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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 01st August, 2024**+ **CS(COMM) 914/2022 & I.A. 22315/2022****CALVIN KLEIN TRADEMARK TRUST****.....Plaintiff**Through: Mr. Shobhit Agarwal, Mr. Prajjwal
Kushwaha,
(M:7791065506)**Advocates**

versus

**MR. SUNNY SACHDEVA TRADING AS M/S HACHE SHIRTS &
ORS.****.....Defendants**Through: Ms. Zeba Tarannum Khan, Amicus
Curiae for D-4 to 9**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J (ORAL)**

1. The present suit has been filed for permanent injunction restraining infringement of trademark and copyright, passing off, tarnishment, unfair competition, delivery up, rendition of accounts, damages, etc.
2. It is submitted that the plaintiff is a trust created for the protection, prosecution, enforcement and management of trade mark rights of Calvin Klein, Inc. ("CKI"). The brand trademark Calvin Klein, ("CK"), was founded by the renowned fashion designer Calvin Klein in the year 1968. It is submitted that CKI is engaged in the business of manufacture, distribution and sale of a wide range of clothing, fragrances, cosmetics, eyewear, watches, home furnishing and other allied/related products.
3. Learned counsel for the plaintiff submits that ever since its establishment, the plaintiff has been using the word mark/ logo marks Calvin Klein and CK as trademarks and also as an essential part of its trade



name in relation to its said goods and business.

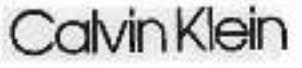
4. He further submits that the trademarks used by the plaintiff are distinctive artistic styles in various stylized/ artistic formats/ labels bearing specific type face, layout, getup, etc., as follows:



5. It is submitted that the plaintiff has been honestly, bona-fidely, continuously, commercially, openly, exclusively and to the exclusion of others, using the aforesaid trademarks uninterruptedly, in relation to its goods and business and carrying out all its business thereunder.

6. Trademarks of the plaintiff are duly registered, in the following manner:



S.No	Trade Mark	Registration No. & Date	Class
1	 Calvin Klein	566080 23.01.1992	03
2	CALVIN KLEIN (word mark)	603420 05.08.1993	09
3	 (CK logo Device mark)	692775 29.12.1995	09
4	 Calvin Klein	566078 23.01.1992	18

5.	CALVIN KLEIN (word mark)	603423 05.09.1993	25
6.	 (CK logo Device mark)	678782 04.09.1995	25
7.	Calvin Klein	678783 04.09.1995	25
8.	 (CK logo Device mark)	698979 20.02.1996	25

7. It is submitted that the aforesaid registrations in favour of the plaintiff



are valid and subsisting, as on date.

8. Thus, it is submitted that the artwork which forms a part of the various stylistic representations of the plaintiff's CK trademarks constitute original artistic works within the meaning of Section 2(c) of the Copyright Act, 1957 and the plaintiff is the first owner of the copyright in each of the said artwork/label/logo therein by virtue of Section 17 of the Copyright Act, 1957.

9. Learned counsel for the plaintiff submits that defendant no.1, i.e., Mr. Sunny Sachdeva and defendant no.2, i.e., Mr. Hunny Sachdeva, were found to be trading under the name and style of M/s Hache Shirts/ M/s Hache Homme. The defendants appeared to be operating a wholesale-cum-retail store from Shop No. 6252, Street No.1, Block No.6, Dev Nagar, Karol Bagh, New Delhi- 110005, dealing primarily, in shirts and were found dealing in, *inter-alia*, counterfeit shirts bearing Calvin Klein trademarks of the plaintiff.

10. Thus, it is submitted that during the survey by representative of the plaintiff, another entity, i.e., M/s Denim Culture, which has been arrayed as defendant no.3, was found to be dealing in counterfeit Calvin Klein jeans, and was found operating from the same premises as that of defendant nos. 1 and 2.

11. It is further submitted that the plaintiff has already settled the dispute with defendant nos. 4 to 9, and a decree in favour of the plaintiff, has already been passed vide order dated 05th March, 2024.

12. Attention of this Court is drawn to the order dated 07th March, 2023, wherein, it has been recorded as follows:



“All the defendants have appeared in person and expressed their desires to settle the case amicably. The plaintiff has agreed to explore this possibility.

List the matter for further proceedings on 27.04.2023.”

13. It is submitted that despite appearing before this Court, defendant nos. 1 to 3 have not filed their written statement, and their right to file written statement was closed. Thus, learned counsel for the plaintiff submits that the suit be decreed in favour of the plaintiff and against the defendant nos. 1 to 3.

14. Having heard learned counsel for the plaintiff, it is to be noted that the present suit subsists as of today only *qua* defendant nos. 1 to 3, and already stands settled *qua* defendant nos. 4 to 9.

15. This Court has perused the office noting, which shows that the defendant nos. 1 to 3, were served on 15th February, 2023. This Court also takes note of the order dated 07th March, 2023, wherein, all defendants had appeared in person, and had expressed their desire to settle the case amicably.

16. It is to be noted that vide order dated 21st September, 2023, the rights of defendant nos. 1 to 3 for filing written statement were closed, since no written statement was filed on their behalf, despite expiry of the statutory period.

17. This Court also notes the order dated 23rd December, 2022, wherein, a Local Commissioner was appointed for visiting the premises of defendant nos. 1 to 3. The report of the Local Commissioner is on record, which shows that infringing products were found in the premises of defendant nos. 1 to 3.

18. This Court further notes that in terms of the settlement of the plaintiff *qua* defendant nos. 4 to 9, the said defendants have paid a sum of ₹ 35,000/-



each, as damages and as part of cost, to the plaintiff.

19. Considering the submissions made before this Court, and considering the fact that defendant nos. 1 to 3 have not filed any written statement, accordingly, the averments made against defendant nos. 1 to 3, remain un-rebutted.

20. The report of the Local Commissioner also demonstrates that infringing goods were indeed found from the premises of defendant nos. 1 to 3.

21. None appears for defendant nos. 1 to 3, even today.

22. Thus, considering the detailed discussion hereinabove, the present suit is decreed in terms of Prayer 'i', 'ii', 'iii' and 'v' of the prayer clause in the plaint, in favour of the plaintiff.

23. Considering the fact that other defendants, i.e., defendant nos. 4 to 9, have paid a sum of ₹ 35,000/- each to the plaintiff, as costs/damages, it is directed that cost of ₹ 35,000/- is imposed on defendant nos. 1 to 3, collectively.

24. Accordingly, it is directed that the representative of the plaintiff shall be entitled to take delivery of the ceased goods, as reflected in the report of the Local Commissioner *qua* defendant nos. 1 to 3.

25. Decree sheet be drawn up.

26. With the aforesaid directions, the present suit is disposed of, along with pending application.

MINI PUSHKARNA, J

AUGUST 1, 2024

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