

2025 LiveLaw (SC) 1030

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

PAMIDIGHANTAM SRI NARASIMHA; J., ATUL S. CHANDURKAR; J.

TRANSFER PETITION (C) NO(S). 1983 OF 2025; October 17, 2025

ATOMBERG TECHNOLOGIES PRIVATE LTD. *versus* EUREKA FORBES LIMITED & ANR.

Transfer Petition — Priority in Filing — Substantial Overlap of Issues — Patents Act, 1970, Sections 104, 106, 108 — Code of Civil Procedure, 1908 (CPC), Section 25 — Issue - Whether the Suit for Infringement (Delhi Suit) should be transferred to the Bombay High Court, or the Suit for Groundless Threat of Infringement (Bombay Suit) should be transferred to the Delhi High Court - Supreme Court allowed the transfer petition filed by petitioner - The Delhi Suit is transferred to the Bombay High Court to be tried along with the Bombay Suit - Noted that the omission of the proviso from Section 106 of the Patents Act, 1970 (which existed in the *pari materia* provision in the Indian Patents and Designs Act, 1911) signifies that a suit for groundless threat of Infringement has an independent cause of action from a suit for infringement - Held that Despite the independent cause of action, the questions of fact, law, and issues to be determined in both suits are substantially overlapping - To avoid duplication, multiplicity of proceedings, and the risk of conflicting judgments, it is expedient to transfer the subsequent suit to the court where the prior suit is pending - Transfer petition allowed. [Relied on *Chitivalasa Jute Mills v. Jaypee Rewa Cement*, (2004) 3 SCC 85; Paras 9-13]

WITH TRANSFER PETITION (C) NO(S). 2174 OF 2025

For Petitioner(s) :Mr. Niranjan Reddy, Sr. Adv. Mr. Pravin Anand, Sr. Adv. Ms. Vaishali Mittal, Adv. Mr. Mahesh Agarwal, Adv. Mr. Ameet Naik, Adv. Ms. Madhu Gadodia, Adv. Mr. Siddhant Chamola, Adv. Ms. S. Lakshmi Iyer, Adv. Mr. Devansh Srivastava, Adv. Mr. Gursimran Singh Narula, Adv. Ms. Manavi Agarwal, Adv. Mr. E. C. Agrawala, AOR Mr. C Aryama Sundaram, Sr. Adv. Mr. Hiren Kamod, Adv. Mr. Ayush Sharma, AOR Ms. Rohini Musa, Adv. Mr. Abhishek Gupta, Adv. Mr. Ashish Sharma, Adv. Ms. Zafar Inayat, Adv.

For Respondent(s): Mr. J Sai Deepak, Sr. Adv. Mr. Hiren Kamod, Adv. Mr. Ayush Sharma, AOR Mr. Avinash, Adv. Mr. Ashish Sharma, Adv. M/S. Karanjawala & Co., AOR Mr. Niranjan Reddy, Sr. Adv. Mr. Pravin Anand, Adv. Ms. Vaishali R. Mittal, Adv. Ms. Ruby Singh Ahuja, Adv. Ms. Madhu Gadodia, Adv. Mr. Siddhant Chamola, Adv. Mr. Gursimran Singh Narula, Adv. Ms. Roopali Gupta, Adv. Ms. Uzma Sheikh, Adv.

J U D G M E N T

1. The petitioner in Transfer Petition (Civil) No. 1983 of 2025, seeks transfer of the Suit for Infringement¹ (Delhi Suit) instituted by the respondent no.1 before the High Court of Delhi to the High Court of Judicature at Bombay, where the petitioner's Suit for Groundless Threat of Infringement is pending adjudication. Respondent no.1 also filed Transfer Petition (Civil) No. 2174 of 2025, seeking transfer of the Suit for the Groundless Threat of Infringement² (Bombay Suit) instituted by the petitioner before the High Court of Judicature at Bombay to the High Court of Delhi

2. The petitioner, engaged in the manufacturing and selling of home and kitchen appliances, launched a water purifier under the unique and distinctive mark "Atomberg Intellon" on June 20, 2025. Soon after the launch, the petitioner became aware that respondent no. 1, a competitor in the manufacturing of water purifiers, allegedly made groundless and unjustified oral communications to the petitioner's distributors and

¹ CS (COMM) NO. 663 of 2025

² COMMERCIAL IP (L) No. 19837 of 2025

retailers, claiming that the petitioner's product infringed their patents and threatened legal proceedings. These threats caused apprehension and fear among the petitioner's customers and distributors, affecting the petitioner's business. In response to these groundless threats of patent infringement, the petitioner instituted the Bombay Suit on 01.07.2025, under Section 106 of the Patents Act, 1970, seeking relief from such threats made by respondent no. 1.

3. The respondent no.1, who is also engaged in the manufacturing and selling of home and kitchen appliances, including water purifiers, allegedly discovered that the petitioner had launched "Atomberg Intellon" water purifiers on June 20, 2025, featuring patented technologies owned by them. It is alleged by respondent no.1 that petitioner's product included customizable taste and TDS adjustment modes, which mirror the respondent no.1's patented innovations. It is further alleged that respondent no.2, Ronch Polymers Pvt. Ltd, which is the petitioner's manufacturer, had previously served as the respondent no.1's contract manufacturer, giving them access to confidential product knowledge. When respondent no.1 came to know about the product of the petitioner, it purchased the petitioner's product by placing an order online and received the delivery of the product in Delhi. Upon technical analysis of the delivered product, it is alleged that the patent infringement was confirmed. Consequently, the respondent no.1 instituted the Delhi Suit for patent infringement under Section 104 of the Patents Act, 1970, along with an application for injunction seeking to restrain the petitioner from patent infringement.

4. Thus, we have two competing transfer petitions, where, while the petitioner seeks the Transfer of the respondent no.1's suit for infringement instituted before the Delhi High Court to the Bombay High Court, respondent no. 1 seeks the transfer of the suit for Groundless Threat of Infringement instituted before the Bombay High Court to the Delhi High Court.

5. We have heard the learned counsel for the parties and perused the material on record.

6. The learned senior counsel for the petitioner submits that the Delhi Suit should be transferred to the Bombay High Court for the following reasons.

i. The suit filed by the petitioner for groundless threats of patent infringement in Bombay was instituted prior to the suit instituted by the respondent no.1 in Delhi for patent infringement.

ii. The petitioner and respondent no.1, have their registered offices in Mumbai, which is within the territorial jurisdiction of the Bombay High Court, making it the most appropriate forum for adjudication.

iii. The respondent is deliberately engaging in forum shopping by filing the subsequent suit in Delhi. This attempt to invoke jurisdiction in Delhi is based solely on online purchases and delivery of the product to Delhi, which is an insufficient ground to create jurisdiction, especially when the parties have a longstanding business presence and offices in Mumbai. Such conduct has been consistently disapproved by courts as an abuse of the judicial process.

iv. The issues involved in both suits substantially overlap. The Delhi Suit and the Bombay Suit raise identical questions of law and fact, especially concerning the alleged infringement of the patents in relation to the petitioner's water purifier product.

v. The multiple proceedings on the same issues and parties before two different courts lead to the risk of conflicting judgments, unnecessary duplication, and wastage of judicial resources.

vi. The Bombay Suit not only predates the Delhi Suit but was also served upon the respondent no. 1 well in advance, placing them on notice of the dispute. The burden of proving patent infringement lies on the respondent no.1 in both suits, making the hearing of both suits by the same forum prudent to ensure consistency, prevent multiplicity, and avoid prejudice to the petitioner.

7. Per contra, the learned senior counsel for the respondent no.1 submits that

i. The suit pending before the Delhi High Court is the substantive suit and should be retained there for adjudication.

ii. The Delhi Suit concerns the core issue of patent infringement, which involves detailed factual and technical determination, and therefore demands the exercise of jurisdiction by the court having prima facie cause of action within its territorial limits.

iii. It is further submitted that the Bombay Suit instituted by the petitioner for groundless threats is procedural and limited in scope, merely seeking declarations and injunctions against threats without delving into the full merits of patent validity or infringement.

iv. The Bombay Suit is ancillary and cannot substitute the substantive relief sought in the Delhi Suit.

v. It is further submitted that the respondent has not indulged in forum shopping, as the cause of action for infringement arose within the jurisdiction of the Delhi High Court. The online purchase and delivery of the petitioner's product at Delhi suffices to confer territorial jurisdiction, consistent with legal principles governing patent infringement suits under Section 104 of the Patents Act and Section 20 of the Code of Civil Procedure. Moreover, the respondent no.1 points out that the petitioner has entered appearance and raised objections in the Delhi Suit, indicating acceptance of jurisdiction and the suitability of the forum.

vi. Given the technical complexity and the reliefs claimed in the infringement suit, the Delhi High Court is the appropriate forum to try such matters.

8. Analysis: In view of the limited scope vested in this Court while exercising its jurisdiction under Section 25 of CPC, we will not enter into the question of determination as to which of the two suits has a wider scope.

9. The petitioner's suit for Groundless Threat of Infringement is governed by Section 106 of the Patents Act, 1970. Prior to the enactment of the Patents Act, 1970, the law relating to patents was governed by the Indian Patents and Designs Act, 1911 (hereinafter, the 1911 Act), which, vide Section 162 of the Patents Act, 1970, was repealed insofar as it related to patents. Section 36 of the 1911 Act titled *Remedy in case of groundless threats of legal proceedings*, while enabling a person to institute a suit to obtain an injunction against the continuance of threat of legal proceedings or liability in respect of an alleged infringement of patent, in proviso thereto provided that the said provision shall not apply if any action for infringement of the patent was commenced and prosecuted with due diligence. The same was thus at par with the provisions in the other statutes governing the intellectual property rights of Trade Mark and Copyright. However, while enacting the 1970 Act and providing Section 106 therein, the proviso as existed to the *pari materia*

provision in the 1911 Act, was deleted.³ Thus, it is clear that with the enactment of the 1970 Act, the negatory provision that was present in the 1911 Act has been done away with, meaning thereby that the petitioner's suit for Groundless Threat of Infringement governed by Section 106 of the Patents Act, 1970, has an independent cause of action from that of a suit for infringement instituted by the respondent no.1, governed by Sections 104 and 108 of the Patents Act, 1970.

10. From the careful examination of the pleadings and the submissions before us, it is evident that:

- i. The suit for groundless threat of infringement instituted by the petitioner before the Bombay High Court on 01.07.2025 is prior in time to the institution of the suit for infringement by the respondent no.1 on 07.07.2025.
- ii. Jurisdiction at Delhi was invoked by the respondent no.1 by purchasing the product from an online portal and getting it delivered in Delhi.
- iii. The question of fact, law, and the issues to be determined in the suit for groundless threat of infringement instituted by the petitioner and the suit for infringement instituted by the respondent no. 1 are substantially overlapping.

11. This Court in *Chitivalasa Jute Mills v. Jaypee Rewa Cement*⁴: while allowing a Transfer Petition observed:

"9. On the facts averred in the two complaints filed by the two parties before two different courts, it is clear that the parties are substantially the same. The fact remains that the cause of action alleged in the two complaints refers to the same period and the same transactions..... What is the cause of action alleged by one party as foundation for the relief prayed for and the decree sought for in one case is the ground of defence in the other case. The issues arising for decision would be substantially common. Almost the same set of oral and documentary evidence would be needed to be adduced for the purpose of determining the issues of facts and law arising for decision in the two Suits before two different courts. Thus, there will be duplication of recording of evidence if separate trials are held. The two courts would be writing two judgments. The possibility that the two courts may record findings inconsistent with each other and conflicting decrees may come to be passed cannot be ruled out.

11. The transfer petition is allowed...."

12. In the light of the facts, submissions, materials on record and the foregoing discussion, in the interest of saving precious judicial time and to avoid duplication and multiplicity of proceedings, it would be expedient to transfer the suit for infringement instituted by the respondent no.1 pending before the Delhi High Court to the Bombay High Court where the suit instituted by the petitioner for Groundless Threat of Infringement is pending.

13. For the reasons, we allow the Transfer Petition (Civil) No. 1983 of 2025 and direct the transfer of the Delhi Suit being CS (COMM) No. 663 of 2025 titled "*Eureka Forbes Limited Versus Atomberg Technologies Private Limited And Anr*", pending in the High Court of Delhi at New Delhi, to the Bombay High Court to be tried along with Commercial IP (L) No. 19837 of 2025 filed by the petitioner. The injunction applications in the suit may be taken up and disposed of expeditiously.

³ Excerpt from Order dated 23.01.2020 passed in CS(COMM)-342/2019 by the Delhi High Court

⁴ (2004) 3 SCC 85

14. Consequently, Transfer Petition (Civil) No. 2174 of 2025 filed by the respondent no.1 is dismissed.

15. Pending applications, if any, shall stand disposed of.

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