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

% Order reserved on: 06.05.2026
Order delivered on: 14.05.2026

CS(COMM) 331/2026

M/S. ORIENT ELECTRIC LIMITED .....Plaintiff

versus

CROMPTON GREAVES CONSUMER ELECTRICALS LIMITED .....Defendant

Advocates who appeared in this case:

For the Plaintiff: Mr. Abhishek Malhotra, Senior Advocate with Mr. Angad Singh Dugal, Mr. Govind Singh Grewal, Ms. Anukriti Trivedi, Mr. Pranav Chadha, Ms. Kanishka Singh, Mr. Kartikay Dutta and Ms. Anukriti Trivedi, Advocates.

For the Defendant: Mr. Jayant Mehta, Senior Advocate with Mr. Chirag Ahluwalia, Mr. Suvan Jain and Mr. Mohit Maru, Advocates.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

TUSHAR RAO GEDELA, J.

I.A. 8378/2026 (Under Order XXXIX Rules 1 & 2, CPC)

1. This is an application filed by the plaintiff under Order XXXIX Rules 1 & 2, Code of Civil Procedure, 1908 (*'CPC'*) seeking interim injunction against the defendant, restraining infringement of registered design no.393299-001 dated 09.04.2024 in Class 23-04 in respect of application of such design to CEILING FAN.

2. The plaintiff is a part of the growing USD 3 billion multinational conglomerate - CKA Birla Group (formerly known as the CK Birla Group) which is claimed to be one of India's largest and most respected business houses, spanning across 5 continents with a presence in diverse sectors, including technology, automotive, home and building and healthcare. It is claimed that with over 35000 employees and 52 manufacturing facilities, the Group has been a distinguished name in the Indian fan industry for over 60 years now. The plaintiff is carrying on business as a manufacturer and marketer of fans, ventilating apparatus, lighting solutions, home appliances, switchgear, wires, etc and claims to have emerged as one of the largest manufacturer and exporter of fans in the country.

3. In the domestic market, the plaintiff claims to have a well-organized distribution network reaching 1,25,000 retail outlets and a strong service network covering more than 450 cities. In addition to India, the company claims to enjoy a market presence in more than 30 countries. The company claims to draw a sizable advantage from proprietary production facilities enabling it to manufacture first-to-market, consumer-centric products with best-in-class quality and performance. The plaintiff further claims to be the largest exporter of fans from the country. It is claimed that the plaintiff's predecessor had used the trademark 'Orient' since 1954 continuously and extensively in respect of its various goods. The plaintiff also owns and operates the website www.orientelectric.com, which is interactive.

4. It is claimed that the plaintiff's achievements in the field of exports are regularly recognized and awarded as Star Performer by EEPC India (agency for Export and Promotion of Engineering goods) since the last decade and it is also rated as 'STAR EXPORT HOUSE' by the Ministry of Commerce and Industry, Government of India. Further, the details of annual revenue and

sales promotional expenditure in relation to fan's division is provided in para 19 of the plaint.

5. It is stated that the plaintiff obtained the design registration *vide* Registration Certificate bearing no.393299-001 dated 09.04.2024 in Class 23-04 in respect of application of such design to CEILING FAN, under the Designs Act, 2000 (hereinafter referred to as *'the Act'*) which is valid and subsisting. It is stated that the novelty resides in the shape and configuration of the ceiling fan as illustrated, and not in the mechanical or functional aspects of the fan. Thus, it is claimed that the protection extends to the visual features of the article as perceived by the eye, including the overall arrangement, proportions, and aesthetic composition of the fan's components, which collectively form the distinctive appearance of the 'AEON' series of ceiling fans manufactured and marketed by the plaintiff.

6. It is stated that following an extensive research and development of the 'AEON' Fans Series from 2022 to 2024 and the plaintiff incurring substantial expenditures to the tune of Rs.2 Crores, the registration of the aforementioned design was obtained in the year 2024. The development of the 'AEON' Fan series commenced in 2022, beginning with the creation of industrial drawings and computer-aided designs (CAD) models by the research and development team. This was followed by several design iterations and prototype development. It is stated that once the design was finalised, a preliminary design search was conducted to ensure compliance with the novelty requirements under the Act and subsequently, the Registration Certificate was granted by the Controller General of Designs on 09.04.2024. Pursuant thereto, the plaintiff introduced the 'AEON' Fan Series of decorative ceiling fans in the Indian market in May, 2024. It is stated that subsequently, the plaintiff also obtained additional registration for a variant of the 'AEON' Fan Series

vide Registration Certificate bearing no.443637-001 dated 09.01.2025 and launched it commercially in April, 2025.

7. Plaintiff claims that the cumulative sales for the 'AEON' Fans Series as on 20.03.2026 is approximately Rs.88,21,53,038/-. Further, it is claimed that the plaintiff has expended a huge amount on advertising and sales promotion for its products and has incurred an expenditure of Rs.13,123 Lakhs for the fans division for the period 2025 to 2026 (upto February).

8. It is stated that the 'AEON' Fans Series embodies protectable elements stipulated under Section 2(d) of the Act and the design of this fans series is characterized by a harmonious integration of its structural components, including the blade configuration, hub assembly, motor housing, and decorative lower cap, which together create a distinctive visual identity. Thus, it is claimed that the novelty lies in the aesthetic arrangement and visual presentation of the fan's constituent elements, which are intended to attract consumers in the decorative ceiling fan market.

9. Plaintiff claims that it recently became aware that the defendant is in the process of introducing a new range of ceiling fans under the name 'GRACE' Series. Upon examining the design of the defendant's 'GRACE' Fans Series, the plaintiff discovered that the said products reproduce the dominant visual features of the plaintiff's registered 'AEON' Fan design. It is claimed that the defendant has replicated the distinctive configuration of the 'AEON' fan including the tapered blade geometry, the compact hub structure, the seamless blade-hub transition and the overall sculptural silhouette of the fan. It is stated that the defendant with the intent to take advantage of the hard-earned market reputation and goodwill garnered by the plaintiff has deliberately created imitation of the plaintiff's aforesaid Fan having registered

design, to misrepresent and pass off its goods as that of the plaintiff and cause confusion as to the source of the goods.

CONTENTIONS OF THE PLAINTIFF:-

10. Mr. Abhishek Malhotra, learned senior counsel appearing for the plaintiff stated that the defendant has infringed the registered design of the plaintiff in respect of a ceiling fan called 'AEON' Fan Series which has given rise to the present suit. He stated that the plaintiff had conceived and created a novel and original design which was registered on 09.04.2024 and the product 'AEON' Fan was launched thereafter. He stated that the design registration certificate which was issued to the plaintiff expressly records that the novelty resides in the shape and configuration of the ceiling fan as illustrated and not in the mechanical or functional aspects of the said products.

11. Explaining the novelty of the design which is embodied in the shape and configuration, he contended that the said design is characterized by a harmonious integration of its structural components including the blade configuration, hub assembly, motor housing and decorative lower cap which constitute a distinctive visual identity.

12. Dilating further, he drew attention to para 25 of the plaint wherein the distinctive characteristics of the registered design has been elaborated succinctly. Learned senior counsel emphasized that it is trite that while evaluating design infringement, it is the visual appearance between the two products which alone needs to be considered. In order to explain these similarities, he relied upon the following table:-

Parameter	Plaintiff's Fans	Defendant's Fans	Remarks
Overall Blade Design	Variable width type design	Variable width type design	Both the blades design are matching in aesthetic profile
Motor end of blade	Curve at motor end is matching with bottom cover radius	Curve at motor end is matching with bottom cover radius	Motor end of the blade is in curve matching with the motor in both the fans
Tip end of blade	Curve and line of the blade at tip end is fluidic	Curve and line of the blade at tip end is fluidic	Curve and lines at the tip end of the blade is matching in both the fans
Longitudinal line of blade	Curve and line of the blade profile along the length is fluidic	Curve and line of the blade profile along the length is fluidic	Curve and line in both the blade across the length is matching
Bottom canopy	Bottom edge and line of the bottom canopy is matching with botton cover upper profile	Bottom edge and line of the bottom canopy is matching with botton cover upper profile	Bottom canopy in both the fans is matching with bottom cover edge
Shape of the bottom cover	Line and shape of the bottom cover is in curve and fluidic	Line and shape of the bottom cover is in curve and fluidic	Line and shape of the bottom cover is looking similar in both the fans.
Bottom plate	Colour of the bottom plate is black	Colour of the bottom plate is black	Bottom plate in both the fans is in same colours
Top Canopy	Top canopy size is smaller	Top canopy size is bigger	Not matching
Light	Light shape is not visible in fan	6nos line type light shape is visible at bottom	Not matching

13. He further stated the plaintiff claims that the defendant has slavishly copied and infringed the registered design of the plaintiff's 'AEON' Fans Series. In order to substantiate and support his contentions, learned senior

counsel referred to various provisions of the Act, particularly Section 22(1)(a), 22(2)(b), 22(3), to contend that in case of piracy of a registered design, the registrant is entitled to bring a suit for injunction alongwith seeking recovery of damages for any such contravention. He fairly submitted that in case such a suit is preferred by the registrant, the defendant is entitled to set up a defence under any of the provisions of Section 19 of the Act, which provides grounds for cancellation of registration.

14. Referring to the reply of the defendant, Mr. Malhotra states that none of such grounds as available in Section 19 of the Act, have been taken as a defence by the defendant. According to him, except to contend that the plaintiff has picked up various elements of prior published arts and mosaiced them together, which would result in cancellation of the registration of design for lack of novelty or originality, the defendant has not contended that the infringing design of the defendant's product does not violate/infringe the registered design of the plaintiff's product i.e., 'AEON' Fans.

15. Learned senior counsel would contend that the aforesaid argument of the defendant is inconceivable for the reason that at the time of evaluation as to whether a design is being infringed, the Court would assess the complete design as a whole which is registered with that of the infringing design applied on the product and not the separate or individual elements of the said design. In support of the said contention, learned senior counsel relied upon the judgment of the Co-ordinate Bench of this Court in ***TTK Prestige Ltd. vs. KCM Appliances Pvt. Ltd.*** decided on 13.04.2023 in CS(COMM) 697/2022.

16. He contended that in ***TTK Prestige*** *(supra),* the Court, in para 38.13, has in great detail examined the purport of the Act and has succinctly laid down the guidelines and parameters as to how and in what manner, infringement of a registered design is to be evaluated. He further contended

that in case the parameters laid down in ***TTK Prestige*** *(supra)* are applied to the facts of the present case and the registered design of the plaintiff is juxtaposed against the infringing design of the product of the defendant, it would become crystal clear that the design of the defendant clearly infringes the registered design of the plaintiff.

17. That apart, learned senior counsel had handed over to the Bench a comparative chart of the plaintiff's registered design *vis-à-vis* the alleged prior publications relied upon by the defendant and enclosed alongwith the reply filed by it. While referring to various pictographical representations of comparison between the registered design of the plaintiff and those of the prior arts, learned senior counsel emphatically contended that the defendant has not provided any prior art which, as a whole, matches or maps with the registered design of the plaintiff. In fact, according to him, all the prior publications placed on record by the defendant in its defence only displays one of the many elements of the plaintiff's design. According to him, this is proscribed by ***TTK Prestige*** *(supra)* inasmuch as in order for the registered design of a party to become liable for cancellation on the ground of prior published art, it has to necessarily be juxtaposed against a previously published prior as a whole, which is identical or similar in all elements and not in bits and pieces. He, thus, contended by relying on the Chart handed over that the prior arts relied upon by the defendant are irrelevant and inconsequential.

CONTENTIONS OF THE DEFENDANT:-

18. Appearing for the defendant, Mr. Jayant Mehta, learned senior counsel refuted the submissions made on behalf of the appellant.

19. At the outset, Mr. Mehta, learned senior counsel would contend that the mechanical contrivance that a fan is, itself leaves little room for creativity,

much less for a manufacturer to churn out novel, new and original designs. In other words, he would submit that creativity in designing a fan is very limited. He would contend that in the present case, the design of the plaintiff though registered has neither any originality nor novelty. He expressed his doubt as to how and in what manner the design of the plaintiff was registered in the first place.

20. Dilating on the aforesaid argument, learned senior counsel contended that the design of the plaintiff could not have been registered for the reason that not only does the said product of the plaintiff has elements of prior registered design of the defendant but also of many prior arts wherefrom different elements have been picked up and used by mosaicing a design, which the plaintiff claims to be novel and original. He would contend, and vehemently so, that the design of the plaintiff being based on a number of prior publications, is *ex-facie* non-registrable. His contention is that for a design to pass the test of a valid registration, it has to be novel and original, both elements being read together.

21. Mr. Mehta invited attention to the tabular chart placed on record by the defendant showing prior arts wherefrom the plaintiff is alleged to have picked up essential individual elements, which have been mosaiced together to create a design, which is now claimed as novel. He attempted to demonstrate that each of such prior arts were placed to compare certain essential elements of such prior arts alongwith the elements of the plaintiff's registered design, to contend that it was easily demonstrable that there is nothing novel or original in the registered design of the plaintiff. In support thereof, he invited attention to Section 19(c) of the Designs Act to contend that as per the provisions, the defendant is entitled to challenge the registration of a design of the plaintiff on the ground of lack of novelty and originality. Particularly, he emphasized

that the ground that the design is not a new or original design or that the design is not registrable under the Act is available to the defendant as its defence. He would contend that it is in this context that the defendant has placed on record prior arts which clearly document that the design of the plaintiff is neither new nor original and clearly not registrable, as the plaintiff appears to have pirated essential elements of various prior arts and mosaiced them together to form the subject design. He would contend that the plaintiff's design falling foul of the provisions of Section 19 of the Act, the allegation based on Section 22 of the Act, of piracy against the defendant cannot sustain.

22. Stressing the aforesaid issue further, learned senior counsel compared each element of the plaintiff's registered design with various prior arts to demonstrate how the elements of the plaintiff's design was already available and published previously, rendering the design of the plaintiff unregistrable.

23. Mr. Mehta would contend that the alleged features described by the plaintiff such as sculpted blades, cylindrical motor housing and hub integration are all published previously and commonly used in the ceiling fan industry. Thus, the plaintiff is precluded from claiming any proprietary right in respect of a combination of pre-published designs or elements in the prior arts.

24. In any case, he would contend that the said product is only a trade variant or trivial addition/alteration to already published prior arts or combination of elements thereof, lending credence to the contention of the defendant that the design itself could not have been registered. Learned senior counsel relied upon Section 4(c) of the Act which prohibits registration of a design which is not significantly distinguishable from known designs or combination of known designs. He would also contend that the description

and alleged features listed by the plaintiff are purely functional, technical and performance related characteristics of a ceiling fan, and nothing more.

25. Additionally, learned senior counsel contended that it would hinder the trade of the competing parties in the business of manufacture of ceiling fans if a non-novel design is permitted to be granted registration or protection by this Court.

26. He further contended that the comparison between the two rival designs administered on the products has to be undertaken from the perspective of an instructed eye and applying the same, it would be apparent that the plaintiff's design is neither new nor original but a copy of prior published arts.

27. So far as the controversy regarding the date of launch of the defendant's product is concerned, he would submit that though on the first date of hearing i.e., 30.03.2026, the counsel for the defendant had made a statement that the defendants had already launched its product on or about 20.03.2026, the affidavits filed by the defendant alongwith invoices etc., discloses that the product was made available and sold by the retailer on and from 06.04.2026. However, he further submitted that the statement made by the counsel may not be incorrect as the manufacturers of the defendant had transported the batches of the said product to the defendant's warehouse on various dates commencing from 07.03.2026 and the following dates. As such, according to him, there was no deliberate misstatement of fact. He would contend that at best, it could be a case of miscommunication while informing this Court as to the actual date of launch. Thus, he would contend that the affidavits sought for by this Court and filed by the defendant align with the statement made by the learned counsel and with the first affidavit dated 31.03.2026 filed on behalf of the defendant.

28. He would also contend that the defendant is not a fly by night operator and has its own standing of more than a century of its existence and establishing its substantial goodwill and reputation in the market.

29. Learned senior counsel relied upon the judgments of ***M/s. B. Chawla & Sons vs. M/s. Bright Auto Industries: 1980 SCC OnLine Del 320***, ***Steelbird Hi-Tech India Ltd. vs. S.P.S. Gambhir & Ors.: 2014 SCC OnLine Del 821*** and ***Jayson Industries & Ors. vs. Crown Craft (India) Pvt. Ltd.: Neutral Citation 2023:DHC:4343*** in support of his contentions.

REJOINDER ON BEHALF OF THE PLAINTIFF:-

30. Mr. Malhotra, learned senior counsel, in respect of the judgments in ***M/s. B. Chawla*** *(supra)* and ***Steelbird*** *(supra)* relied upon by the defendant, would contend that these judgments were considered by the Co-ordinate Bench of this Court in ***TTK Prestige*** *(supra),* particularly in paras 38.6 and 38.11 and the same would actually enure to the benefit of the plaintiff rather than the defendant.

31. In order to reiterate and reaffirm his contentions regarding novelty and originality of the plaintiff's design, learned senior counsel referred to paras 24 and 25 of the plaint whereby the plaintiff has given a detailed description of how the subject design would constitute a novel, new and original design. He would contend that the defendant in its reply to the present application has nowhere rebutted or contended that the design of the defendant does not infringe the design of the plaintiff nor is there any averment that the design of the two rival products is not similar. In fact, he would contend that the defendant is relying only upon the prior publications and that too, certain elements of each prior publication, to contend that the plaintiff's design is only an outcome of mosaicing. According to learned senior counsel, unless the defendant clearly places on record application of the subject design on an

individual prior publication in accordance with the provisions of the Act, it cannot raise the defence of lack of novelty based on prior publications. It was contended that the defendant is prohibited from comparing the design of the plaintiff with bits and pieces of elements of various prior arts. According to him, this was completely prohibited and proscribed by this Court in ***TTK Prestige*** *(supra),* particularly sub-para (xviii) of para 38.13.

32. To the contention of the defendant that the product by its very nature does not leave much room or scope for creativity, the plaintiff contended that application of even a minimalistic creativity which is novel would tantamount to a new and original design which is entitled to registration.

33. So far as the contention regarding the controversy of date of launch of defendant's product is concerned, learned senior counsel would submit that the defendant, by its actions or conduct and various affidavits placed on record, has evidenced the blatant falsehood presented before this Court of launch of the defendant's products on 20.03.2026. Referring to various affidavits filed by the defendant, learned senior counsel would attempt to demonstrate that on the one hand, in the first affidavit, the defendant had asserted that the product with the infringing design of the defendant was launched on or before 20.03.2026 across at least four (4) States in India namely, Maharashtra, Uttar Pradesh, Karnataka and Gujarat and placed Geo Tagged photographs of the retail shops where the product was claimed to be offered for sale. However, on the other hand, the invoices and other documents placed on record by way of an affidavit by the defendant clearly evidenced that the actual launch and sale of the product of the defendant commenced only on 06.04.2026. According to learned senior counsel, this was a deliberate suppression and misstatement with a view to mislead the Court and interfere with the administration of justice.

34. He would contend that on the statement by the counsel for the defendant on 30.03.2026 i.e. the first hearing, the counsel for the plaintiff did not press the application seeking interim injunction and agreed to the opportunity being granted to the defendant to place its written reply to the said application.

35. In the above circumstances, learned senior counsel would contend that the mere fact that the defendant had already launched its product in the market before any interim order was passed, cannot come in the way of this Court in passing *ad-interim* injunction order against the defendant if otherwise, the plaintiff is able to make out a case for such relief. He would contend that as of now, the plaintiff directs its arguments only to this relief, reserving its rights to file an appropriate application at a later stage for initiation of appropriate proceedings against the defendant.

ANALYSIS & CONCLUSION:-

36. This Court has heard the arguments of Mr. Abhishek Malhotra, learned senior counsel for the plaintiff and Mr. Jayant Mehta, learned senior counsel for the defendant and with their valuable assistance has perused and examined the material on record.

37. The judgment in ***TTK Prestige*** *(supra)* rendered by my esteemed and learned brother C. Hari Shankar, J, is a *locus classicus* on how under the provisions of the Designs Act, a particular dispute on designs is to be viewed, considered and analyzed, in order to appreciate the rival contentions in such cases. After having considered a catena of judgments in the context of the Designs Act, the parameters or, in the words of the learned author, "The takeaway", were succinctly distilled and presented for easy understanding in para 38.13 of ***TTK Prestige*** *(supra)*. It would be worthwhile to extract, in its entirety, para 38.13 of ***TTK Prestige*** *(supra)*. The same reads thus:-

*"**38.13** <u>The takeaway</u>*

It would be useful to enumerate the principles which emerged from the decisions cited hereinabove, as a simple application of these principles is sufficient to arrive at a prima facie conclusion regarding the merits of the rival stands before me in the present case. As the definitive principles of law, which apply, are sufficiently clear from these decisions, I have avoided referring to interlocutory orders passed by Single Benches of this Court which, at best, can only have persuasive value in the interests of preserving consistency. The following principles, therefore, emerge:

(i) The sole purpose of the Designs Act is protection of novel and original designs, for the benefit of the person who has expended time, research and labour in conceiving it.

(ii) While ocular appeal is the definitive test of a valid design, what may appeal to one may appear bizarre to another. The corollary would, therefore, be that the Court, while examining the ocular appeal of a design, should not apply its own subjective standards.

(iii) The Designs Act does not protect principles of operation or invention, which form subject matter of patent protection.

(iv) A design, under the Designs Act, is not intended to stand on its own as an artistic work. It must be copied by embodiment in a commercially produced artefact. There can be no design, without an article to which it is applied. What matters is the visual image conveyed by the manufactured article. While applying these principles, the Court is required to be guided by the definition of "article" and "design", as contained in clauses (a) and (d) of Section 2 of the Designs Act.

(v) Clause (a) of Section 2 defines "article" as, inter alia, "any article of manufacture". Any part of an article which is capable of being made and sold separately would be an article in itself.

(vi) "Design" is defined, in clause (d) of Section 2 as meaning only the features of shape, configuration, pattern, ornament or composition of lines of colours applied to any article. A design cannot, therefore, be a mere concept or idea. While it is true that the Designs Act protects the concept or idea, which is new or original, the right to such protection enures only when the idea becomes a "design" under the Designs Act, which requires its application to an article. Sans any article, therefore, there can be no design. The design must be intended to produce an article by industrial application, though the "design" is not the article itself, but "the conceptual design containing the features of a shape, configuration, pattern, composition of lines etc".

(vii) The burden to show that a design is not entitled to registration for want of novelty originality is on the person so asserting. Novelty and originality necessarily predicate the absence of any prior publication of the design, or of the design having earlier been made known to the public.

(viii) Prior publication cannot be urged merely on the basis of a drawing or representation of a design, in the absence of any evidence to show that the said design, or drawing, had in fact been applied to an article. The court has, therefore, to assess the existence of prior publication of the design asserted by the plaintiff, or its novelty and originality vis-à-vis prior art, on the basis of a design, published prior in point of time or known to the public prior to the registration of the suit design, which had been applied to an article. What was required to be visualised, in the minds' eye of the Court, while examining a plea of prior publication or want of novelty and originality vis-à-vis prior art is, therefore, not a prior design in abstract, but a prior design as applied to an article. The Court must, therefore, be able to visualise the article, as well as the design of the article, before coming to a conclusion on the aspect of prior publication or of novelty and originality vis-à-vis prior art. The "judging of the design" has, therefore, to be "in the form of the finished article solely by the eye". It was for this reason that, in Bharat Glass Tubes, the Supreme Court upheld the view, of the learned Single Judge of the High Court, that prior publication, or want of novelty and originality vis-à-vis prior art, could not be urged on the basis of drawings or designs downloaded from the website of the UK Patent office, even if the said drawings or designs were substantially similar to the suit design.

(ix) Registration of a design amounts to facial satisfaction of the existence of novelty and originality in the design, as well as the absence of any prior publication thereof.

(x) Prior publication, in order to constitute a legitimate basis to challenge the validity of a design, had to be of the design itself. This is clear from the use of the words "that it has been published…", employed in Section 19(1)(b) as well as the words "a design which has not been disclosed to the public..." in Section 4 (a) of the Designs Act. Unless, therefore, the suit design itself has been earlier published, no case of invalidity of the suit design on the ground of prior publication is made out. Prior publication of a similar design, irrespective of the degree of similarity, would not suffice.

(xi) Publication must be "in a tangible form or use or in any other way". Publication by use would arise where the design is translated into a finished article by an industrial process or means. The words "tangible form" and "any other way" are, however, of much wider import. Publication in a paper form, without the actual article being before the

Court would also be subsumed within these expressions. However, the publication must be such as would enable the Court to visualise the article to which the design is intended to be applied. A publication which is wanting in clarity, and which requires actual application to an article for it to be completely understood cannot be regarded as "prior publication" on its own. "Tangible form" refers to a specific physical form or shape as applied to an article and not merely the ability to replicate, convert or give a physical shape of the design, though actual use of the article, to which the design supply, is not necessary. The design should not be on paper/document alone, but should be recognisable; in other words, it should have the same impact in the public as a finished article will, when judged solely by the eye. In other words, if the design is on paper then it must exist upon paper in such a way that the shape or other features of the article are made clear to the eye; the visual impact of the image should be similar to that which would exist when the design is seen as applied to a physical object in tangible form.

(xii) "Publication" could, therefore, be either by prior use of the design, by selling or displaying articles to which the design has been applied or by paper publication of one sort or another.

(xiii) Prior publication of an earlier design of the proprietor of an existing design would not denude the existing design of novelty, or render it invalid for prior publication. The proprietor of a registered design is entitled to apply for registration of the same design, or of a design with modifications or variations not sufficient to affect its identity, in respect of another article. The later design does not get destroyed by the earlier design; however, the term of protection extended to both designs would be the same. Thus, evergreening of designs would be avoided. This legal position, recognised in Reckitt Benckiser, also finds place in Sections 6 (3) and (4) of the Designs Act.

(xiv) A design which exists in the public domain, but the application of which, to an article, is new, would be novel. It is not necessary, therefore, that the design is "totally new". An existing design, apply to an article in a new manner, in which manner it has not been earlier applied to any article, would also be entitled to registration. In order for prior publication to destroy novelty, it is essential that the publication must suggest, explicitly or implicitly by context that the design should be applied to an article. Further, the manner in which the design is to be applied to the article should also be apparent from the representation of the design, cited as prior publication.

(xv) At the same time, the design, in order to be entitled to registration, must be new vis-à-vis prior art. The novelty must be substantial, not trivial or infinitesimal. Ultimately, it would be for the Court to compare prior art and the asserted design to determine whether the

asserted design actually possesses novelty vis-à-vis prior art, or is merely the prior art with mild, trivial or trade variants.

(xvi) The test to assess whether the features of a design, which are not present in prior art, actually impart novelty or are mere trade variants, is the test enunciated in Phillips, which is that if it is common practice to have, or not to have, spikes in the soles of running shoes, a man does not make a new and original design out of an old type of running shoes by putting spikes into the soles.

(xvii) Prior publication, or novelty and originality of a design vis-à-vis prior art, has to be assessed on the basis of the features which impart, to the design, novelty and originality. Prior publication of stray features of the design, which do not impart novelty and originality to it, in an earlier document or at an earlier point of time, would not constitute "prior publication" or suffice to invalidate the design for want of novelty and originality.

(xviii)Mosaicing of prior art designs is impermissible. Novelty cannot be attacked by combining individual elements of prior designs. The earlier design, cited as prior publication, and on the basis of which the novelty of the suit design is being questioned, must be disclosed in a single prior document, or more than one document, provided reference to one is contained in the other.

(xix) Registration of a design is article specific. What is protected is, therefore, not the artistic effort solely in the form of an idea, but as an embodiment in a commercially produced artefact.

(xx) While examining these aspects, the Court is required to be conscious of the fact that certain articles have, by nature of the function that they are required to perform, to necessarily possess common attributes as, for example, footwear. While it is difficult to envisage serious artistic improvements in the shape and configuration of footwear, given the fact that feet, as a rule, are similar in shape, footwear, which is otherwise novel in design is entitled to registration. In such cases, one cannot read the registration as invalid on the ground of want of novelty merely because, in respect of attributes which must necessarily be common to all such articles, there are prior examples. The Court has, therefore, in such cases, to discern the features which would lend, to such commonplace articles, novelty and originality, and examine whether those features have earlier been published in prior art.

(xxi) Imitation does not imply identity. In order to constitute piracy, a design need not be identical to another. The features which impart novelty to a design, in another article, would tantamount to infringement/piracy. The mere fact that, with respect to other, less significant details which do not impart novelty or originality to a design, there may be differences between the suit design and the

impugned design, would not imply that the impugned design is not infringing in nature.

(xxii) While a purely functional design is not entitled to registration, a design which has both functional and aesthetic attributes, is so entitled.

(xxiii) While the perspective of the consumer, who views the suit design with an instructed eye which is aware of prior art, undoubtedly forms the definitive test to assess infringement, the issue of whether the customer would purchase the product for its aesthetic appeal for its utilitarian advantages is irrelevant. Where the suit design possesses aesthetic value, and the novel features that lend it such value are replicated in the defendant's design, piracy has taken place.

(xxiv) A defendant who seeks to register an identical design cannot question the validity of the design of the plaintiff, or its entitlement to registration.

(xxv) There is a subtle difference between the test which would apply when examining validity of the suit design vis-à-vis prior art and infringement of the suit design by the impugned design of the defendant. This difference arises essentially because the validity of the suit design vis-à-vis prior art is being examined at a point of time prior to the registration of the suit design, whereas the aspect of infringement of the suit design by the defendant's design is examined vis-à-vis the certificate of registration of the suit design, and the features of novelty and originality which have been certified to be existing in the suit design. Prior publication would invalidate the suit design only if the suit design itself has been published prior in point of time. Invalidation on the ground of want of novelty and originality, on the other hand, does not require prior publication of the suit design itself. What it does require, however, is the existence of a prior design which, when applied to an article, would reveal that, except for trade variants, there is no difference between prior art and the suit design. While examining infringement, on the other hand, the Court is required to examine the design and the prior art vis-à-vis, as it were. The eye with which the aspect of infringement is examined is an instructed eye, which is aware of prior art and of the features which impart, to the suit design, novelty and originality vis-à-vis prior art. The comparison of the design of the defendant's product with the suit design has to be made from the perspective of such an instructed eye thus examined, if it is seen that the features which impart, to the suit design, novelty and originality vis-à-vis prior art, and as certified in the certificate of registration of the suit design, stand replicated in the design of the defendant, the defendant is guilty of piracy."

[Emphasis supplied]

38. In the opinion of this Court, and as would be required to be considered by this Court in the context of the rival submissions in the present case, it appears that the burden to show that the suit design is not entitled to registration for want of novelty or originality is on the defendant; the comparison with the prior publication in order to constitute a legitimate challenge to the validity of a design has to be of the design *per se* and not various essential elements of various prior arts to a composite design; unless the suit design in its entirety itself has been published earlier, no case of invalidity, at least *prima facie*, can be made out; certain stray features of a prior art may also not constitute "prior publication" or suffice to invalidate the suit design; mosaicing of essential or certain elements of different prior arts to contend that the suit design is a conglomeration of essential elements of prior arts and, therefore, neither novel nor original, is impermissible and prohibited and most importantly, so far as certain products are concerned, it is possible that such products may, by their very nature, limit creativity and as such, the doctrine of *de minimis* may not apply in every case.

39. The comparison sought to be made by the defendants of the design of the plaintiff with the elements of the prior arts encircled in red, has been placed on record and appears to be relevant for reproduction:-

S. No.	Parameter claimed by the Plaintiff	Plaintiff's product	Prior art / Prior publication
A	Overall Blade Design- Variable width type design		(i) **Atomberg Renesa Enzel** Published at least since 26.05.2021 

			https://www.amazon.in/atomberg-Renesa-Enzel-Ceiling-Warranty/dp/B0CKBVYC3W/ref=sr_d_vsims_d_sccl_1_6/521-5964707-5522212?pd_rd_w=FklJz&content-id=amzn1.sym.7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_p=7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_r=G010EFP2AH9A822ZNXPS&pd_rd_wg=Pg5EK&pd_rd_r=7d8c5f72-70ff-41b8-843d-0c25cc9cc136&pd_rd_i=B0CKBVYC3W&th=1 (ii) **Atomberg Renesa+** Published at least since 09.05.2023  https://www.thehindu.com/brandhub/10-best-ceiling-fans-from-top-brands-in-india/article66428663.ece

			(iii) **Crompton Air 360** Design Number:304236 Filing Date:02/04/2018  https://www.youtube.com/watch?v=HcEfjreXOuo
B	Motor end of blade- Curve at motor end is matching with bottom cover radius	 	(i) **Atomberg Renesa+** Published at least since 09.05.2023  https://www.thehindu.com/brandhub/10-best-ceiling-fans-from-top-brands-in-india/article66428663.ece (ii) **Atomberg Renesa Enzel** Published at least since 26.05.2021 

			https://www.amazon.in/atomberg-Renesa-Enzel-Efficient-Indicators/dp/B0CHJNJJDP/ref=rvi_d_sccl_5/521-5964707-5522212?pd_rd_w=TmUFh&content-id=amzn1.sym.2fa5ef78-d215-4b54-bdb7-fa3d3620b822&pf_rd_p=2fa5ef78-d215-4b54-bdb7-fa3d3620b822&pf_rd_r=8RP53XZGH06Y0E3N7XZ6&pd_rd_wg=wx6cp&pd_rd_r=59f77769-1649-4f6a-8720-8d0373e12eeb&pd_rd_i=B0DSP27FBR&th=1
C	Tip end of blade – Curve and line of the blade at tip end is fluidic	 	(i) **Crompton Air 360** Design Number:304236 Filing Date:02/04/2018  https://www.youtube.com/watch?v=HcEfjreXOuo (ii) **Atomberg Renesa Enzel** Published at least since 26.05.2021 

			https://www.amazon.in/atomberg-Renesa-Enzel-Ceiling-Warranty/dp/B0CKBVYC3W/ref=srd_d_vsims_d_sccl_1_6/521-5964707-5522212?pd_rd_w=FklJz&content-id=amzn1.sym.7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_p=7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_r=G010EFP2AH9A822ZNXPS&pd_rd_wg=Pg5EK&pd_rd_r=7d8c5f72-70ff-41b8-843d-0c25ce9ce136&pd_rd_i=B0CKBVYC3W&th=1 (iii) **LUKER JVLuker USA Cosmos** Published at least since 28.11.2020  https://www.amazon.in/LUKER-JVLuker-Delivery-indicators-Warranty/dp/B0FKHBFDHY/ref=srd_d_vsims_d_sccl_1_2/521-5964707-5522212?pd_rd_w=Lkttd&content-id=amzn1.sym.7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_p=7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_r=8MBEK7CTP9EEK01NF0DS&pd_rd_wg=29v0B&pd_rd_r=322b20ed-7083-4f0b-b5b1-

			5f4a9c4adef6&pd_rd_i=B0FKHBFDHY&th=1
D	Longitudinal line of blade- Curve and line of the blade profile along the length is fluidic	 	(i) **Atomberg Renesa Enzel** Published at least since 26.05.2021  https://www.amazon.in/atomberg-Renesa-Enzel-Ceiling-Warranty/dp/B0CKBVYC3W/ref=srd_d_vsims_d_sccl_1_6/521-5964707-5522212?pd_rd_w=FklJz&content-id=amzn1.sym.7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_p=7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_r=G010EFP2AH9A822ZNXPS&pd_rd_wg=Pg5EK&pd_rd_r=7d8c5f72-70ff-41b8-843d-0c25ce9ce136&pd_rd_i=B0CKBVYC3W&th=1 (ii) **Crompton Air 360** Design Number: 304236 Filing Date:02/04/2018 

			https://www.youtube.com/watch?v=HcEfjreXOuo
E	Bottom canopy- Bottom edge and line of the bottom canopy is matching with bottom cover upper profile		(i) **Crompton Energion Roverr Underlight** Published at least since 03.08.2023  https://www.lifestyleasia.com/ind/shop/home-decor-kitchen/best-premium-ceiling-fans-in-india/
F	Shape of the bottom cover- Line and shape of the bottom cover is in curve and fluidic		(i) **Luker Electric Technologies Pvt. Ltd.** Design Number: 381268-001 Filing Date: 11.03.2023  (ii) **Luker Electric Technologies Pvt. Ltd.** Design Number: 386386-001 Filing Date: 16.05.2023

		 	 (iii) **Luker Electric Technologies Pvt. Ltd.** Design Number: 371396-001 Filing Date: 24.09.2022 
G	Bottom plate- Colour of the bottom plate is black		(i) **Atomberg Renesa Enzel** Published at least since 26.05.2021  https://www.amazon.in/atomberg-Renesa-Enzel-Ceiling-Warranty/dp/B0CKBVYC3W/ref=srd_d_vsims_d_sccl_1_6/521-5964707-5522212?pd_rd_w=FklJz&content-id=amzn1.sym.7ccbe032-5929-4c88-ab39-

			4923842061df&pf_rd_p=7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_r=G010EFP2AH9A822ZNXPS&pd_rd_wg=Pg5EK&pd_rd_r=7d8c5f72-70ff-41b8-843d-0c25ce9ce136&pd_rd_i=B0CKBVYC3W&th=1 (ii) **LUKER JVLuker USA Cosmos** Published at least since 28.11.2020  https://www.amazon.in/LUKER-JVLuker-Delivery-indicators-Warranty/dp/B0FKHBFDHY/ref=srd_d_vsims_d_sccl_1_2/521-5964707-5522212?pd_rd_w=Lkttd&content-id=amzn1.sym.7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_p=7ccbe032-5929-4c88-ab39-4923842061df&pf_rd_r=8MBEK7CTP9EEK01NF0DS&pd_rd_wg=29v0B&pd_rd_r=322b20cd-7083-4f0b-b5b1-5f4a9c4adcf6&pd_rd_i=B0FKHBFDHY&th=1

40. After perusing the aforesaid comparison of the plaintiff's design with various prior arts, this Court is of the view that a design must be assessed as a whole, and novelty may reside in the unique combination and visual arrangement of known elements.

41. The defendant has relied on seven (7) different prior arts. However, it is pertinent to note from the aforesaid table referred to by the defendant that none of the cited prior arts discloses all the features of the subject design. As per the case of the defendant, the cited prior art "Atomberg Renesa Enzel"

(Published at least since 26.05.2021) can be considered as the closest prior art, however, the same does not disclose the design of the bottom canopy. Even the shape of the bottom cover is not disclosed. Further, the shape of the bottom plate of the said prior art is also different from the subject design of the plaintiff's AEON Fan.

42. It is important to note that none of the prior arts as cited in the aforesaid table, when viewed as a composite whole, produces the same visual impression as that of the plaintiff's AEON Fan Series. None of the cited prior arts disclose all the features protected under the subject design.

43. In ***Pidilite Industries Limited vs. Astral Limited Formerly Known As Resinova Chemie Limited: COMMERCIAL IP SUIT (L) No.13638/2024,*** the Court held that Section 4(c) of the Designs Act only prohibits a combination of the prior arts/known articles and not the individual parts thereof. The relevant paras are reproduced hereunder:-

> *"46. The Defendant has sought to compare the caps of other products, or only the body of the bottle, without cap, in isolation, with the Plaintiff's container. Such a comparison cannot be made in isolation, and, in any event such comparison with the Plaintiffs Ashvini Narwade page 26 of 47 ial-13706-2024.doc container, which is a bottle along with a cap and seal as a single unit, does not reveal any similarity. It is well settled that it is not permissible to break down an article into parts/element/integers and to compare individual parts with parts of the suit container.* ***The article must be viewed as a whole. Mosaicing (i.e., breaking down into pieces from different articles and comparing them with the suit design) is not permissible. The Defendant has sought to dissect the Plaintiff's container into parts and has sought to compare individual elements and features of the Plaintiff's container with other designs, patents and products, which is not permissible. The Plaintiff's design has to be looked as a whole and cannot be segregated, dissected into separate integers. The test of "appeal to the eye" has to be considered for the design as a whole.*** *This is laid down in paragraph 37 of the decision of this Court in Cello (supra) which reads as under:-*
>
> > *"37. But what really fails Mr. Tolia's cause is the observation at page 243 of this very report at placetum 10 that the design must be taken as a whole. In that case, the House of Lords may have found neither novelty nor originality but I do not think it is at all*

legitimate for Mr. Tolia to expand this to suggest that the various integers in the bottle be segregated and each integer separately tested for novelty and originality. That is not even Cello's case. For a given bottle for, say, the manufacture of perfumes, fragrances or specialized liquor products, it is entirely conceivable that the bottle would take a completely unique shape, a never-seen-before combination of shape, configuration and ornamentation."

47. Further, the Plaintiff's registered design is not a combination of known designs as is sought to be alleged by the Defendant. In any Ashvini Narwade page 27 of 47 ial-13706-2024.doc event, it is not a requirement of the law in infringement in relation to a design that every single aspect must be entirely newly concocted and unknown to the history of mankind. If that were so, no new or original design would exist at all. It is a general rule that mosaicing of prior art, i.e., combining selected features from different prior art publications, is not permissible when assessing whether a design is novel. Conversely, mosaicing is also no defence to a charge of infringement of a registered design. Mosaicing contemplates taking known integers or combinations and simply rearranging them. *In this context paragraph 28 of the judgement in Cello (supra) is relevant and reads as under:-*

"28. I must reject too Mr. Tolia's argument of mosaicing. I believe it to be misapplied to this case. It is not a requirement of the law in infringement or passing off in relation to a design that every single aspect must be entirely newly concocted and unknown to the history of mankind. If that were so, we should never see any new or original design at all. It is a general rule that "mosaicing" of prior art, i.e., combining selected features in different prior art publications, is not permissible when assessing whether an invention is new. Conversely, mosaicing is also no defence to a charge of infringement of a registered design. Mosaicing contemplates taking known integers or combinations and simply re-arranging them. In a situation like ours, it might for example apply if Cello laid claim to a very similar bottle with a similar shape, configuration and ornamentation but merely repositioned the ornamentation by setting it horizontally rather than vertically and doing not much else besides. That is not the case here."

48. Further, the term design as defined under the Designs Act means the design of an article capable of being made and sold separately. The phrase "combination of known designs" as stipulated in Ashvini Narwade page 28 of 47 ial-13706-2024.doc Section 4(c) of the Designs Act only prohibits a combination of known articles and not parts thereof. The same does not extend to a part of known articles. Hence, even if some integers of a

design were a part of a previously known article, its use in the specified manner to yield a novel article is not forbidden and the article taken as a whole would constitute a new design. *This is laid down in paragraph 49 of the decision of this Court in Selvel Industries and Anr. (supra) which reads as under:-*

> *"49. Whirlpool was carried in appeal. The Division Bench also rejected the argument raised on behalf of Videocon that Whirlpool's design was merely a combination of known designs and, therefore, lacked originality. After looking at the definitions of article and design in the Designs Act, 2000, the Division Bench concluded that it is the article by itself that must have its stand-alone identity. 'Design', in this context, means the design of a article capable of being made and sold separately. The phrase 'combination of known designs' in the prohibitory Section 4(c) obviously means a combination of known articles. It is this that is prohibited; the interdiction does not extend to parts of known articles. Therefore, even if the wave-form integer was part of a previously known article, its use in the specified manner to yield a novel article is not forbidden."*
>
> [Emphasis supplied]

44. We are fortified in our view by the judgement in ***TTK Prestige*** *(supra),* where in sub-para (xviii) of para 38.13, it was held that mosaicing of prior art designs is impermissible and novelty cannot be attacked by combining individual elements of prior designs. It was further held that the earlier design, cited as prior publication, must be disclosed in a single prior document.

45. Thus, after an overall consideration of the principles laid down by the afore-referred judgments as well as of the cited prior arts submitted by the defendant and the opinion rendered thereon, as noted above, this Court is of the *prima facie* opinion that the argument of the defendant that the registered design of the plaintiff is not novel based on the prior arts cited by it, is unsustainable.

46. Another significant aspect which was considered in ***TTK Prestige*** *(supra)* was that in order to constitute piracy, a design need not necessarily be identical to another. The features which would impart novelty to a design may

tantamount to infringement/piracy. In fact, the less significant details which may not necessarily constitute novelty and/or originality would not imply that the impugned design is not infringing in nature. It is trite that in the matter of novelty, the instructed eye is to be the ultimate test and the determination has to be on the normal ocular impression.

47. So as to not lose the effect, impact and purport of sub-para (xxv) of para 38.13 of ***TTK Prestige*** *(supra)*, it is apposite to extract the same hereunder:-

> *"(xxv) There is a subtle difference between the test which would apply when examining validity of the suit design vis-à-vis prior art and infringement of the suit design by the impugned design of the defendant. This difference arises essentially because the validity of the suit design vis-à-vis prior art is being examined at a point of time prior to the registration of the suit design, whereas the aspect of infringement of the suit design by the defendant's design is examined vis-à-vis the certificate of registration of the suit design, and the features of novelty and originality which have been certified to be existing in the suit design. Prior publication would invalidate the suit design only if the suit design itself has been published prior in point of time. Invalidation on the ground of want of novelty and originality, on the other hand, does not require prior publication of the suit design itself. What it does require, however, is the existence of a prior design which, when applied to an article, would reveal that, except for trade variants, there is no difference between prior art and the suit design. While examining infringement, on the other hand, the Court is required to examine the design and the prior art vis-à-vis, as it were. The eye with which the aspect of infringement is examined is an instructed eye, which is aware of prior art and of the features which impart, to the suit design, novelty and originality vis-à-vis prior art. The comparison of the design of the defendant's product with the suit design has to be made from the perspective of such an instructed eye thus examined, if it is seen that the features which impart, to the suit design, novelty and originality vis-à-vis prior art, and as certified in the certificate of registration of the suit design, stand replicated in the design of the defendant, the defendant is guilty of piracy."*

48. Having regard to the aforesaid essentiality, this Court would examine the two rival designs. The pictographical representations are as under:-

Plaintiff's Fans Series	Defendant's Fans Series
	

49. This Court had requested the parties to present before it the two rival assembled products for visual examination. On such examination, as also after perusing the aforesaid comparison table of the two rival marks and having regard to the essential parameters laid down in ***TTK Prestige*** *(supra)*, this Court is of the *prima facie* opinion that an interim injunction, even post launch, is warranted.

50. Having visually examined both the products, this Court is in alignment with the case set up by the plaintiff. It is relevant to understand that the visual examination has to be from the perspective of an instructed eye, which is aware of prior art and of the features which impart, to the suit design, novelty and originality *vis-à-vis* prior art, and which is capable of seeing through, to discern whether it is common trade knowledge or a novelty so striking and substantial as to merit registration.

51. To be fair to the defendant, the bottom canopy and the upper canopy of the defendant's product appear to be little distinctive from that of the plaintiff, in that, the canopies of the defendant are more dome shaped while the canopy of the plaintiff is slightly like a half of the hour glass. However, minor or

peripheral differences in non-essential features cannot serve as a shield where the essential features of a design seem to be copied.

52. Other than that, essentially, the look and the general features of both the products do not give any impression of distinction.

53. Comparing the shape and aesthetic profile of the blades of the rival designs, it is apparent that both the products employ a variable wide type design. The visual similarity in the overall blade design is unmistakable. With respect to the motor end of the blade, it is observed that the curve at the motor end is matching with the bottom cover radius in both the rival designs. Further, this Court observes that the curve and line of the blade at tip end is fluidic, which seems as a deliberate design choice that has been replicated by the defendant. So far as longitudinal line of the blade is concerned, the curve and line in the blades across the length is matching in both the rival designs. Even the line and shape of the bottom cover, which is characterised by a curved and fluidic form, is similar in both the fans.

54. It is relevant to also note that the defendant has, nowhere in its defense taken in the reply to the present application, stated that the design used by it on its product is not similar to the registered design of the plaintiff.

55. The defendant relied upon the judgments in ***M/s. B Chawla & Sons*** *(supra)* and ***Steelbird Hi-Tech India Ltd.*** *(supra)* in support of its contentions. However, it would be relevant to note that the said judgements were already considered by this Court in ***TTK Prestige*** *(supra)* where in paras 38.11.4 and 38.6.4, the principles laid down in ***M/s. B Chawla & Sons*** *(supra)* and ***Steelbird Hi-Tech India Ltd.*** *(supra)* respectively, have been considered and amalgamated into the judgement in ***TTK Prestige*** *(supra)*. This Court has already considered and appreciated the parameters laid down in ***TTK Prestige*** *(supra)* and thus, is of the view that a separate opinion need

not be rendered. Reliance was also placed on the judgment in ***Jayson Industries*** *(supra)*, particularly para 46, wherein this Court had extracted the relevant portion of ***Barat Glass Tube Ltd. vs. Gopal Glass Works Ltd.: 2008 (10) SCC 657*** for the purposes of understanding what would amount to "publishing". In the present case, the contention of the defendant that the design of the plaintiff is already published in the prior arts has been found to be untenable, hence, the principle in ***Jayson Industries*** *(supra)* to the extent relied upon by the defendant is unmerited.

56. Ordinarily, this Court would not have ventured to grant interim injunction against the defendant after the launch of its product, however, the affidavits filed by the defendant alongwith the invoices etc., in the context of the statement of the counsel for the defendant, on instructions, made and recorded in the order dated 30.03.2026 compel the Court to protect the interests of the plaintiff at this stage.

57. It is relevant to note that the plaintiff's design was registered as far back as in the year 2024. As soon as the plaintiff became aware of the impending launch of the product of the defendant, on the claim that the design of the defendant's product infringes the registered design of the plaintiff, the plaint was filed and listed on 30.03.2026 for the first time on which date, the counsel for the defendant made a statement that the product has already been launched on 20.03.2026 in one of the retail outlets. The defendant had filed its affidavit recording the said statement on 31.03.2026, relevant portion of which is extracted hereunder:-

> *"3. That the concerned product of the Defendant i.e. Energion Grace BLDC fans was launched on or before 20.03.2026 across at least four states in India namely Maharashtra, Uttar Pradesh, Kamataka and Gujarat.*
>
> *4. That some of the readily available geo-tagged images of the said Energion Grace products of the Defendant which were taken between*

20.03.2026 and 21.03.2026 at the premises of dealers of the Defendant across different states, are being filed along with my present affidavit."

58. Another affidavit was filed by the defendant on 02.05.2026 giving details of dispatch of the defendant's product 'Grace BLDC Fans' from the defendant's third party contract, manufacturing facility/factory to the defendant's warehouse.

59. The documents filed alongwith the said affidavits of the defendant disclose two things, (i) that the defendant's product was manufactured and transported from the manufacturing unit to the defendant's warehouse on and from 07.03.2026 onwards and (ii) the other set of documents clearly indicate that the sale of the said product in the retail stores took place only on 06.04.2026 i.e., after the first date of hearing on 30.03.2026. During the hearing of the present application on 06.05.2026, the aforesaid factual position was not denied by the learned senior counsel for the defendant.

60. It is pertinent to note that it was on the basis of the statement of the counsel for the defendant on 30.03.2026 that the product had already been launched that no further hearing was felt necessitated for an *ad-interim* injunction on that day in order to provide the defendant an opportunity to file its reply post launch. Considering the aforesaid crucial aspect, the plaintiff cannot be put to any prejudice considering the fact that the plaintiff had indeed approached this Court before the actual date of launch by the defendant. No document whatsoever has been placed by the defendant to demonstrate an actual date of launch except for a few photographs of the products at retail stores, which do not convey the date of launch in any manner whatsoever.

61. Having regard to the aforesaid, this Court is of the considered opinion that the defendant, their business associates, partners, directors, principal

officers, family members, servants, agents, dealers, distributors, franchisees, agents and anyone acting for and on their behalf their proprietors, as the case may be, and all others acting for and on behalf of the defendant are restrained from manufacturing, marketing, selling (including on online platforms), using the registered design bearing no.393299-001 or any other design, in any manner including the 'GRACE' series of ceiling fans or any other fan(s) series which is either identical or deceptively similar to the plaintiff's 'AEON' Fans Series.

62. Considering the fact that the defendant has already launched its product and the same are available for sale in the retail stores, there shall be no further sales of the infringing product of the defendant on and from the date of this order, except those which have already been sold.

63. The defendant shall maintain its records of sale and financial statements etc. in respect of the sales of the infringing product of the defendant on and from 06.04.2026 till date. The said record and other details shall be disclosed by way of an affidavit in a sealed cover within four weeks from date.

64. Having regard to the aforesaid analysis, the present application is disposed of in view of the above directions.

65. The aforesaid analysis and observations shall not tantamount to any expression of the merits of the suit and are confined only to the consideration for the adjudication of this application.

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66. List on 17.07.2026 before Court.

TUSHAR RAO GEDELA
(JUDGE)

MAY 14, 2026/*rl*