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

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Date of Decision: 04th November, 2022

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+ C.O. (COMM.IPD-TM) 222/2022

WELCOME SHOES PRIVATE LIMITED Petitioner

Through: Mr. Chander M. Lall, Senior Advocate with Mr. Abhishek Saket, Ms. Shahana Farah, Mr. Manish Madhukar and Ms. Sanna Harta, Advocates.

versus

RETRO FOOTWEARS PVT.

LTD. AND ANR.

..... Respondents

Through: Mr. Akhil Sibal, Senior Advocate with Mr. N. Mahabir, Mr. Chetan Giri and Ms. Asavari Jain, Advocates for R-1 with Mr. Amit Jain, Director of R-1.

51

+ C.O. (COMM.IPD-TM) 668/2022

WELCOME SHOES PRIVATE LIMITED Petitioner

Through: Mr. Chander M. Lall, Senior Advocate with Mr. Abhishek Saket, Ms. Shahana Farah, Mr. Manish Madhukar and Ms. Sanna Harta, Advocates.

versus

RETRO FOOTWEARS PVT. LTD & ANR. Respondents

Through: Mr. Akhil Sibal, Senior Advocate with Mr. N. Mahabir, Mr. Chetan Giri and Ms. Asavari Jain, Advocates for R-1 with Mr. Amit Jain, Director of R-1.

52

+ C.O. (COMM.IPD-TM) 696/2022

WELCOME SHOES PRIVATE LIMITED Petitioner

Through: Mr. Chander M. Lall, Senior Advocate with Mr. Abhishek Saket, Ms. Shahana Farah, Mr. Manish Madhukar and Ms. Sanna Harta, Advocates.

versus

AMIT CHOUHAN & ANR.

..... Respondents

Through: Mr. Akhil Sibal, Senior Advocate with Mr. N. Mahabir, Mr. Chetan Giri and Ms. Asavari Jain, Advocates for R-1 with Mr. Amit Jain R-1 In-person.

53

+ C.O. (COMM.IPD-TM) 711/2022

WELCOME SHOES PRIVATE LIMITED Petitioner

Through: Mr. Chander M. Lall, Senior Advocate with Mr. Abhishek Saket, Ms. Shahana Farah, Mr. Manish Madhukar and Ms. Sanna Harta, Advocates.

versus

AMIT CHOUHAN, DIRECTOR RETRO

FOOTWEARS PVT. LTD. & ANR.

..... Respondents

Through: Mr. Akhil Sibal, Senior Advocate with Mr. N. Mahabir, Mr. Chetan Giri and Ms. Asavari Jain, Advocates for R-1 with Mr. Amit Jain R-1 In-person.

56

+ CS(COMM) 336/2022

WELCOME SHOES PRIVATE LIMITED THROUGH ITS DIRECTOR SATISH KUMAR RANCHAL Plaintiff

Through: Mr. Chander M. Lall, Senior Advocate with Mr. Abhishek Saket, Ms. Shahana Farah, Mr. Manish Madhukar and Ms. Sanna Harta, Advocates.

versus

RETRO FOOTWEARS PVT. LTD. THROUGH ITS DIRECTOR AMIT CHAUFAN & ANR. Defendants

Through: Mr. Akhil Sibal, Senior Advocate with Mr. N. Mahabir, Mr. Chetan Giri and Ms. Asavari Jain, Advocates with Mr. Amit Jain, Director of D-1.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

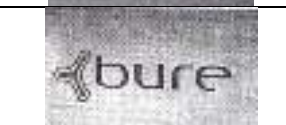
JUDGEMENT

JYOTI SINGH, J. (ORAL)

CS(COMM) 336/2022 & I.A. 7984/2022 (under Order 39 Rules 1 and 2 CPC, by Plaintiff), **7985/2022** (under Order 26 Rule 9 CPC, by Plaintiff), **14773/2022** (under Section 124 of the Trade Marks Act 1999, by Defendants) **and** **14779/2022** (under Section 124 of the Trade Marks Act 1999, by Plaintiff)

1. Mr. Amit Chauhan, Defendants' Director is present in the Court today.
2. With a view to put a quietus to the litigation, Defendants have agreed to amicably resolve the disputes between the parties and it is agreed between the parties as under:-

(A) Defendant and its group companies shall withdraw the following trademarks or any other similar/identical trademarks within a period of one week from today:

SL. No.	APPLICATION NO	Label
1	2925933	
2	2925934	
3	3339076	
4	3339077	
5	Retro Group India bure Calzature (label)	

6	Retro Group India bure Calzature (label)	
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(B) Defendant shall not use any mark deceptively similar to **‘PURE’ & ‘WELCOME’** (SUCH AS **‘BURE’**, **‘FURE’**, **DURE**, **‘OURE’**, **‘PURE’**, **‘WELCOMO’**, **‘WELLCOMO’**) with respect to footwear, soles and straps;

(C) Defendant shall not use any mark deceptively similar to **‘PURE’ & ‘WELCOME’** (such as **‘BURE’**, **‘FURE’**, **‘DURE’**, **‘OURE’**, **‘PURE’**, **‘WELCOMO’**, **‘WELLCOMO’** ETC.) for manufacturing, selling or offering to sell, advertising, exporting or dealing with the said trademark(s) directly or indirectly with respect to footwear, soles and straps;

(D) Defendant shall withdraw the opposition/rectification against the trademark applications mentioned hereunder or any other trademark of the plaintiff within a period of one week from today:

Trademark of the Plaintiff	Trademark No.	Opposition No
Pure with logo	1808197	859689
Pure with logo	3015879	860743
Pure with logo	3015880	
Pure with Logo	2451372	859690
Pure with Logo	2451373	859691
PURE	3596825	1168262

(E) Defendant no. 2 shall within 6 months from today file a request for change of name with the Registrar of Companies with the copy of the application being shared to the Plaintiff. During this period the Defendants undertake not to use the mark **‘PURE’** on any label, product or packaging material, brochure or advertising material or offer any product for sale using the mark **‘PURE’**.

(F) Defendants undertake not to dilute the Trademarks **‘WELCOME’** or **‘PURE’** of the Plaintiff by any advertisement or making any public representation which may cause confusion in any manner in the mind of potential customers or general public regarding the change of name.

(G) Plaintiff shall withdraw all pending cancellation/Rectification applications filed against the impugned marks.”

3. The suit is accordingly decreed in terms of the aforesaid settlement.
4. Needless to state that terms of the settlement shall form part of the decree and bind the parties thereto.
5. Plaintiff is entitled to refund of the Court Fees deposited by it, in accordance with provisions of Section 16 of the Court Fees Act, 1870 read with Section 89 CPC, 1908.
6. Registry is directed to draw up the Decree sheet.
7. Suit is accordingly disposed of along with pending applications.
8. This Court appreciates the efforts put in by the parties, learned Senior Counsels and learned counsels on record to have brought about an amicable settlement of the *inter-se* disputes.

C.O. (COMM.IPD-TM) 222/2022

C.O. (COMM.IPD-TM) 668/2022 & I.A. 9472/2022 (under Order 11 Rule 1(4) CPC, by Petitioner) and 9473/2022 (Exemption)

C.O. (COMM.IPD-TM) 696/2022 & I.A. 11342/2022 (under Order 11 Rule 1(4) CPC, by Petitioner) and 11343/2022 (Exemption)

C.O. (COMM.IPD-TM) 711/2022 & I.A. 11806/2022 (under Order 11 Rule 1(4) CPC, by Petitioner) and 11807/2022 (Exemption)

9. In view of the order passed in CS(COMM) 336/2022, Petitioner seeks to withdraw the present petitions.
10. Petitions are disposed of as withdrawn along with pending applications.

JYOTI SINGH, J

NOVEMBER 04, 2022/rk