



Sharayu Khot.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION (L) No. 32380 OF 2024

IN

COMMERCIAL IPR SUIT (L) NO. 32031 OF 2024

Reliance Retail Limited

...Applicant/
Plaintiff

Versus

Md. Sirajuddin and Beauty Bibi

...Defendant

Mr. Sharan Jagtiani, Senior Counsel a/w Mr. Hiren Kamod, Mr. Thomas George, Ms. Niyati Fatehpuria, Ms. Neeti Nihal and Mr. Siddharth Joshi i/b Saikrishna & Associates for the Plaintiff.

Mr. Pritish Chatterjee for the Defendant.

CORAM : R.I. CHAGLA J

DATE : 24 October 2024

ORDER :

1. At the outset, Mr. Jagtiani, Ld. Senior Counsel for the Plaintiff, tenders a draft amendment which is taken on record and marked 'X' for identification. The amendment sought is allowed in the interest of justice. Considering the upcoming Diwali vacation, the Plaintiff shall carry out amendment to the Plaint and the Interim Application in terms of the draft amendment within three weeks from today. Re-verification is dispensed with.

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2. This is an action for infringement of the Plaintiff's registered trade marks and copyright combined with a cause of action for passing off. Mr. Jagtiani submits that since leave under Clause XIV of the Letters of Patent (Bombay) to combine the cause of action for passing off with the cause of action for infringement of trade mark and copyright has not been obtained, the Plaintiff is presently only pressing for reliefs in respect of infringement of trade mark and copyright, and shall press for the relief of passing off after obtaining such leave.


3. It is stated that the Plaintiff is an Indian retail company and a group company of the Fortune 500 company i.e., Reliance Industries Limited, one of the most respected business houses in India. It is stated that the Plaintiff company was incorporated in the year 1999 and is the largest retailer in India in terms of revenue. It is stated that the Plaintiff is engaged *inter alia* in providing retail services spanning various segments throughout the country including but not limited to grocery, consumer electronics, fashion & lifestyle and pharma products, since the last two and a half decades.


4. It is stated that in the year 1972, Campa Beverages Private Limited adopted the trade mark 'CAMP A' in its corporate name. It is stated that on and from September 1977, Campa Beverages Private Limited along with Pure Drinks New Delhi Limited, commenced use of the trade mark 'CAMP A' for their products. It is stated that Campa Beverages Private Limited soon became the

market leader in the soft drinks segment in India. Pure Drinks New Delhi Limited vide a Deed of Assignment dated 17th August 1983 assigned all CAMPA marks owned by it to Campa Beverages Private Limited. Subsequently, Campa Beverages Private Limited vide a Deed of Assignment dated 30th August 2022, assigned *inter alia* the 'CAMPA' trade mark and its copyrighted works and artistic works in the 'CAMPA' logos to Plaintiff. It is stated that pursuant to this Assignment Deed, the Plaintiff has become the rightful owner of the CAMPA marks and the artistic works therein. It is stated that the acquisition of 'CAMPA' marks by the Plaintiff was reported in multiple news articles. Copy of the Deed of Assignment dated 30th August 2022 is at Exhibit E to the Plaint. Printouts of newspaper articles reporting the acquisition of 'CAMPA' marks by the Plaintiff are at Exhibit-F to the Plaint.

5. It is stated that the registration of CAMPA marks date back to the year 1977. A brief synopsis of the Plaintiff's trade mark registrations for the mark CAMPA and its variations are enlisted in paragraph 10 of the Plaint. A list of Plaintiff's trade mark registration certificates, online status along with the trade mark renewal certificates in respect of the Plaintiff's trade mark registrations are at Exhibit-G of the Plaint.
6. It is stated that the Plaintiff has relaunched the CAMPA brand carrying a goodwill reputation of 50 years. It is stated that before the acquisition by the Plaintiff, the brand was initially

recognised by the mark , and that subsequent to the

acquisition, the Plaintiff has relaunched the brand as . It is stated that the Plaintiff received registration for the trade

mark  on 8th December 2022 and subsequently adopted colour variations of the same device mark basis the flavour of the beverages. It is stated that the Plaintiff has dedicated immense time, money and effort in the re-launch of the well-known 'CAMP' brand under the aegis of the Reliance group through various promotional campaigns, advertising, social media campaigns, etc.

7. It is stated that the Plaintiff has acquired substantial goodwill and reputation in the CAMP marks. It is stated that over the years the Plaintiff has been openly, continuously and extensively using the CAMP marks in respect of its goods. It is stated that the popularity and widespread recognition of Plaintiff's CAMP marks is evident from its substantial annual turnover. The Plaintiff's Chartered Accountant's Certificate certifying its annual turnover for FY 2023 and FY 2024(till June) is at Exhibit-O to the Plaintiff. It is stated that in FY 2023, the Plaintiff expended an amount of approx. Rs.35,00,00,000/- towards advertisement and promotional expenses and in the FY 2024, until June 2024, the Plaintiff has incurred an amount of approx.

Rs.75,00,00,000/- towards advertisement and promotional expenses to promote its CAMPA brand. Screenshots showing availability of the 'CAMPA' products bearing the Plaintiff's registered marks on various platforms are at Exhibit-K to the Plaintiff. Screenshots of social media response to the 'CAMPA' brand re-launch are at Exhibit-J to the Plaintiff. Printout of the screenshots of the YouTube Channel and advertisement campaign along with several media articles, press releases in magazines, newspapers and journals covering the 'CAMPA' marks and products are at Exhibit-N to the Plaintiff.

8. According to the Plaintiff, after it learnt about the unauthorized use of the impugned trade mark JHAMPA, impugned trade dress and impugned logo by the Defendant, the Plaintiff issued a Cease and Desist Notice dated 23rd August 2024 to the Defendant calling upon the Defendant to *inter alia* immediately cease and desist the unlawful use of the impugned marks. It is stated that in its Reply dated 29th August 2024, the Defendant refused to cease the unlawful use of its impugned marks and failed to provide an adequate response to justify its continued infringement. A copy of the Cease-and-Desist Notice and the Response of the Defendant are at Exhibit-R and Exhibit-S to the Plaintiff, respectively.
9. It is stated that on 5th September 2024, the Defendant has filed word mark and device mark applications under Nos. 6610364 and 6610363 for the impugned trade marks "JHAMPA" and "



”, respectively, claiming use since 1st August 2024.

Copies of the Defendant’s trade mark applications are at Exhibit R to the Plaintiff.

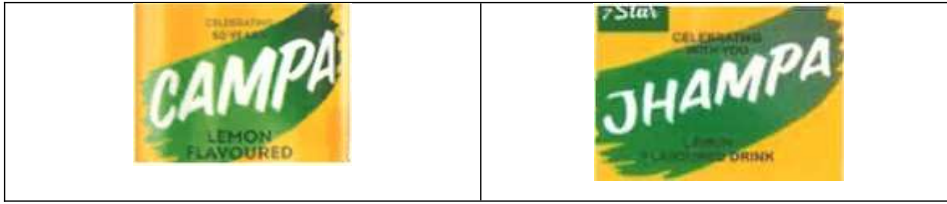
10. Mr. Jagtiani submits that the impugned trade marks are nearly identical with and deceptively similar to the Plaintiff’s registered CAMPA trade marks. He submits that the Defendant has merely substituted the letter “C” in the Plaintiff’s trade mark “CCAMPA” to form the impugned trade mark “JHAMPA”. He submits that such minor and inconsequential changes do not make the impugned trade mark distinctive or dissimilar to the Plaintiff’s trade mark. He submits that the Defendant is using the impugned trade mark in respect of the same goods for which the Plaintiff has secured registration of its trade marks and has been using the same. He submits that the impugned artistic work is a reproduction of the Plaintiff’s registered artistic works and / or substantial parts thereof. He submits that the dishonesty of the Defendant is evident from the fact that in addition to the deceptive similarities between the rival word marks, the Defendants have also replicated the various colour combinations in which the Plaintiff is using its CAMP labels. He submits that in these circumstances, the Defendant’s use of the impugned trade marks and impugned artistic works amounts to infringement of the Plaintiff’s registered trade marks and copyright.

11. Mr. Chatterjee, Ld. Advocate for the Defendant, submits that the

Defendant has been served with the papers and proceedings recently and that today he is seeking time to file an Affidavit in Reply to the Plaintiff’s Interim Application.

12. I have heard the submissions advanced before me in detail and perused the record. *Prima facie*, it appears that the Plaintiff is the registered proprietor of the CAMPA trade marks and the owner of the copyright subsisting in the CAMPA artistic works. *Prima facie* it appears that the CAMPA trade marks and the goods bearing the same have acquired immense goodwill and reputation. A comparative table consisting of the rival marks / labels is reproduced below:

PLAINTIFF’S TRADE MARK	DEFENDANT’S IMPUGNED MARK
<p style="text-align: center;">CAMPA</p>	<p style="text-align: center;">JHAMPA</p>
	
	



13. *Prima facie*, the impugned trade mark “JHAMPA” is visually, phonetically and structurally deceptively similar to the Plaintiff’s registered trade mark CAMPA. The impugned trade mark is used in respect of the same goods for which the Plaintiff has secured registration of its CAMPA trade marks and has been using the same. *Prima facie*, I am of the view that the impugned artistic works are a reproduction of the Plaintiff’s artistic works and / or substantial parts thereof, and that the added matters on the Defendant’s labels do not make the impugned labels distinctive or dissimilar to the Plaintiff’s labels. I believe that, *prima facie*, the dishonesty of the Defendant is evident from the fact that it was only after the Defendant received the Plaintiff’s cease and desist notice dated 23rd August 2024, it filed a trade mark application for the impugned trade mark JHAMPA on 5th September 2024, claiming use from 1st August 2024. The explanation given by the Defendant in the reply to the cease and desist notice for adopting the impugned trade mark is that *Jhampa* is the name of his village. This explanation cannot assist the Defendant’s case since the Defendant has itself sought to claim a monopoly in the word JHAMPA, which is evident from its trade mark application under No. 6610364 in Class 32. *Prima facie*, the Defendant’s use of the impugned trade marks and labels amount to infringement of the Plaintiff’s copyright and

registered trade mark.

14. In these circumstances a *prima facie* case for the grant of *ad-interim* reliefs is made out. Unless reliefs as prayed for are granted, the Plaintiff is likely to suffer irreparable injury. The balance of convenience is in favour of the Plaintiff. It is a settled principle of law in matters of blatant violation of intellectual property rights, a prompt order of injunction must be granted to protect not only the interest of the Plaintiff but also that of public at large. Even though the Defendant is present today and seeking time to file its Reply, in light of the *prima facie* case made out by the Plaintiff, I am of the opinion that this a fit case for grant of injunction at this stage. Accordingly, there *ad-interim* reliefs in terms of prayer clauses (a) and (c) of the Interim Application, which read as below:

(a) *Pending hearing and final disposal of the suit, a Temporary Injunction restraining the Defendant and/or their partners, officers, servants, employees and all others acting for and on their behalf, from directly or indirectly, infringing, adopting, using, offering for sale, manufacturing, distributing, selling, advertising, depicting, displaying, in the course of trade and/or business/service, the Applicant's Trademarks including the registered trademark 'CAMPA', and/or any other deceptively similar trademark or variant thereof, in any manner whatsoever, including but not limited to, in relation to or in connection with any non-alcoholic beverages/or any other products and/or by way of advertisements, marketing/promotional material, notices, circulars, letterheads, signages, either in print or online i.e., on any website (s), blog (s) etc., including but not limited, to social media*

platforms, in publicity/trade material/journals and/or in any other manner whatsoever, thereby amounting to an infringement of the Applicant's registered trademark 'CAMPA'/other CAMPA formative marks;

- (c) *Pending hearing and final disposal of the Suit, a decree of Temporary Injunction restraining the Defendant and/or their partners, officers, servants, employees and all others acting for and on their behalf, from directly or indirectly infringing, adopting, using, offering for sale, manufacturing, distributing, selling, advertising, depicting, displaying, in the course of trade and/or business/service, the, artistic work such as logos, get up, layout, colour combination, arrangement of matter etc on the packaging/trade dress and/or slogans, phrases and catchlines which are identical and/or deceptively similar to registered copyright 'CAMPA' artistic works as identified under Exhibit P of the Plaint, in relation to or in connection with any non-alcoholic beverages /or any other products and/or by way of advertisements, marketing/promotional material, notices, circulars, letterheads, signages, either in print or online i.e., on any website (s), blog (s) etc., including but not limited, to social media platforms, in publicity/trade material/journals and/or in any other manner whatsoever, thereby amounting to an infringement of the Applicant's registered copyright 'CAMPA'/other CAMPA artistic works.*

15. The Defendant shall file its Affidavit in Reply on or before 18th November 2024.
16. The Applicant/Plaintiff shall file Affidavit in Rejoinder, if any, thereto on or before 25th November 2024.

17. List the above Interim Application along with Clause XIV Leave Petition for further ad-interim reliefs on 27th November 2024.
18. This order shall continue to operate till 28th November 2024.
19. This order will be digitally signed by the Private Secretary / Personal Assistant of this Court. All concerned will act on production of a digitally signed copy of this order.

[R.I. CHAGLA J.]