judge duly considered the principal prior arts, including Microsoft PowerPoint 2016, Auto-Auditorium, and Loom, and correctly distinguished them, particularly noting in paragraph 76 that MS PowerPoint ¶ V D X G L R R Y H U O D mechanism is fundamentally different from the Suit Patent.

95. Defending the reliefs granted, the learned Counsel argued that the learned Single Judge correctly applied the triple test for interim injunction. On irreparable harm, reliance was placed on paragraph 88 where the Court relied on Merck Sharp & Dohme Corporation (supra) and recorded the market-distorting effect of continued infringement.

96. It was also contended that the deposit of Rs.50 lakhs was justified, as the Defendant have no physical presence or assets in India, and the direction was passed after considering the H I H Q V G Q W ¶ sales affidavit. The award of costs of Rs. 5 lakhs was also justified due to the language used in the Written Statement and the making of wild and unfounded allegations, as recorded in paragraph 80 of the impugned judgment.

97. Finally, the learned Senior Counsel argued that the Defendant repeatedly attempted to mislead the Court by citing isolated portions of judgment, advancing half-truths, making sweeping and factually incorrect assertions, and contradicting their own expert reports. The learned Single Judge expressly deprecated such conduct and imposed

costs, which further militates against the grant of equitable relief in appeal.

98. In conclusion it was submitted that the learned Single Judge applied the correct legal principles, infringement was established through detailed claim mapping, validity challenges were rightly rejected, and that the impugned judgment reflects a sound exercise of judicial discretion. The present appeal therefore deserves to be dismissed in limine, with the impugned judgment being upheld in toto.

ANALYSIS AND FINDINGS

99. At the outset, this Court is conscious that the present appeal arises from an interlocutory order passed under Order XXXIX Rules 1 and 2 of the CPC, whereby the learned Single Judge exercised discretionary jurisdiction in granting/refusing interim relief. It is trite law that appellate interference with such discretionary orders is limited and circumscribed. An appeal against an order granting or refusing an injunction is not an appeal on facts, but an appeal on principle.

100. The legal position governing such appellate interference stands firmly settled by the Supreme Court in Wander Ltd (supra), wherein it was held that an appellate Court may interfere only where the discretion exercised by the Court of first instance is shown to be arbitrary, capricious, perverse, or contrary to settled legal principles, and not merely because another view is possible on the same material. This principle was also reiterated in Ramakant Ambalal (Supra), and consistently followed thereafter.

101. Therefore, the threshold question before this Court is not whether a different conclusion could have been arrived at on the same set of facts but whether the methodology adopted by the learned Single Judge conforms to settled principles of patent jurisprudence, and whether the findings suffer from legal infirmity, perversity or misapplication of law.

102. However, before examining whether the established principles governing patent infringement have been correctly applied, it is necessary to first recapitulate the legal framework relating to the test of infringement in patent disputes.

103. The decision of Division Bench of this Court in F. Hoffmann-La Roche Ltd (supra), comprehensively discussed the law relating to test of infringement in patent matters. Relying on the seminal judgment of the United States Supreme Court in Herbert Markman and Positek, Inc vs. Westview Instruments Inc. and Althon Enterprises, Inc.[22], this Court recognized that the determination of infringement proceeds in two distinct stages (i) to determine the meaning and scope of the patent claims asserted to be infringed (ii) Comparison of the properly construed claims with the allegedly infringing product or process.

104. The first stage, namely claim construction, is a matter of law. The second stage, i.e., comparison with the impugned product/process, is a mixed question of law and fact.

[22] 517 U.S 370 (1996)

105. With regards to the examination under first stage, the Supreme Court in Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries[23] in the context of claim construction held:

³43. As pointed out in Arnold v. Bradbury[24], the proper way to construe a specification is not to read the claims first and then see what the full description of the invention is, but first to read the description of the invention, in order that the mind may be prepared for what it is, that the invention is to be claimed, for the patentee cannot claim more than he desires to patent. In Parkinson v. Simon, Lord Esher, M. R. enumerated that as far as possible the claims must be so construed as to give an effective meaning to each of them, but the specification and the claims must be looked at and construed WRJHWKHU ´

106. Further, this court in the decision Merck Sharp & Dohme Corporation (supra) on claim construction held as follows:

³ . Construction of the patent by this court, to verify its coverage is fundamental. This coverage depends on the nature of the claims PDGH DQG HQDEOLQJ GLVFORVXUHV VSHFLILHG E
6SHFLILFDWLRQ¶ XQGHU)RUP RI WKH $FW The words used to describe the claims - as read by a person of ordinary skill in the art - determine the breadth of the monopoly granted by the patent, for which the substantive (and indeed, substantial) rights under Section 48 of the $FW DUH WULJJHUHG 7KH µ)LHOG RI WKH ,QYHQWL
Form 2 states that the patent LV ³GLUHFWHG WR SKDUPDFHX
compositions comprising these compounds and the use of these FRPSRXQGV DQG FRPSRVLWLRQV´ 7KH LVVXH L
FRPSRVLWLRQV FDQ EH«« ´

48. At this juncture, the Court notes that :
- ³the construction of claims is not something that can be considered in isolation from the rest of the specification, Claims are intended to be pithy delineations of the scope of monopoly, and they are drafted in light of the much more detailed text of the description. A specification must be read as a whole, just as any document is. It must moreover be read as having been addressed to a person

[23] (1979) 2 SCC 511
[24] (1871) 6 Ch A 706

acquainted with the technology in question. So it must take account
RI WKDW SHUVRQ V VWDWH RI NQRZOHGJH DW WKH
(see, Cornish, Llewelyn and Ap, Intellectual Property, Seventh
Ed, Sweet and Maxwell, pages 182 ³& RUQLVK´ 7KRVH WR ZKRP
the above claims, examples and schemes are directed are not judges,
DEO\ DVVLVWHG E\ ODZ\HUV WKH\ DUH ³SHUVRQV
DUW´ 7KLV Morgan's Hinks & Hoc v. Safety Lighting Co.
(1876) 4 Ch.D 607 when it was held that patent claims are
³DGGUHVVHG QRW WR WKH SXEOLF JHQHUDOO\ EX
SDUWLFXODU DUW´ /LNHZLVH WKLV ZDV VWDWHG
Perfecta Seamless Steel, 1902 (20) RPC:
³« WR HQDEOH QRW DQ\ERG\ EXW D UHDVRQDEO\
dealing with a subject matter with which he is familiar to make the
thing, so as to make it available to the public at the end of the
SURWHFWHG SHULRG ´
While reading a patent claim, therefore, the Court must not reinvent
the wheel and mandate disclosures of techniques and product
rehearsed in the industry already, but only examine what is new in
the invention and how to arrive there from the state of the art.

56. Section 3(d) does not work backwards, such that two independent
patent claims are to be construed in reference to each other. Each
claim is regulated by its own terms, subject to the statutory
prescriptions of inventive step and industrial applicability.
Moreover, such an argument also introduces an undeserved
subjectivity in the patent construction process. A patent is construed
by reference to the words used by the inventor, and not her
subjective intent as to what was meant to be covered (as was noted
in Kirin-Amgen Inc v. Hoechst Marion Roussel Limited, [2004]
8.+/ ³>W@KHUH LV QR ZLQGRZ LQWR WKH PLQG
author of any other document. Construction is objective in the sense
that it is concerned with what a reasonable person to whom the
utterance was addressed would have understood the author to be
XVLQJ WKH ZRUGV WR PHDQ´@ 0HUHO\ EHFDXVH
a later patent - that is already objectively included in a prior patent,
but which the inventor subjectively feels needs a separate patent
application - does not mean that it is taken to be at face value. The
intent of the inventor, through the use of the words that have been
employed, must be judged, but the subjective intent cannot replace
a detailed analysis of the text of the patent. This Court has already
noted - on a different basis - that the coverage of SPM in the suit
patent is questionable on account of Section 10(4)(b), although the
issue is ultimately tied to important factual disputes. The same
decision significantly provided the following rationale for patent
construction in terms of the words and expressions used:
³7KH FRXUWV RI WKH 8QLWHG .LQJGRP WKH 1HWK
certainly discourage, if they do not actually prohibit, use of the
patent office file in aid of construction. There are good reasons : the

meaning of the patent should not change according to whether or not the person skilled in the art has access to the file and in any case life is too short for the limited assistance which it can provide. It is however frequently impossible to know without access, not merely to the file but to the private thoughts of the patentee and his advisors as well, what the reason was for some apparently inexplicable limitation in the extent of the monopoly claimed. One possible explanation is that it does not represent what the patentee really meant to say. But another is that he did mean it, for reasons of his own; such as wanting to avoid arguments with the examiners over enablement or prior art and have his patent granted as soon as possible. This feature of the practical life of a patent agent reduces the scope for a conclusion that the patentee could not have meant ZKDW WKH ZRUGV DSSHDU WR EH VD\LQJ´ This Court is furthermore also cautious of using either Section 3(d) or the abandonment of a subsequent patent application to read into the terms of a prior application which has to be construed on its own terms. Accordingly, while the coverage of SPM is shrouded in some uncertainty that requires detailed examination of facts and evidence, the Court notes that the Sitagliptin free base is prima facie disclosed, claimed and thus covered by the suit patent.

107. Further, the Division Bench of this Court in Hoffmann-La Roche Ltd (supra), laid down the following observation with regards to claim construction which makes an interesting read:

33. Before we apply the aforenoted legal position to the facts of the instant case we need to discuss the legal position concerning construction of claims. In the decision reported as AIR 1969 BOMBAY 255 FH & B v. Unichem Laboratories it was held that specifications end with claims, delimiting the monopoly granted by the patent and that the main function of a Court is to construe the claims without reference to the specification; a reference to the specification being as an exception if there was an ambiguity in the claim. Claims must be read as ordinary English sentences without incorporating into them extracts from body of specification or changing their meaning by reference to the language used in the body of the specification. In a recent decision in FAO (OS) No. 190/2013 Merck v. Glenmark the Division Bench held that claim construction to determine the coverage in the suit patent has to be determined objectively on its own terms with regard to the words used by the inventor and the context of the invention in terms of the knowledge existing in the industry. Abandonment of an application

cannot remove what is patented earlier nor can it include something that was excluded earlier and that a patent is construed by the terms used by the inventor and not the inventors subjective intent as to what was meant to be covered. Merely because an inventor applies for a latter patent that is already objectively included in a prior patent, but which inventor subjectively feels needs a separate patent application, doesn't mean it is to be taken at face value and therefore neither Section 3(d) or abandonment of subsequent patent application can be used to read into terms of prior application, which has to be construed on its own terms. In the decision reported as 415 F. 3d 1303 Edward H. Phillips v. AWH Corporation it was held that claims have to be given their ordinary and general meaning and it would be unjust to the public, as well as would be an evasion of the law, to construe a claim in a manner different from plain import of the terms and thus ordinary and customary meaning of the claim term is the meaning of the term to a Person of Ordinary Skill in the Art as of effective date of filing of the patent application. In case of any doubt as to what a claim means, resort can be had to the specification which will aid in solving or ascertaining the true intent and meaning of the language employed in the claims and for which the court can consider patent prosecution history in order to understand as to how the inventor or the patent examiner understood the invention. The Court recognized that since prosecution is an ongoing process, it often lacks clarity of the specification and thus is less useful for claim construction. The Court also recognizes that having regard to extrinsic evidence such as inventor testimony, dictionaries and treaties would be permissible but has to be resorted to with caution because essentially extrinsic evidence is always treated as of lesser significance in comparison with intrinsic evidence. In the decision reported as 457 F.3. 1284 (United States) Pfizer v. Ranbaxy the Court held that the statements made during prosecution of foreign applications are irrelevant as they are in response to unique patentability requirements overseas. The Court also held that the statement made in later unrelated applications cannot be used to interpret claims of prior patent. In the decision reported as 1995 RPC 255 (UK) Glaverbel SA v. British Coal Corp the Court held that a patent is construed objectively, through the eyes of a skilled addressee. The Court also held that the whole document must be read together, the body of specification with the claims. But if claim is clear then monopoly sought by patentee cannot be extended or cut down by reference to the rest of the specification and the subsequent conduct is not available to aid the interpretation of a written document.

63. Cipla relied very heavily on what was stated to be admissions P D G H L Q W K H S R O \ P R It is a cardinal principle of W 8 6 µ claim construction that the claim must be interpreted on its own language and if it is clear then resort cannot be had to subsequent

statements or documents either to enlarge its scope or to narrow the same.

81. It is therefore left to the Court to study the specification and claims of the suit patent and note that as they are in relation to Erlotinib Hydrochloride and are not restricted to any specific Polymorph, they would be infringed by any manufacture of Polymorph B by a third party as the same would use the subject matter of ,1 µ DV LWV EDVLF VWDUWLQJ SRLQW Judge has correctly applied the principle in the decision reported as AIR 1969 Bom 255 F.H & B v. Unichem, in stating that in case of any ambiguity of the Claim of the suit patent then resort can be taken to the specification of the said suit patent and nothing else. He correctly recognized that a Purposive Construction of the claims is necessary in order to not construe claims too narrowly. Yet we find that neither of these tests have been applied in the present case to construct the claims themselves and hence a conclusion that the IN µ SDWHQW FRYHUV 3RO\PRUSKV $ % LWVHOI LV H

108. The legal position emerging from the above reading makes the path of claim construction clear. The claims of a patent define the scope of the monopoly granted to patentee, DQG WKH SDWHQWHH¶ confined strictly to what is claimed. What is not claimed is deemed to be disclaimed. Claim construction must be done objectively by focusing on the plain language of the claims.

109. However, the claims can be construed purposively, keeping in mind the technical context of the invention, so as not to unduly narrow the scope of protection. While the complete specification serves as a guide to understand the technical meaning and context of the claims, it cannot be used to enlarge, rewrite, or substitute the language of the claims. Claims cannot be construed in isolation as they are intended to be concise delimitations of the monopoly and must therefore be read in light of, and together with, the entirety of the specification

110. Importantly, the scope of the claims must remain consistent for both validity and infringement. A patentee cannot adopt a narrow construction to avoid prior art challenges and simultaneously seek a broad construction to allege infringement. Such an inconsistent approach is impermissible in law.

111. The purpose of claim construction is thus to identify the essential features, elements, and limitations of the invention as claimed, without importing extraneous material from the specification or unduly restricting the scope of protection.

112. 7 K H ' H I H Q G D Q W ¶ V F R Q W H Q W L R Q W K D W W construed narrowly for validity and broadly for infringement is misconceived. A careful reading of the impugned judgment shows that the essential features have been consistently identified in both contexts as: (i) layered media architecture involving background first media and foreground second media; and (ii) post-creation configurability of interactive elements, including CTAs, without re-recording. The alleged requirements of a third layer, invisibility of CTAs during authoring, and movability of PiP are thus not essential claim limitations. There is therefore no impermissible oscillation in claim scope.

113. Once the claims are properly construed under first stage, the second stage requires a comparison between the essential elements of the patented claims and the elements of the allegedly infringing product or process

114. In cases where every element of the claim is found in the impugned product or process, infringement is established on a literal basis. However, it is well recognized that in many cases, the infringing product or process may not reproduce every claimed element verbatim. In such circumstances, the Doctrine of Equivalent becomes relevant.

115. The Doctrine of Equivalents applies where the differences between the impugned product or process is so minor and insignificant that they would effectively deprive the patentee the benefits of his invention.

116. Thus, this doctrine prevents an infringer from escaping liability by making only minor, insubstantial, or cosmetic changes to a patented invention while appropriating its core inventive concept.

117. The Division Bench of this court, in FMC Corporation (supra), FODULILHG WKH ³ODZ´ UHJDUGLQJ WKH LQIULQJ the application of the Doctrine of Equivalents, particularly in the context of process patents. The FMC Corporation (supra) is reproduced for the sake of ease of analysis:

> 24. The doctrine of equivalents is applicable where a product or process is not identical to the claim granted in a patent but its essential elements are sufficiently similar to the patented claim, so as to construe the product or process as infringing the patent.
>
> *****
>
> 31. The doctrine of equivalents has been accepted in the jurisprudence to protect patent rights from being infringed by infringers using colourable method of making some minor, insubstantial variations to escape the reach of the patent. The doctrine of equivalents, in essence, seeks to address infringers who introduce minor variations as subterfuge to defeat patent rights. The

> doctrine is applied to ascertain whether there is an infringement by excluding any insubstantial, minor or trivial changes that are designed to deprive the patentee of the benefits of his invention.
>
> 32. The doctrine of equivalents is applicable only in cases where the variation or difference between the product or process and the patented claim is insignificant, insubstantial and not essential to the patented claim. In order to determine whether, on the basis of doctrine of equivalents, a product or process infringes the patent, it is essential to determine the essence and scope of the patent. It is important to understand as to what is the invention that is patented. If the invention is infringed by a product or process, the minor differences in the non-essential trappings of the product or process would be irrelevant
>
> 33. This Court is unable to accept the contention that the doctrine of equivalents is only relevant in case of a product patent and not a process patent. If an innovation – whether it is a product or a process – is pirated, an action to prevent such infringement cannot fail solely for the reason that the offending product or the process has certain minor and insubstantial variations or differences as compared to the patent.
>
> 34. The triple test – substantially the same function, in substantially the same way and to yield the same result – is applied primarily to products or devices. A device which substantially performs the same function, in substantially the same way, and accomplishes the same result, may infringe the patent rights. However, when it comes to a process or a method, this test may require to be suitably adapted. In a case where a method of achieving a result is the essence of the patent, achieving substantially the same result would clearly not be relevant. The method with which the result is obtained would be material to determining whether the patent has been infringed. The test of substantial identity of the competing methods must necessarily be viewed by identifying the essential elements and steps of the said process and then examining the manner in which the key elements interact in each essential step that the process/method entails to yield the given result. The essential elements of the given process; the necessary steps of that process; and the manner in which the essential elements interact at each step must be substantially similar to the patented process or method to sustain a claim of infringement. The variations in the competing methods require to be compared to ascertain whether they are minor/trifling and inessential and have been introduced only to camouflage piracy.

118. Thus, it is clear from the above discussion that an infringer cannot escape liability by making minor or insubstantial changes to a patented invention. Variations in the non-essential features or trappings of a product or process are irrelevant where the essential elements of

the invention have been appropriated. The Doctrine of Equivalents therefore prevents colourable or cosmetic modifications from defeating patent rights and applies equally to both product patents and process patents.

119. However, in paragraph 34, the decision in FMC Corporation (supra) draws a clear distinction in the applicability of the doctrine of equivalents to process patents on the one hand and product or device patents on the other. This court X S K H O G W K H ³W U L S O H W H V W´ way- U H V X O W´ W H V W I R U D V V H V V L Q J L Q I U L Q J H P H but held that it cannot be applied mechanically to process patent because, where the patented invention lies in the method itself, merely achieving the same result is not determinative. Therefore, instead of the ³W U L S O H W H V W ¶ W K L V F R X U W D G D S W H G ³(V V patent, holding that infringement must be examined by identifying the essential elements and steps of the patented process and then comparing how those elements interact at each essential stage in the competing method. If the competing process is substantially similar in its essential elements, steps, and interactions, infringement may be made out; and any variations will not avoid liability if they are minor, inessential, or introduced only to shield itself from infringement. The aforesaid relevant finding read as under:

> ³The test of substantial identity of the competing methods must necessarily be viewed by identifying the essential elements and steps of the said process and then examining the manner in which the key elements interact in each essential step that the process/method entails to yield the given result. The essential elements of the given process; the necessary steps of that process; and the manner in which the essential elements interact at each step must be substantially similar to the patented process or method to sustain a

> claim of infringement. The variations in the competing methods require to be compared to ascertain whether they are minor/trifling and inessential and have been introduced only to camouflage piracy´

120. Thus, the settled legal framework for determining infringement of a patent process may thus be summarized to: (a) First, the claims of the patent asserted to be infringed must be construed to ascertain their scope, meaning, essential elements and limitations; (b) Second, the properly construed claims must be compared with the allegedly infringing process or product; (c) If every essential element is found, literal infringement is established, (d) Even if literal infringement is absent, the Doctrine of Equivalents may apply, (e) In the case of a product or device patent, infringement by equivalence is assessed by applying the "function-way-result´ triple test; whereas in the case of a process or method patent, infringement by equivalence depends on whether there is substantial identity of the method itself, assessed by comparing the essential elements of the process, the necessary steps involved, and the manner in which those essential elements interact at each step.

121. It is against this settled legal framework that the impugned judgment must now be examined and analysed.

122. Before proceeding to examine the merits of the case, this Court reiterates that an appeal against an order of the Commercial Court, an application for interim injunction in an intellectual property dispute is an appeal on principle.

123. This Court does not sit in appeal over the factual appreciation of evidence as would be done under Section 96 of the CPC. The task of this Court is confined to examining whether the learned Single Judge applied the correct legal principles, adopted a legally sound methodology, considered the relevant material, and arrived at a conclusion that is not arbitrary, perverse, or contrary to settled law. Only if these parameters are found to have been violated would appellate interference be warranted.

124. With the aforesaid legal principles in mind, we now proceed to examine the present case on merits.

125. The first step in determining infringement, as noted above, is the construction of the claims of the Suit Patent.

126. Claim 1, the principal system claim, sets out this architecture by requiring the presence of a first media presented as background content, a second media presented as a foreground PiP overlay, and interactive elements configured in a manner that permits user engagement. Claim 39, the principal method claim, complements this architecture by prescribing method steps for creating and rendering such interactive content, including steps for capturing user interaction and enabling post-creation modification.

127. The learned Single Judge in the impugned judgment effectively construed and ascertained the admitted essential elements/inventive steps of claim 1 and claim 39. Learned Single Judge has noted in the impugned judgment that the Plaintiff has identified seven inventive

steps in its replication, namely A1, A2, A3, A4, B5, C6, and C7. Out of these, the Defendant has admitted the presence of three features, namely A2, A3, and B5, in its product. The dispute, therefore, is confined to the remaining four features, namely A1, A4, C6, and C7. The description of these disputed features, as extracted from the replication, is reproduced for ready reference:

> A. Content presented in Layers while both Authoring (creation) & Playing (Viewing) retains INTERACTIVE experience even after creation (but looks like single video), the first media visual content retains interactive experience for viewers to interact.
>
> 1RQH RI WKH SURYLGHG SULRU DUWV ³SUHVHQW LQ ³/D\HUHG SUHVHQWDWLRQ´ WR retain interactive user experience while DXWKRULQJ DQG SOD\LQJ µ LQYHQWLRQ QHYHU (background & foreground) as a single video [Refer section II in below table in right column]
>
> The invention brings maximum internet bandwidth optimisation by keeping second media video/audio content component smaller and separated from background first media content and retains best interactive user experience by using layered presentation DSSURDFK ERWK ZKLOH DXWKRULQJ DQG SOD\LQJ The invention never combines background and foreground FRQWHQW DV D VLQJOH YLGHR« If layers are merged/combined, the content in layers cannot retain interactive experience – it becomes noninteractive. First media content cannot be changed without re-recording entire video as no layers H[LVWV 6R WKH µ LQYHQWLRQ SURGX YLGHR NLQG· RXWSXW EXW LQ OD\HUV WR PDL experience of visual content.
>
> 2. None of the provided prior arts disclose ‡)LUVW PHGLD FRQWHQW· as interactive content and its respective ‡)LUVW 0HGLD +ROGHU· ‡)LUVW PHGLD as Interactive User Interface. [Refer section III in below table in right column]
>
> 3. None of the provided prior arts disclose ‡)LUVW PHGLD· visual content can be interacted by second user while playing interactive content [Refer section III in below table in right column]

4. None of the provided prior arts disclose picture-in-picture ‡ V H F R Q G ´ P H G L D \ H U H G S U H V H Q W D W L R Q > 5 H I H U V H table in right column]

B. Content changes in a Particular layer (background first media content changes) allows modification without affecting other layers(Foreground second media video content).

5. None of the provided prior arts disclose characteristic of L U V W P H G L D K R Z H Hdit media can be changed for already recorded & stored interactive content from interactive content module.[Refer section IV in below table in right column]

C. Content (set button with links, text info like product pricing details etc) F R Q I L J X U H G W K U R X J K ‡ F R Q I L J X U D W L R Q L Q stored as data (interactive content settings) is changeable/configurable even for already created & stored interactive content without need of rerecording the video:

6. None of the provided prior arts disclose characteristic of ³Configuration interface´ which loads already configured interactive content settings of stored interactive content(from interactive content module), further it allows to configure interactive content settings for already created interactive content. Hence, First user can change the information (text information like product price, stock details etc or CTA button with links) displayed (configured through configuration interface) in interactive content even after creating interactive content [Refer section V in below table in right column]

7. None of the provided prior arts disclose characteristic of ‡ L Q W H U D F W L Y H ´ F R Q W H Q W V H Q V H where call-to-action buttons are configured ‡ L Q interactive content (to look like a part of in the video, Fig. 7B) Further call-to-action user interface button are enabled (as per interactive content settings data) and displayed only while Rendering and playing as a part of interactive content. [Refer section VI & VII in below table in right column]

Eg: First user can configure Product Price information (text) in the already created and stored interactive content without need of re-recording video. Like running Flash offer on price mentioned in the interactive content. Further, First user can configure call-to-action button URL to another ecommerce website if existing linked ecommerce website is running out-of-stock, without need of rerecording.

128. Thus, applying the legal tests ascertained above, it must be determined whether the four disputed inventive steps are present in the 'HIHQGDQW¶V SURGXFW. It has to be examined, $GGLWLRQDOO\ if there are differences between the essential features/ inventive steps of WKH 6XLW 3DWHQW DQG WKH 'HIHQGDQW¶V SU. If these differences are so minor or insignificant then they do not enable the Defendant to avoid infringement.

129. The learned Single Judge correctly applied the settled principles for infringement, compared the essential features/ inventive steps of the Suit Patent with the DHIHQGDQW¶V SURGXFW DQG UHWX findings on each of the four disputed inventive steps:

> $IWHU SHUXVLQJ WKH PDQQHU LQ ZKLFK WKH functions, insofar as A1 and A4 are concerned, it would be LQFRUUHFW IRU WKH 'HIHQGDQW¶V WR DUJXH WK have a layered presentation or a PIP second media. A bare perusal RI WKH 'HIHQGDQW¶V SURGXFW ZRXOG VKRZ WKD exists. However, the absence of this feature is argued on the basis that it is not in the form of a moveable window. The question whether the window is moveable or not, is irrelevant insofar as the 3ODLQWLII¶V SURGXFW LV FRQFHUQHG. 7KH SUR existence of two media i.e. the first, and the second media in the form of a PIP. The movement is not an essential feature of the 3ODLQWLII¶V SURGXFW EXW WKH IDFW WKDW WK first and second media is integrated in a manner as to sync the audio with the video and the image is essential. The syncing of the audio, video and the image FOHDUO\ H[LVWV LQ WKH 'HIHQGDQW¶V SURGXFW the Defendant seeks to draw is of no consequence when judging WKH FRUH RI WKH 3ODLQWLII¶V SURGXFW
>
> ,QVRIDU DV & >³&RQWHQW &RQILJXUHG WKU Interface" which loads already configured interactive content VHWWLQJV RI VWRUHG and LQWHUDFWLYH FRQWHQW ... call-to-action user interface button are enabled (as per interactive content settings data) and displayed only while Rendering and playing as D SDUW RI WKH LQWHUDFWLYH FRQWHQW @ DUH F

argument is that there is no separate configuration interface for the Call-to-Action button in the sandwiched layer.

68. A perusal of the video showing the functioning of the 'HIHQGDQW¶V SURGXFW Z-B-Action element HDO WKDW WK can be superimposed on any of the two layers, or even a new layer can be created. The mere fact that the said feature is importable DV DQ HOHPHQW LQ WKH 'HIHQGDQW¶V SURGXFW the second layer, or even in between would mean that the same would read onto the claims of the suit patent. The Defendant cannot escape infringement on the basis of the location of the Call to-$FWLRQ EXWWRQ 7KH HIIHFW RI WKH 'HIHQGDQW as contemplated in the patent. After the merging of the first and the second media, some action can be taken by the viewer or the FRQVXPHU ZKLFK LV HQDEOHG EY WK LQ WKH 3 'HIHQGDQW¶V SURGXFW 7KH 'HIHQGDQW¶V FKDU configuration interface into a mere Call-to-Action button is itself misplaced. The action that can be taken by the consumer or viewer could be in any form, either for buying a product or for adding a comment or for sending a query. Depending upon the application and implementation, the said element can be added both in the 3ODLQWLII¶V QDWXUDO 'HIHQGDQW¶V SURGXFW existence WKH PHUH QR of a sandwich layer would not obviate the infringement, inasmuch as by applying the doctrine of equivalence, the functionality of ERWK WKH 3ODLQWLII¶V DQG WKH 'HIHQGDQW¶ identical. Insofar as C7 is concerned, the same is almost identical to C6 and has been dealt with above

130. This Court, at the outset, finds no error of principle in the application of the above-mentioned infringement test and the Doctrine of Equivalents by the learned Single Judge. The learned Single Judge has compared all four disputed inventive steps 7KLWK WKH 'HIHQGDQ product and, only after undertaking such an assessment, returned a prima facie finding of infringement.

131. Be that as it may, we now proceed to address the submissions made by the learned Counsel for the Defendant, who has challenged the findings in respect of each of the four disputed inventive steps, by and large two principal grounds have been urged, which, according to him,

permeate the entirety of the impugned judgment: (i) First, it was submitted that, despite relying on F. Hoffmann-La Roche Ltd. (supra) and recognising the correct test of infringement, the learned Single Judge has, in substance, granted interim relief on the basis of an impermissible product-to-product comparison instead of undertaking the legally mandated claim-to-product mapping. It is further contended that (i) instead of comparing the prior art references with the claims of the Suit Patent, the impugned judgment wrongly compares the prior art with the Plaintiff's product. (ii) Second, it was contended that the doctrine of equivalents has been wrongly applied in the present case. According to the learned Counsel for the Defendant, the impugned judgment posed the wrong legal question by merely examining whether the Canva feature produces the same effect or functionality as the Suit Patent, while ignoring the other mandatory components of the equivalence inquiry namely, whether the substituted elements perform substantially the same work, interact and operate in substantially the same way, and achieve substantially the same result as each of the essential features of the Suit Patent.

132. Keeping in view the conclusions recorded in the impugned judgment, we shall now briefly examine each of these disputed inventive steps and the challenges raised by the defendant thereto.

133. On the first ground, we are unable to agree with the contention of the learned Counsel for the Defendant. It is settled law that a judgment of a court must not be read selectively and must be read as a whole. The reliance placed by the learned Counsel for the Defendant on paragraph 68 of the impugned judgment, particularly the observations

that the ‘mere non-existence of sandwiched layer would not obviate infringement¶ DV HWKH FµW RI WKH 'HIHQGDQW¶V SURGX ‘the fuQFWLRQDOLW\ RI ERWK WKH 3ODLQWLII¶V DOPRVW to contend that the learned Single Judge undertook an impermissible product-to-product comparison is unsustainable.

134. This Court is of the view that, upon a cumulative and holistic reading of the impugned judgment, there is no doubt that the conclusion reached by the learned Single Judge was arrived at after comparing the IHDWXUHV RI WKH 'HIHQGDQW¶V SURGXFW ZLW The relevant findings of the learned Single Judge, evidencing application of the correct test of claim-to-product comparison, are reproduced below for ease of reference:

> ³ 7KH 3ODLQWLII KDV DOVR DWWHPSWHG WR GH manner in which the Defendant's 'Present and Record' feature functions, but also tried to establish identity by showing the manner in which the Plaintiffs product 'My Show and Tell' compares with the Defendant's 'Present and Record' feature. For the present, <u>however, the Court is merely focusing on the Defendant's product feature in comparison with the claims of the patent specification, rather than comparing the two products directly.</u>
>
> 90. In terms of the above order, the deponent filed an affidavit dated 15th July 2022. According to the affidavit, DefendaQW¶V &DQYD SURGXFW LV DYDLODEOH LQ WKUHH IRUPV µ&DQYD µ&DQYD IRU (QWHUSULVH¶ 7KH ODWWHU WZR D-based models, whereas the first one provides unpaid/free access to certain features on the Canva platform. Data has been filed in respect of all three forms indicating the number of users and net revenue from sales. The said data in the affidavit, which has been perused by this &RXUW LV QRW EHLQJ UHSURGXFHG LQ RUGHU WR commercial confidentiality. The affidavit reveals that the use of the µ3UHVHQW DQG 5HFRUG¶ IHDWXUH E\ XVHUV RI W product is substantially low when compared to the total number of users and subscribers RI WKH 'HIHQGDQW¶V &DQYD SUR <u>Considering the fact that the Plaintiff has made out a case of infringement, especially by a mapping of claim charts, and that the Defendant has been unable to make a credible challenge to the</u>

3ODLQWLII¶V SDWHQW, the balance of convenience also lies in favour of the Plaintiff whose market opportunities for licensing and revenue generation can be completely eroded, if in case an interim injunction is not granted at this stage.

76. <u>A perusal of the presentation submitted by the Defendant would show that the manner in which the audio overlay has been made on each of the slides, is completely different from</u> the <u>3ODLQWLII¶V</u> VXLW SDWHQW. In the 2016 PPT version demonstration provided by the Defendant, the audio is recorded separately on each of the slides, and not while the slides presentation is running continuously with a separate overlaying of a video. This slide-by-slide content plus audio recording cannot be equated with the 3ODLQWLII¶V SURGXFW ZKLFK FRQWHPSODWHV D separate second media for running in a coordinated and synchronised manner. The working of the 2016 PPT, as shown to the Court, is different from the subject product as shown by the Defendant.

70. From the decisions extracted above, <u>and after analysing the FODLPHG IHDWXUHV DQG</u> WKH 'HIHQGDQW¶V SURG it is clear that the highlighting of differences between the patented claims and the 'HIHQGDQW¶V SURGXFW LV DQ DWWHPSW WR GLVV RYHUDOO LGHQWLW\ $ FRPSDULVRQ RI WKH FODL SURGXFW ZRXOG HVWDEOLVK WKH RSSRVLWH«« ´

135. Upon a reading of the above paragraphs, it is abundantly clear that the learned Single Judge granted interim relief on the basis of a VWUXFWXUHG FRPSDULVRQ EHWZHHQ WKH SDW product. The mapping table in paragraph 70 of the impugned judgment clearly demonstrates a claim-centric analysis. Further, in paragraph 59, the learned Single Judge expressly clarified that the Court was focusing RQ WKH 'HIHQGDQW¶V SURGXFW LQ FRPSDULVR specification, and not on a direct product-to-product comparison. The learned Single Judge also analysed the prior art with the Suit Patent and then returned the findings. We therefore find no error of principle in the approach adopted by the learned Single Judge either in claim mapping or in comparing the prior art with the claims of the Suit Patent.

136. The second principal contention of the learned Counsel for the Defendant is that the doctrine of equivalents has been wrongly applied in the present case. Upon a perusal of the impugned judgment, we are of the view that the learned Single Judge, while exercising its *prima facie* discretionary jurisdiction, did not commit any error of principle in applying the Doctrine of Equivalents. The learned Single Judge expressly recorded the correct legal test governing equivalence as laid down in *Sotefin S.A.* (supra) and *Raj Parkash* (supra).

137. Further, in paragraph 86 of the impugned judgment, the learned Single Judge returned a categorical *prima facie* finding that all the HVVHQWLDO HOHPHQWV RI WKH 6XLW 3DWHQW The relevant portion is reproduced below:

> 3 , Q V R I D U L Q V U L Q R J H P H Q W L V F R Q F H U Q H G W K H ' Expert states that all the elements of the Plaintiff¶V S D W H Q W G R Q R W H [L V W L Q W K H ' H I H Q G D Q W ¶ V S U R G X F W 7 K H F K D U V 70 above clearly demonstrates that the so-called differences, which the Defendant seeks to rely upon are, in fact, non-existent. The I X Q F W L R Q D O L W \ R I W K H which the Defendant¶V S U R G demonstrated to the Court, clearly falls within the claims of the suit patent and all the essential elements of the suit patent exist in the ' H I H Q G D Q W ¶ V Y H U V L R Q. In any event, the settled law on the test for infringement, as set out in *Raj Parkash* (supra) and *Sotefin SA* (supra) is that the trivial or minor differences between the patented L Q Y H Q W L R Q D Q G W K H ' H I H Q G D Q W ¶ V S U R G X F W Z ' H I H Q G D Q W W R H V F D S H W K H L Q I U L Q J H P H Q W ´

138. The learned Single Judge, before arriving at the conclusion recorded in paragraph 86, effectively applied the Doctrine of Equivalents by undertaking a structured comparison of each essential L Q Y H Q W L Y H I H D W X U H R I W K H 6 X L W 3 D W H Q W Z learned Single Judge examined whether any of the four disputed essential features were altogether absent, or whether they had merely

been substituted by insubstantial variations introduced to camouflage infringement.

139. In applying the doctrine to inventive steps A1 and A4 and comparing them with the corresponding product, the learned Single Judge noted that the window is not an essential feature of the claimed invention, and that what is essential is the integrated and synchronised layered media effect produced by the interaction of the first and second media. The contention that the learned Single Judge engaged in an impermissible product-to-product comparison cannot be accepted, as it proceeds on a selective reading of the impugned judgment. In paragraph 66, the learned Single Judge expressly held:

> ³$IWHU SHUXVLQJ WKH PDQQHU LQ ZKLFK WKH 'H functions, insofar as A1 and A4 are concerned, it would be incorrect for the Defendant to argue that their product does not have a layered SUHVHQWDWLRQ RU D 3L3 VHFRQG PHGLD ´

This finding clearly demonstrates that the learned Single Judge compared the essential features of the patented claims with the 'HIHQGDQW¶V SURGXFW DQG a product as a whole to arrive at its conclusion. The learned Single Judge correctly examined whether the DEVHQFH RI ³PRYDELOLW\´ FRQVWLWXWHG D claimed invention or merely an insignificant variation incapable of avoiding infringement, and rightly held it to be inessential.

140. Having thus analysed two principal grounds of interference urged by the learned Counsel for the Defendant, we now proceed to examine

the specific submissions advanced in respect of each of the four disputed inventive steps.

141. As discussed above, there are seven essential inventive steps identified in Claims 1 and 39 of the Suit Patent, out of which the Defendant admits the presence of three in its product. Therefore, in order to establish infringement, the remaining four essential inventive VWHSV PXVW DOVR EH IRXQG WR EH SUHVHQW

142. With respect to inventive steps A1 and A4, the learned Single Judge held that the DHIHQGDQW¶V SURGXFW FRQWDLQ a layered presentation system and also incorporates a PiP feature.

143. The Defendant has assailed these findings in the present appeal, particularly disputing the existence of inventive step A1 in its product.

144. According to Mr. Saikrishna Rajagopal, learned Counsel for the Defendant, submitted that the learned Single Judge erred in holding that µmere non-existence of sandwiched layer would not obviate infringement¶ DV HWKHFW RI WKH 'HIHQGDQW¶V SURGXFW µWKH IXQFWLRQDOLW\ RI ERWK WKH 3ODLQWLI DOPRVW LGHQWLFDO¶

145. According to the learned Counsel, the learned Single Judge granted an injunction despite noting layered presentation (feature A1) as an essential element of Suit Patent, and having accepted the absence of a sandwiched / in-between layer in the DHIHQGDQW¶V product.

146. The case of ' H I H Q G L V D Q W Y H ¶ foundational premise of the Suit Patent lies in the provision of a system that enables modification of slides, CTA elements, or interactive components without affecting the underlying video content or the CTA. This feature makes the Plaintiffs product unique, as the entire video or the slide will not need to be re-recorded in order to effect a small change. This is stated to be achieved through a three-layered architecture consisting of (i) slides (first media), (ii) video (second media), and (iii) a separate sandwiched layer housing CTA elements.

147. According to the Defendant, this distinct third layer and the configuration interface enabling creation and modification of CTA elements constitute the core of the Suit Patent. It is asserted that the Defendant ¶ V Canva product operates only through two layers, namely slides and audio/ video, and does not employ any separate sandwiched layer. Consequently, the Defendant submits that an essential feature of the Suit Patent is absent from its product.

148. The Plaintiff has refuted these submissions by contending that the Defendant has artificially introduced expressions such as 'third O D \ H U ´ D Q G ³ V D Q G Z L F K ´ W R F U H D W H D Q D U W L I L F L D O limitation in the claims or specifications of the Suit Patent. It is submitted that such limiting language has been raised belatedly at the stage of rejoinder and cannot be used to narrow the scope of the patent claims.

149. In our view, the conclusion of the learned Single Judge regarding the existence of a O D \ H U H G S U H V H Q W D W L R Q L Q W K H ' neither perverse nor contrary to the record. The learned Single Judge

undertook a comparison of the Suit Patent claims with the features of the DHIHQGDQW¶V SURGXFW DHIHQGDQW¶V SURG concluded that the DHIHQGDQW¶V SURGXFW adopts a layered presentation system.

150. To substantiate, the impugned judgment, in paragraph 65, delineates the scope of claim 1 and, in paragraph 66, applies the same to the DHIHQGDQW¶V SURGXFW that there is in consonance with the established principles of claim construction and infringement test.

151. The DHIHQGDQW¶V contention is that the absence of a distinct third or sandwiched layer LV IDWDO WR WKH 3ODLQWL even the absence of a single essential feature is sufficient to negate infringement.

152. However, upon a careful perusal of the Suit Patent claims and specifications, we do not find any reference to a third OD\HU á ³VDQGZLFKHG´ as an essential requirement of the invention. Reading such a limitation into the patent would amount to impermissible reappreciation of the evidence and rewriting of the claims, which is not warranted at the appellate stage.

153. Prima facie, the DHIHQGDQW¶V SURGXFW also adopts a layered presentation, wherein interactive elements are integrated into the media content. It is undisputed that changes can be made to one layer without affecting the others, and the DHIHQGDQW¶V SURGXFW includes SURPRWLRQDO foreground media components. The attempt to distinguish the

defendant's product solely on the basis of the absence of a so-called third layer is, therefore, unsustainable at this appellate stage.

154. With respect to inventive A4, the learned Single Judge has found that the Defendant's product incorporates a PiP feature. The learned Counsel for the Defendant has not denied the existence of such a feature but has sought to distinguish it on the ground that unlike [the Suit Patent], in the Defendant's product the PiP window is not movable through haptic interaction.

155. It is the Defendant's case that the Suit Patent defines PiP as requiring movement via haptic interaction, whereas the PiP feature in the Defendant's product lacks any such movable functionality.

156. The learned Single Judge, while adopting a similar analytical framework as applied to Claim A1, first undertook an exercise of ascertaining the scope and purpose of Claim A4, and thereafter proceeded to compare the same with the Defendant's impugned product. In doing so, the learned Single Judge correctly applied the well settled infringement test of claim construction followed by comparison with the allegedly infringing product.

157. Additionally, upon perusal of the Patent Specifications, it is evident that the term "PiP" has been defined as:

> 10 "Picture-in-picture means one or more foreground content placed within a smaller insert window which is movable through haptic interaction as foreground overlay on top of one or more background content.

Insert window are round or polygonal or oval or non-polygonal in shape ´

158. :H I L Q G W K D W movable through rapid interaction has been employed in the specification primarily to describe the nature of the PiP window as a distinct foreground overlay that is layered above the background content. While it cannot be conclusively ruled out that ³movability´ may constitute a functional attribute, the learned Single Judge, exercising *prima facie* discretion, has not committed any error of principle in treating such movability as a non-essential feature at the interlocutory stage.

159. Further, as settled in patent jurisdiction, including F. Hoffmann - La Roche Ltd. (supra) and Merck Sharp and Dohme Corporation (supra), the infringement enquiry must remain tethered to the claims as purposively construed, and not to an isolated descriptive term in the specification being elevated into essential claim limitations. Whether or not the PiP window is movable, the second media continues to operate as an independent foreground layer superimposed over the background content and achieves the same technical result of layered visual presentation. The absence of movement does not alter the functional architecture, operational mechanism, or the technical effect produced b\ W K H ' H I H Q G D Q W ¶V

160. The Defendant has further admitted that the movability feature is enabled only when the product is accessed through the Firefox browser, owing to the specific enabling mechanisms provided by that browser, whereas such movement is not observed when accessed through Google Chrome. However, this Court is of the view that at the *prima facie* stage,

the Defendant cannot seek to appropriate browser dependent behaviour as a product level defence to infringement. The relevant inquiry remains whether the impugned system, as deployed, embodies the essential elements of the claimed invention.

161. It has also been alleged that the movability of the PiP has been altered during the pendency of the suit. Needless to state, the authenticity and implications of such altercation can only be established through leading evidence at trial.

162. Accordingly, whether movability constitutes an essential feature of the claimed invention is a matter that can be conclusively determined only after full evidence is led. At the prima facie stage, however, it is reasonable to conclude that movability is inessential and therefore, no interference ZLWK WKH OHDUQHG is warranted. - XGJH¶V IL

163. Insofar as Claim C6 relates to a 'configuration interface' that allows the user to open and modify the configuration of already stored media, thereby enabling the editing of pre-created interactive content.

164. Learned Counsel for the Defendant has challenged the finding on the ground that the Suit Patent envisages a configuration interface to configure the CTA feature in the form of a separate 'third´ / 'sandwiched' layer, which is allegedly absent in the 'HIHQGDQW¶ product.

165. In this we regard, we are in agreement with the submission of Ms. Swathi Sukumar, learned Senior Counsel for the Plaintiff that while

the first media (image) resides in the background layer and the second media (video) in the foreground layer, such an architectural arrangement does not, either expressly or by necessary implication, require the CTA button to exist in a distinct ³WKLUG´ RU ³VDQGZLFK layer to satisfy the claimed invention.

166. Further, even the Defendant's own expert, Dr. Benjamin Bederson, supports this position. In paragraphs 28-30 of his report, Dr. %HGHUVRQ H[SUHVVO\ DFNQRZOHGJHV WKDW WKH ³OD\HUV´ not part of the claim or even the specification.

167. +H IXUWKHU FODULILHV LQ SDUDJUDSK Q RW DSSHDU LQ DQ\ RI WKH Patent. The claims merely refer to the implementation of first media in the background and second media in the foreground, with no reference to D Q \ ³VDQGZLFKHG´ or intermediate layer for CTA elements.

168. Therefore, the core issue for consideration is whether the 'HIHQGDQW¶V system provides a ³configuration interface´ WKDW HQDEOHV the placement of a CTA button at a specific position within the interactive content, and whether such CTA is instantiated as part of the final output. This Court is of the view that the demonstration of the 'HIHQGDQW¶V FOHDUO\ HVWDEOLVKHV WKH H[LVWHQFH interface. The CTA button is not embedded within or created by modifying the underlying first media image; rather, it is added through a separate interface and then superimposed at a chosen position. The SDWHQW VSHFLILFDWLRQ GHILQHV D ³FRQILJXUDWLRQ configuring a wide array of "interactive content settings," including

security, metadata, commercial data, and visual branding, in addition to the functional configuration of CTA buttons.

169. The 'HIHQGDQW¶V interface performs precisely this function. Merely labelling it as D ³IRUPDWWLQJ RSWLRQ´ LV D VHI that does not alter its substantive function. The DHIHQGDQW¶V SURGX therefore, performs the same function in substantially the same way to achieve the same result.

170. Claim C7 pertains to the feature where a CTA appears as part of the interactive content during rendering or playback. Learned Counsel for the Defendant has argued that this claim requires the CTA to be enabled and displayed only when viewers see the final presentation, and not during the authoring stage. According to the Defendant, in the Suit Patent, the CTA is not enabled for the author, whereas in the 'HIHQGDQW¶V SURGXFW the CTA is visible and functional even during content creation.

171. The impugned judgment has treated Claim C7 as substantially overlapping with Claim C6. However, upon a purposive construction of the claims, it is evident that C6 relates to the ability to reopen and edit configuration settings of interactive content, where C7 concerns the rendering behaviours of those configurations during playback, ensuring that CTAs appear embedded and functional at the appropriate time.

172. While Claim C7 refers to the CTA being displayed when the viewers see the final presentation, it is an admitted position that in the DHIHQGDQW¶V SURGXFW the CTA is visible both during authoring and

playback. However, the D H I H Q G D Q W¶V expert, in the supplemental report, acknowledges that neither the claims nor the specification of the Suit Patent expressly states that CTAs must not be displayed during the authoring stage.

173. Consequently, it would not be unreasonable or perverse to conclude, at the *prima facie* stage, that the visibility of CTAs to authors G R H V Q R W W D N H W K H ' H I H Q G D Q W ¶ V S U R G X F W 7 K L V Y L H Z L V I R U W L I L H G E \ W K H ' H I H Q G D Q W ¶ V

174. Also, even assuming *arguendo* that the Suit Patent contemplates CTAs being hidden during authoring, it remains to be examined whether such non-visibility is merely a cosmetic or protective feature to camouflage infringement, or whether it results in a materially distinct technical operation.

175. These issues necessarily require detailed evidentiary examination at trial. At the *prima facie* stage, the learned Single Judge was justified L Q Q R W L Q J W K H S U H V H Q F H R I & O D L P & L Q W K

INVALIDITY

176. A foundational requirement of patent adjudication is that the assessment of validity in light of prior art must proceed through a structured and element-wise comparison between the asserted claims, as properly construed, and the disclosures contained in the prior art. Patent protection attaches to the claims, and not to the manner in which

the invention is commercially embodied. This claim-centric discipline that governs infringement analysis under the Patents Act

177. While analysing prior art references such as Microsoft PowerPoint 2016, Auto-Auditorium and Loom, the learned Single Judge rejected the plea of anticipation on the express footing that these systems lacked key architectural features of the Suit Patent, including, a layered media structure, configuration-based post-creation modifiability, and non-merging of media streams. These features were thus implicitly treated as essential elements of the claimed invention for the purpose of sustaining novelty and inventive step under Sections 2(1)(j) and 2(1)(ja) of the Patents Act.

178. The learned Counsel for the Defendant assailed the validity of the Suit Patent primarily by relying on Microsoft Power Point 2016. It was contended that instead of comparing the prior art with the claims of the Suit Patent, the impugned judgment erroneously compared the prior art with the P O D L Q W L I I ¶ V commercial product. In particular, reliance was placed on the finding W K D W 0 L F U R V R I W 3 R Z H U 3 R L Q W cannot be H T X D W H G Z L W K W K H ´3 O D L Q W L I I V¶ working, S U R G X F demonstrated before the Court, was different from the subject product.

179. It was further submitted that the impugned judgement proceeded without proper claim construction and without identifying the inventive features of the Suit Patent, yet paradoxically concluding that the Suit Patent was inventive over the prior art.

180. At first blush, these submissions appear persuasive. However, upon a careful and holistic perusal of the impugned judgment, we are unable to agree with the learned Counsel for the Defendant. The learned Single Judge did consider the scope of the Suit Patent and compared it with the prior art references. In para 84, the learned Single Judge observed: ³A perusal of the presentation submitted by the Defendant would show that the manner in which the audio overlay has been made RQ HDFK RI WKH VOLGHV LV FRPSOHWHO\ GLII patent ´ This observation, though couched in reference to the 3ODLQWLII¶V SURGXFW LV FOHDUO\ URRWHG claimed in the Suit Patent.

181. Further, a reading of Paragraph 70 of the impugned judgment makes it evident that the learned Single Judge, prior to returning a finding on invalidity, analysed the claimed features of the Suit Patent vis-a-vis the DHIHQGDQW¶V and the prior art. The paragraph reflects a consideration of the essential elements such as media layering, post-creation configuration, and non-merging of streams, features that form the crux of the patented invention.

182. In view of the above, we find no perversity or material error in the approach adopted by the learned Single Judge. The impugned judgment consistently emphasizes on claim to product mapping. After discussing the prior art in sufficient detail, the learned Single Judge rightly concluded that the Plaintiff had, at the *prima facie* stage, established the presence of inventive essential elements in the Suit Patent. Consequently, the challenge to validity was correctly held to be unstainable.

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183. The next contention relates to the reliance placed by the learned Single Judge on the DHIHQGDQW¶V PCT application. The Plaintiff relied upon this document to contend that Defendant¶V own disclosures mirrored the essential features of the Suit Patent, thereby evidencing both infringement and imitation.

184. In paragraph 87 of the impugned judgment, the learned Single Judge went further and drew adverse inference against the Defendant, observing that they KDG ³DEDQGRQHG´ their PCT application after the Plaintiff relied upon it in the proceedings. This was characterized as a ³FRPSOHWH VRPHUVDXOW´ DQG DQ DWWHPSW V

185. At the threshold, the Defendant disputed the factual basis of this finding. They clarified that the PCT application had not been abandoned, but had, in fact, entered the national phase in the United States and other jurisdictions. What had lapsed, according to the Defendant, was only the original Australian provisional application, a routine procedural event that does not affect the subsistence of the PCT application.

186. It is trite law that a PCT application, at best, reflects the DSSOLFDQW¶V UHVHDUFK and technical disclosures. It does not constitute an admission of infringement, nor does similarity in disclosures establish that a commercial product necessarily embodies the claimed invention. Infringement must always be tested by

comparing the claims of the patent with the allegedly infringing product.

187. We, therefore, agree with the submission of learned Counsel for the Defendant that the status or prosecution decisions concerning the Defendant's PCT application cannot substitute for, or colour, the technical and legal comparison that the Court is required to undertake under Indian patent law.

188. However, it is equally well-settled that documents emanating from a Defendant including its own patent filings, specifications, and prosecution history, are relevant pieces of evidence. Such documents may shed light on the D H I H Q G D Q W V understanding of the technology, the features they themselves consider novel or essential, and any inconsistency between what they seek to protect through patents and what they deny before the Court.

189. Viewed thus, the PCT record is not being used as a substitute for the infringement analysis. Rather, it has been relied upon as corroborative material, demonstrating the Defendant's shifting stand and justifying a heightened scrutiny of their denials in the infringement proceedings.

190. Accordingly, while the observation regarding ³ D E D Q G R Q P H Q W ´ may not be factually precise, the reliance placed on the PCT application as a relevant evidentiary circumstance does not warrant interference with the impugned judgment.

CONCLUSION

191. In view of the foregoing discussion, we are unable to accept the contention advanced by the learned Counsel for the Defendant that the impugned judgment suffers from absence of proper claim construction in terms of the principles laid down in F. Hoffmann-La Roche Ltd (supra), or that the injunction was granted merely on the basis of claim-to-claim mapping or overall identity.

192. A careful reading of the impugned judgment reveals that the learned Single Judge has effectively construed the four disputed claims of the Suit Patent and has undertaken a detailed claim mapping exercise. The learned Single Judge has explicitly observed that claims of the patent specification are required to be compared with the features of the 'HIHQGDQW¶V SURGXFW. While concluding on the issue of O\ infringement, the learned Single Judge has again referred to the mapping of the Suit Patent claims.

193. We are therefore satisfied that the process of claim construction and comparison was undertaken in accordance with settled principles of patent law, and the impugned judgment cannot be faulted on this ground.

194. We also find no merit in the primary contention of the Defendant WKDW LWV SURGXFW ODFNV WKH XQLTXH OD\H the Suit Patent. These expressions do not find place in the Suit Patent specification or in the claim construction adopted by the learned Single

-XGJH 7KLV SRVLWLRQ LV IXUWKHU UHLQIRUFH
report, which categorically refers to the alleged absence of a
³VDQGZLFKHG OD\HU´ from the 0 demonstration of the
'HIHQGDQW¶V product. It is evident that the CTA button is added through
a separate interface. As per the patent claims and specifications, any
interface that enables a user to add one or more CTA buttons at a
specific place or position within interactive content qualifies as a
³configuration interface´. Thus, the presence of such a feature in the
'HIHQGDQW¶V product satisfies the requirements of the Suit
Patent.

195. With regard to the issue of movability, as an essential feature of
the claim, and whether such movement is attributable to the
'HIHQGDQW¶V SURGXFW RU WR WKH EURZVHU L
be best adjudicated upon at the stage of trial, after evidence is led. We
therefore find no error in prQFLSOH LQ WKH OHDUQHG 6
UHMHFWLRQ RI WKH 'HIHQGDQW¶V FRQWHQWLR

196. With respect to the challenge to the direction requiring the
Defendant to deposit a sum of Rs. 50 lakhs, we find no infirmity in the
exercise of discretion by the learned Single Judge. The record discloses
that the learned Single Judge¶V findings was based on an affidavit dated
15.07.2022, and number of users and net revenue. The direction to
deposit Rs. 50 lakhs was thus founded on relevant considerations,
including the extent of usage of the infringing feature in India, the
revenue generated therefrom, the absence of attachable assets within the
MXULVGLFWLRQ DQG WKH QHHG WR tVHFXUH W
the suit ultimately succeeds. The amount directed to be deposited has

been expressly made subject to the final outcome of the suit and is in the nature of a protective and provisional measure, intended to safeguard the Plaintiff against the risk of irreparable loss. The said direction on a *prima facie* stage therefore reflects a reasoned exercise of discretion. In appellate proceedings arising from an interlocutory order, this Court is guided by the well-settled principles laid down in *Wander Ltd.* (supra), which restrict interference to cases of perversity, arbitrariness. The learned Single Judge has exercised discretion judiciously, upon a consideration of relevant material and applicable legal principles. We are, therefore, not persuaded to appreciate the evidence or re-examine the issues as if sitting in appeal on facts.

197. In the circumstances, we are of the considered view that no compelling case has been made out to warrant interference with the impugned judgment.

198. Accordingly, after having carefully examined the reasoning adopted by the learned Single Judge, we find no merit in the present appeal.

199. The appeal is, therefore, dismissed.

200. It is clarified that the observations made herein are confined to the *prima facie* stage and shall not be construed as an expression of opinion on the merits of the case, which shall be decided independently at the stage of trial.

201. All pending applications, if any, stand disposed of in the above terms. There shall be no order as to cost.

OM PRAKASH SHUKLA , J.

C.HARI SHANKAR, J.

JANUARY 28, 2026/AT/rjd