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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.O. (COMM.IPD-TM) 370/2022**
CROMPTON GREAVES CONSUMER ELECTRICAL LTD.

..... Petitioner
Through: Mr. Hemant Daswani, Ms. Saumya
Bajpai and Ms. Pranjal, Advs.
versus

RAMESH KUMAR M/S AGGARWAL IRON STORE & ANR

..... Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
24.05.2024

1. This rectification petition is filed seeking removal of respondent no.1's



mark 'CROMPTON' as part of the device mark registered
under No.3353089 in Class 2 with effect from 04th September, 2016 for the
category of goods i.e. paints, distemper, varnishes, lacquers and similar
goods.

2. This petition had been originally filed before the Intellectual Property
Appellate Board ("IPAB") and has since been transferred to this Court post
the abolition of the IPAB in 2021. Notices had been issued, counsel for
respondent no.1 had appeared and sought multiple opportunities to file



replies. However, reply was not filed and the final right to reply was closed by the order of this Court dated 08th August, 2023. Thereafter, an adjournment was sought by counsel for respondent no.1 on 30th November, 2023. The matter was again adjourned on 29th February, 2024 on joint request. Today, the matter has come up after a passover was sought on behalf of counsel, however, no one has appeared after the passover. Considering it's an old matter and there is no reply on behalf of respondent no.1, the Court is inclined to take up the said matter.

3. The history of petitioner's adoption of the mark goes back to Col. Crompton, who was a British Engineer and was invited by the Government of India to draft the first piece of legislation governing the generation of electricity which became the Bengal Act IX of 1896. Under Col. Crompton, various installations for generation of electricity were set up in the late 19th Century. Thereafter, Col. Crompton was extensively involved in various infrastructural initiatives in pre-independence India, the facts of which are noted in paras 2 – 9 of the petition.

4. What is relevant for this petition is that in the year 1966, a joint venture company, Greaves Cotton and Crompton Parkinson Limited, amalgamated with Crompton Parkinson Works Limited, to give rise to a new Company called as '*Crompton Greaves Limited*'. From 01st January, 2016, the mark 'CROMPTON' was retained by Crompton Greaves Limited, being the successor-in-title of Crompton Greaves Limited and Crompton Parkinson Works Limited. Petitioner herein is a subsequent demerged company of Crompton Greaves Limited.

5. The trademark 'CROMPTON' in various formations has been registered in favour of petitioner and is tabulated as under:



S. No.	TM No.	Trademark	Class	Status
1	449892	Crompton Greaves	11	Registered
2	449893	SUPERCOLD	11	Registered
3	928754	Crompton Greaves	11	Registered
4	1400426	Crompton Cursive	11	Registered
5	1627328	CROMPTON GREAVES COOL BREEZE	11	Registered

6	1627329	CROMPTON GREAVES COOL BREEZE	11	Registered
7	1627330	COOL BREEZE	11	Registered
8	1627331	COOL BREEZE	11	Registered
9	1679688	HIGH SPEED	11	Registered
10	1626358	Crompton Greaves	6	Registered
11	1684527	Crompton Energy	42	Registered
12	1684528	Crompton Energy	11	Registered
13	1684529	Crompton Energy	37	Registered
14	1684530	Crompton Energy	35	Registered
15	1701567	CROMPTON GREAVES	11	Registered
16	1884948	NOTHING COMPLIMENTS YOUR ELEGANT DECOR BETTER THAN CROMPTON FANS	11	Registered

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17	2815939	CROMPTON	11	Pending
18	2941340	CROMPTON	11	Pending
19	2958046	CROMPTON	11	Pending
20	3152999	Crompton	11	Pending
21	3153000	Crompton	7	Pending
22	3171891	Crompton	11	Registered
23	3171892	Crompton	7	Pending
24	3261272	Device of Home with tagline "Hang out Ghar Pe !" and Crompton	11, 35	Pending
25	3265980	CROMPTON	16, 42	Pending

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26	3265981	CROMPTON GREAVES CONSUMER ELECTRICALS LIMITED	7, 8, 9, 11, 16, 35, 42	Pending
27	3268106	Crompton Label - in Colour (Blue Lettering in White Background)	7, 11, 16, 42	Pending
28	3268105	Crompton Label - in Colour (White Lettering in Blue Background)	7, 11 , 16, 42	Pending
29	3283870	Crompton ISAVE35	11	Registered
30	3330469	Crompton eSAVE50	11	Pending
31	3330470	Crompton ISAVE50	11	Registered
32	3454945	Crompton AURA Prime ANTI DUST	11	Pending
33	3454946	Crompton AVANCER Prime ANTI DUST	11	Pending

6. Subsequently, the trademark 'CROMPTON' has been made part of the list of the well-known trademarks by the Trade Mark Registry by No.790088 on 24th February, 2020.

7. The grievance is against the use of petitioner's mark as part of the impugned device which, as per petitioner's counsel, uses the device of another reputed company, 'Asian Paints' along with the wordmark 'CROMPTON'. Petitioner's counsel, therefore, states that this is a dishonest adoption by respondent no.1.

8. As part of the accompanying the petition, various documents have been filed to support their continuous user of the mark 'CROMPTON' which are *inter alia* as under:



- (i) Copy of the certificates issued by the Chartered Accountant for sales figures under the 'CROMPTON' mark.
- (ii) Copy of invoices for sale of the products under the trade name 'CROMPTON'.
- (iii) Copy of advertisements from newspapers, hoardings, sales and promotional materials and use of the trademark 'CROMPTON' in various products such as coolers, tube lights, electrical equipment etc.
- (iv) A list of various opposition proceedings initiated by petitioner for rectification of similar or deceptively similar marks.
- (v) Order by the IPAB dated 26th October, 2012 in favour of petitioner directing rectification of the mark 'CROMPTON SUPER' which was registered in Class 7.

9. Counsel for petitioner also places reliance on ***Daimler Benz Aktiegesselschaft and Anr. v. Hydo Hindustan***, 1993 SCC OnLine Del 605; ***Caterpillar Inc. v. Mehtab Ahmed & Ors.***, 2002 SCC OnLine Del 865 and ***Honda Motors Co. Ltd. v. Charanjit Singh & Ors.***, 2002 SCC OnLine Del 1332.

10. Further, counsel for petitioner for the purpose of disclosure, states that a Civil Suit being CS/33/2019, was filed by them against respondent no.1 in Hissar District Court, where an *ex parte ad interim* injunction was granted on 29th March, 2019. However, the suit was dismissed in default due to Covid Pandemic on 26th February, 2021. Further, petitioner had already filed a restoration appeal which is listed on 2nd July, 2024 before the Hissar District Court.

11. In view of the above, the petition deserves to be allowed. The fact that



the impugned registration is in Class 2 for ‘paints’, may not be relevant for the following reasons:

- (i) That petitioner’s mark has been declared as a well-known trademark.
- (ii) The averments of petitioner in their petition are unrebutted for lack of reply by defendant.

12. Considering that the mark is identical, the likelihood of confusion is acute in this regard, as also that the protection to the petitioner’s mark is across classes being declared a well-known mark.

13. Accordingly, the petition is allowed. It is directed that the impugned mark be removed from the Register of Trade and the website of respondent no. 2 (*Registrar of Trademarks*), shall be updated accordingly.

14. Let the present order be given effect to within four weeks.

15. Registry to supply a copy of the present order to Trade Mark Registry at ‘llc-ipo@gov.in’ for compliance.

16. Petition is disposed of. Pending applications, if any, are rendered infructuous.

17. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 24, 2024/MK/na