

COMMERCIAL IP SUIT NO.21 OF 2011

....Plaintiff

Vs.

...Defendants

— — — —

Ms. Daulat Jehangir for plaintiff.

Mr. Jaiprakash J. Bhayani, plaintiff present in person.

Mr. Vinod Bhagat a/w. Ms. Saloni Palkhiwala I/b. G. S. Hegde & V. A. Bhagat for defendants.

Mr. Vivek Khurna, defendant no.2 and Constituted Attorney of defendant no. 3 present in person.

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CORAM : K.R.SHRIRAM, J.

DATE : 26th JULY 2019

P.C.:

1 Parties have entered into consent terms dated 26th July 2019.

The consent terms signed by plaintiff, defendant no.2 for himself and as Managing Director of defendant no.1, constituted attorney of defendant no.3 and their respective advocates is taken on record and marked “X” for identification. Ms. Jehangir and Mr. Bhagat state that the signatories are present in Court and identify them.

2 Order in terms of the consent terms. All undertakings given in
the consent terms are accepted and so ordered. All statements are also
accepted.

3 For ease of reference, the consent terms without annexures is scanned and reproduced hereinbelow :

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM. IP. SUIT NO. 21 OF 2011

Jaiprakash J. Bhuyani	1	Plaintiff
Vs		
M/s Origins Fine Line & Ons	1	Defendants

CONSENT TERMS

1. The Plaintiff above named has filed the present suit against the Defendants above named praying inter alia for reliefs on infringement of its registered trade mark ORIGIN used in relation to its readymade garments and for passing off the goods and business, by the Defendants, by use of trade mark ORIGINS in relation to readymade garments and as the name of their retail outlet/store and as part of their trading name.
2. The Defendants hereby agree and undertake that they shall not use, at any time in future, their trade mark ORIGINS in relation to readymade garments. The Defendants are nevertheless using ORIGINS as the name of their retail outlet and as part of their business/trading name since the year 1995.
3. Both parties have been using their respective trade marks to the knowledge of each other. While the Plaintiff has been continuously using its trade mark ORIGIN since the year 1990, the Defendants have been using their trade mark and name ORIGINS continuously since the year 1995.
4. The Defendants acknowledge the proprietary claim of the Plaintiff in the trade mark ORIGIN when used in relation to readymade garments. The Defendants agree not to use their trade mark ORIGINS or any trade mark identical with and/or deceptively similar to the Plaintiff's trade mark ORIGIN in relation to any readymade garments. Both parties agree that the Defendants shall nevertheless be entitled to use the trade mark and name ORIGINS in relation to their retail outlet/store services dealing in marketing branded

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design-wear clothing of different garment designers, jewellery and accessories, both offline and online.

5. In view of the above, both parties agree to amicably resolve their above pending dispute. The Plaintiff does not press for any other claims made in its suit/plaint. The present suit stands disposed off in terms of the above undertaking given by the Defendants.

6. Copy of the identification of Jaiprakash Jayantilal Bhayani, (Plaintiff) is hereto marked and annexed as ANNEXURE 1, copy of the identification of Vivek Khurana (Defendant No.2, partner of Defendant No. 1) is hereto marked and annexed as ANNEXURE 2. Copy of Power of Attorney on behalf of Defendant No. 3 authorizing the Defendant No. 2 to depose on his behalf is hereto marked and annexed as ANNEXURE 3.

7. Each party to bear its own costs.

8. Refund of Court Fees to the Plaintiff as per Rules.

This 26th day of July 2019.

Jaiprakash Bhayani
(Plaintiff)

D. Phayji

Advocates for the Plaintiff

1. [Signature]
Chiguns - for
managing P

2. [Signature]
VIVEK KHURANA

3. [Signature]
(Defendant)
C.A. n/o

[Signature]
Advocates for Defence

4 Suit disposed in terms of the consent terms. Refund of court fees, if any, in accordance with rules. Interim applications, if any stand disposed and interim orders, if any also stand vacated.

5 All to act on authenticated copy of this order.

(K.R. SHRIRAM, J.)