



2023:DHC:7678



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **CS(COMM) 48/2022 & I.A. 1081/2022****PUMA SE**

..... Plaintiff

Through: Mr. Ranjan Narula, Mr. Shashi
P. Ojha, Mr. Aishani Singh & Ms. Shivangi
Kohli, Advs.

versus

BRIJENDRA SINGH TRADING AS SASTAJOOTA

..... Defendants

Through: None

CORAM:**HON'BLE MR. JUSTICE C.HARI SHANKAR****JUDGMENT (ORAL)****18.10.2023**

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1. Summons in this suit were issued by this Court on 20 January 2022, on which date notice was also issued in IA 1081/2022 filed with the suit under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC) with an *ad interim* order passed thereon. Fresh summons were directed to be issued on 4 May 2022 and again on 12 December 2022.

2. Defendant 1 was served on 18 January 2023, and it has been so noted in the next order dated 2 February 2023. Defendants 2 and 3 were deleted from the array of parties, leaving Defendant 1 as the sole surviving defendant, *vide* order dated 28 March 2023. As no written statement was filed by the defendant, the right of the defendant to file written statement was closed *vide* order dated 11 July 2023 passed by

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the learned Joint Registrar(Judicial).

3. The assertions and allegations in the plaint have, therefore, gone unrebutted and are deemed to be admitted on the principle of non-traverse.

4. Having heard Mr. Ranjan Narula, learned Counsel for the plaintiff and having perused the material on record, I am of the opinion that no contentious issue of fact or law arises, and that the suit is liable to be decreed in the plaintiff's favour, exercising the jurisdiction visited in this Court by Order VIII Rule 10 of the CPC.

5. The plaintiff is a company based in Germany, which manufactures sportswear and athletic shoes, under the brand "PUMA" with the mark of a leaping PUMA, resulting in the  logo. The plaintiff also uses a distinctive  Form strip logo.

6. Under the aforesaid marks and logos, the plaintiff has been manufacturing and selling its products in over 120 countries. It is asserted that the mark "PUMA" was coined in 1948.

7. In India, the plaintiff is the proprietor of the following marks, registered under the Trade Marks Act, 1999:

Trade Mark	Registration No.	Filing date	Class	Renewed Status
PUMA (WORD)	323053	15/02/1977	18	15/02/2025

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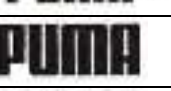
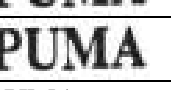
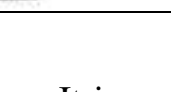
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MARK)				
PUMA (WORD MARK)	323054	15/02/1977	25	15/02/2025
	450142	25/02/1986	18	25/02/2026
	559635	03/10/1991	24	03/10/2028
	699153	22/02/1996	09	22/02/2026
	699154	22/02/1996	03	22/02/2026
	700541	04/03/1996	16	04/03/2026
	1264294	03/02/2004	41	03/02/2024
	412852	08/11/1983	28	08/11/2024
	424934	27/07/1984	14	27/07/2025
	450143	25/02/1986	25	27/02/2027
	532578	03/07/1990	28	03/07/2024
	449270	05/02/1986	24	05/02/2027
	323053	15/02/1977	18	15/02/2025
	323054	15/02/1977	25	15/02/2025
PUMA	3093793	04/11/2015	35	12/11/2025
	3097774	12/11/2015	35	12/11/2025
	407833	11/07/1983	25	11/07/2024

8. It is asserted that these registrations are valid and subsisting as on date.

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9. The plaintiff has provided its sales figures, in India, of the products bearing the PUMA brand which, in the year 2021 till filing of the suit, was in the region of ₹ 1,237 crores in 2021 alone. The plaintiff also spends considerable amounts towards advertisement and promotion of its brands.

10. In the year 2021 from April till September, the plaintiff had spent over ₹ 51.5 crores towards advertisement and promotion.

11. The plaintiff's PUMA mark has also been declared as a well-known mark in India by the Trademarks Registry as published in the Trademark Journal no. 1942 on 24 February 2020.

12. The Defendant 1 is engaged in making and selling counterfeit PUMA products, using the plaintiff's PUMA and Form strip logo, through its revealingly titled website www.sastajoota.com.

13. The plaintiff has also provided screenshots of various sites on which the Defendant 1's products are sold as well as photographs of the Defendant 1's products, which vouchsafe the allegation that the defendants are selling counterfeit duplicate PUMA sportswear and shoes. These may be reproduced thus:



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14. The aforementioned facts make it clear that Defendant 1 is using marks which are identical to the plaintiff's registered trademarks, on goods which are identical to the goods on which the plaintiff uses its marks and is selling the goods to the very same consumers who form the consumer target base of the plaintiff through the very same channels. As such, the triple identity test, which envisages identity of marks, goods and consumers and availability of the goods through identical sources and outlets, is satisfied in the present case. One may even say the quadruple identity test stands satisfied.

15. The facts of the present case, in fact, directly invoke Section 29(2)(c) read with 29(3)¹ of the Trade Marks Act, 1999, under which,

¹ **29. Infringement of registered trade marks. –**

(2) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which because of –

(c) its identity with the registered trade mark and the identity of the goods or services covered by such registered trade mark, is likely to cause confusion on the part of the public, or which is likely to have an association with the registered trade mark.

(3) In any case falling under clause (c) of sub-section (2), the court shall presume that it is likely to cause confusion on the part of the public.



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where the rival marks are identical, and used in respect of identical goods or services, the Court would presume the likelihood of confusion in the minds of the consumer.

16. The assertions in the plaint, thus, clearly make out a case of infringement and passing off, by the defendant, of the registered PUMA word mark as well as the registered device marks  and  of the plaintiff.

17. The Division Bench of this Court has, *vide* order dated 10 April 2023 in FAO (OS) (COMM) 65/2023 (*Jawed Ansari v. Louis Vuitton Malletier & Ors.*), endorsed the view passed by this Bench that counterfeiting is a serious economic offence, and, inasmuch as it erodes long established brand value and also misleads consumers into believing fake goods as to be genuine, has to be dealt with strictly and no leniency can be shown in that regard.

18. The fact that Defendant 1 has not chosen to respond to this plaint indicates that the defendant is well aware of the correctness of the assertions in the plaint and has allowed them to go unrebutted.

19. This suit has been instituted by the plaintiff, praying thus:

“47. It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to pass the following reliefs in favour of the Plaintiff and against the Defendants:

a) A decree for permanent injunction restraining the Defendant No.1, its proprietor or partners as the case may be,

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servants, agents, affiliates, associates, stockiest, distributors from wholesaling, supplying, marketing, selling in any manner including online sale or through e-commerce portals, any products including footwear and apparels, and/or any other products, accessories etc. under the Plaintiff's mark PUMA,

 logo and Form strip logo  or any other marks/logos which are identical and similar to the Plaintiff's mark PUMA and its logos which may amount to infringement of the Plaintiff's registered trademarks as enumerated in paragraph No. 12 of the plaint;

b) A decree for permanent injunction restraining the Defendant No.1, its proprietor or partners as the case may be, servants, agents, affiliates, associates, stockiest, distributors from wholesaling, supplying, marketing, selling in any manner including online sale or through e-commerce portals, any products including footwear and apparels, and/or any other products, accessories etc. under the Plaintiff's mark PUMA,

 logo and Form strip logo  or any other marks/logos which are identical and similar to the Plaintiff's mark PUMA and its logos, which may amount to passing off;

c) An order for delivery up of all finished and unfinished goods, dies, blocks, labels, packaging materials and any other printed material bearing the Plaintiff's mark PUMA,

 logo and Form strip logo  to the authorised representative of the Plaintiff for the purpose of destruction/erasure/obliteration;

d) An order directing the Defendant No.1 to remove listings of all the impugned products from its website, and/or from B2B websites or any other online directories, B2B, B2C website or portals/social media websites (if any) that may be used by the Defendant No.1 to promote their products bearing

the impugned mark PUMA,  logo and Form strip logo  or any other marks/logos identical or deceptively similar to the Plaintiff's said mark/logos;

e) Issue an order for appropriate directions to Defendant No. 2 & 3 to provide contact details/address of the Defendant No.1 and deactivate/disable/cancel/block/suspend access to the domain name <https://www.sastajoota.com> of Defendant No.1 and URLs (mentioned in paragraph 34 of the plaint) pertaining



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to the Plaintiff's mark Puma and logos and the respective IP address as under:

URL	IP ADDRESS
https://www.sastajoota.com	45.148.121.143

f) For disclosure of information by Defendant No.1 about sale of the total products under the impugned mark

PUMA,  logo and Form strip logo  with details of payments received;

g) A decree for general, exemplary, compensatory and punitive damages of ₹ 2,00,00,010/- be passed in favour of the Plaintiff and against the Defendant No.1;

h) An order for costs of the proceedings.

Any other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

20. In these circumstances, the plaintiff is entitled to a decree in the suit as prayed for. Accordingly, Defendant 1, as well as all others acting on its behalf, shall stand permanently enjoined from dealing, in any manner, including by way of purchase and sale, whether physically or online, of any products, including footwear, sportswear, apparels or accessories thereof, under the marks PUMA,  and Form strip logo  or any other identical or deceptively similar marks or logos.

21. Mr. Ranjan Narula does not press the claim for damages but prays for actual cost.

22. As Defendant 1 is a counterfeiter, and has dragged the plaintiff in the Court for an entirely unnecessary litigation, the plaintiff would



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be entitled to actual costs against the Defendant 1.

23. The plaintiff has filed an affidavit of the evidence in which the costs incurred have been worked out by the plaintiff as ₹ 4,59,250/-. This has also gone unrebutted.

24. As such, the plaintiff is also entitled to a decree against Defendant 1 for costs quantified at ₹ 4,59,520/-, to be paid by the defendant within a period of four weeks from today.

25. The suit stands decreed in the aforesaid terms.

26. Let a decree sheet be drawn up by the Registry accordingly.

C.HARI SHANKAR, J

OCTOBER 18, 2023

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Click here to check corrigendum, if any