



2025:DHC:5585



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

% *Date of decision: July, 09, 2025*

+ **CS(COMM) 383/2021, I.A. 10356/2021-Stay, I.A. 12633/2025-**
by plaintiff O-XIIIA r/w O VIII R-10 CPC

PUMA SE

.....Plaintiff

Through: Mr. Ranjan Narula, Mr. Shakti
Priyam Nair and Mr. Parth Bajaj,
Advocates.

Versus

HIMANSHU SHARMA

.....Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

1. The plaintiff, by way of the captioned suit, seeks permanent injunction, infringement of trademark, passing off, damages, delivery up, etc., against the defendant.

2. As per the plaintiff, it is one of the most reputed companies/ brands engaging in the business of selling, manufacturing, and advertising sports apparel and accessories *inter alia*, throughout the globe. The plaintiff has spent substantial amounts towards the advertisement and marketing of its brand, within India and in international markets, and has also generated significant revenue therefrom. The plaintiff, in order to carry out business, has secured multiple registrations for their trademark in various countries, and their trademark has garnered a *well-known* status in India by the Trade Mark Registry *vide* Trade Mark Journal bearing no.2144 dated 19.02.2024.



3. The defendant herein is engaged in the business of stocking, selling,



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and supplying counterfeit shoes bearing the plaintiff's trademarks i.e.

"PUMA"/  and logo i.e.  and also engaged in selling the counterfeiting products and the registrant of domain name/ website i.e. "www.theshoeskart.com," on which the aforementioned products are sold.

4. In or around the second week of July 2021, the plaintiff received a customer complaint about the substandard quality of the plaintiff's shoes purchased from the website of the defendant. Subsequent to the investigation, it was revealed that the products in question were counterfeit, as the products were being sold unauthorisedly by the defendant and, as a result, thereof infringing the plaintiff's intellectual property rights, therefore, in light of the above, the plaintiff instituted the present suit.

5. This Court *vide* order dated 18.08.2021 restrained the defendant

from using the plaintiff's trademarks i.e. "PUMA"/  and logo i.e.  (*trademark*) as also the Domain Name Registrar (*DNR*) of defendant was directed to suspend the access to the domain name "https://theshoeskart.com/" of defendant and its URL's i.e. https://www.theshoeskart.com/ and respective IP address, i.e. 23.227.38.74 as the plaintiff's trademarks have been in use continuously since 1948 and are registered in India since 1983 under *Classes 25 and 18* of the Trade Marks Act, 1999 (*TM Act*) and pertinently since the plaintiff's trademark has been declared as a *well-known* mark *vide* Trade Mark Journal bearing no.2144 dated 19.02.2024.



6. Further, as the defendant failed to appear and file its written statement within the permissible time period, despite service of summons upon it by publication on 07.01.2024, his right to file written statement was closed *vide* order dated 06.02.2025.

7. It is under these circumstances that the plaintiff has preferred the present application under *Order XIII A* read with *Order VIII rule 10* of the Code of Civil Procedure (*CPC*) for passing of a summary judgment.

8. As per learned counsel for the plaintiff, the plaintiff is the prior adopter, continuous user, and the proprietor of the trademark involved in the present *lis* as also the said trademark has acquired distinctiveness, being exclusively associated with the plaintiff's products. The unauthorised adoption and blatant counterfeiting of the plaintiff's trademarks by the defendant, constitutes a manifest infringement within the contemplation and protection bestowed under *Sections 29(1) and 29(2)* TM Act.

9. Learned counsel for the plaintiff also submits that the evidence i.e. the Analysis Report issued by the plaintiff's Brand Protection Manager dated 12.08.2021, and the numerous customer complaints about the counterfeit product sold by the defendant, reflect the blatant counterfeiting of the plaintiff's trademark and reveals the obvious *mala fides* on the part of the defendant to ride upon the goodwill and global reputation of the plaintiff's well-established trademark.

10. This Court has heard the submissions advanced by the learned counsel for the plaintiff and has also gone through the pleadings as well as perused the documents on record.

11. Since the defendant has neither been appearing nor represented







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since 12.02.2024 and same is the position today, he is proceeded *ex-parte*.

12. Further, despite due service since the said defendant has never denied and/ or disputed any of the averments made or the documents filed by the plaintiff, all the averments made by the plaintiff, as well as the documents filed, are deemed to be *admitted* by the defendant.

13. The genesis of the dispute revolves around the registered trademarks of the plaintiff, which are *well-known* and the impugned products containing the same. For ease of reference, the comparative table of the products of the plaintiff and defendant are as under:-

PLAINTIFF'S ORIGINAL PRODUCT	DEFENDANT'S COUNTERFEIT PRODUCT
	
	

14. The above clearly reflects that the defendant's product bearing the impugned mark is/ are a blatant copy/ counterfeit/ rip-off/ replica of the plaintiff's product bearing its registered trademark. In fact, the impugned



mark of the defendant has been adopted by it in *toto* as all the essential elements of the plaintiff's trademarks, including its logo and the form strip device, have been adopted by the defendant without a single variation thereof. The aforesaid is also deemed to be true, taking into account the Analysis Report dated 12.08.2021 issued by the plaintiff's Brand Protection Manager, which, as also the other pleadings and the documents filed therewith, have not been denied by the defendant.

15. The adoption of the impugned mark by the defendant, the manner of usage and the fact that the said defendant is in the same line of business as the plaintiff as also operating through the same trade channels as the plaintiff, and lastly that the said defendant is targeting the very same set of customers as the plaintiff, reflect that the defendant is clearly guilty of counterfeiting and thus chose to hold back from filing any response and/or appearing before this Court. The said facts, cumulatively taken, reflect why the defendant has chosen not to appear before this Court and/or not to controvert any of the pleadings and documents filed by the plaintiff. These raise a grave doubt on the defendant and its conduct and affirms the pleadings and documents filed by the plaintiff.

16. The silence of the defendant, coupled with its overall conduct, reflects that the choice of the defendant in both adopting and then using the trademarks of the plaintiff on the impugned products is *mala fide*, and with a clear intention to ride upon the goodwill and reputation of the plaintiff and its trademarks. There can be no *bona fide* and/or non-intentional reason(s) for the said defendant to have adopted or commenced using either of the aforesaid trademarks of the plaintiff. Thus, the intentions and motives of the defendant leads this Court to presume that



there is an element of ‘*bad faith*’ therein. The same cannot be allowed, particularly, since it is with a clear intent to deceive consumers and members of the trade into believing that the impugned goods offered by the defendant originate from the plaintiff. As held by a learned Single Judge of this Court in ***Koninklijke Philips N.V. & Anr. v. Amazestore & Ors.***¹, in cases involving deliberate and *mala fide* infringement, the Court must adopt a stringent approach while awarding damages.

17. Interestingly, the Division Bench of this Court lately in ***Jawed Ansari v. Louis Vuitton Malletier & Ors.***,² has, after concurring with the view of the learned Single Judge of this Court, held that counterfeiting constitutes a grave and egregious offence and the implications constitute a commercial malpractice that undermines the value of established brands and deceives the unsuspecting consumers. The aforesaid is augmented, considering the factual matrix involved herein, a learned Single Judge of this Court, before that, has also in ***Cartier International A.G. and Ors. v. Gaurav Bhatia and Ors.***³, held that when elements of counterfeiting are apparent, a defendant who wilfully evades judicial proceedings ought not to be permitted to derive any benefit therefrom, as such conduct results in an inequitable position wherein a party complying with the Court by producing financial records is held liable for damages, while a non-compliant party escapes liability merely due to non-production of such records.

18. As such, since there is no defence put up by the defendant, its right to file the written statement has already been closed, and it has now been

¹ AIRONLINE 2019 DEL 826.

² MANU/DEOR/136880/2023



proceeded *ex-parte* as well, there is effectually no real chance of the defendant succeeding. All the pleadings and the documents filed in support thereof by the plaintiff are deemed *admitted* for all purposes. Thus, after considering and carefully perusing the overall case of the plaintiff and the pleadings and documents filed by it, the case set up by the plaintiff against the defendant stands duly proved. This makes the plaintiff entitled for a summary judgment against the defendant.

19. Moreover, this is a case wherein the plaintiff herein is by no means a fly by night operator, since it has wide wings spread in the field of the products it is manufacturing and which are involved herein. In fact, both the plaintiff and its trademarks is/ are *well-known*. Therefore, due to the long usage and association coupled with recognition, the plaintiff and its trademarks call for a higher degree of protection, more so, whence it/ they are susceptible to act(s) of piracy/ counterfeiting like the one by the defendant herein. This Court is echoing what has been held by the learned Division Bench of this Court in ***Hamdard National Foundation (India) and Another v. Sardar Laboratories Pvt. Ltd.***⁴.

20. Under such circumstances, no rank counterfeiter like the defendant, who maintains a stoic silence, can be allowed to go scot free, and the plaintiff, who is a registered proprietor of the trademarks, has to be given due protection and benefit for the same against such defendant.

21. Accordingly, the present suit is decreed in terms of prayer paragraphs (a)(b)(c)(d)(g) of the plaint as also the plaintiff is entitled to actual costs of Rs.5,90,000/- as sought by the plaintiff.

³ [2016 (65) PTC 168 Del]

⁴ 2022 SCC OnLine Del 4523



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22. Additionally, considering the overall factual matrix involved and the overall conduct of the defendant, the defendant is also directed to pay damages, conservatively estimated at Rs.2,10,000/- as well.

23. The defendant is directed to make the aforesaid complete payment of Rs.8,00,000/- (Rs.5,90,000/- + Rs.2,10,000/-) to the plaintiff within a period of *ninety days*. If the aforementioned sum is not paid within the said period of *ninety days*, the plaintiff shall also be entitled to claim an interest @ 6% per annum on the amount of Rs.8,00,000/- till the date of its actual realization.

24. The Registry is directed to draw up a Decree Sheet in terms of the above.

25. In terms of the above, I.A. 12633/2025 is allowed and the instant suit is disposed of in terms of the above.

SAURABH BANERJEE, J

JULY 9, 2025/Ab