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

\+ CS(COMM) 480/2024 & I.A. 31014/2024

Reserved on: 17th November, 2025
Date of Decision: 24th March, 2026
Date of uploading: As per digital signature

BRITANNIA INDUSTRIES LIMITED .....Plaintiff

Through: Mr. Sachin Gupta, Ms. Mahima, Ms. Prashansa Singh, Ms. Diksha Tekriwal and Mr, Rohit Pradhan, Advocates

versus

RAJAT CHAWLA SOLE PROPRIETOR OF MADHVE GLOBAL ENTERPRISES .....Defendant

Through: Mr. Divyanshu Choudhary and Mr. Kartik Kumar Aggarwal, Advocates.

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CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

I.A. 31014/2024 (under Order XXXIX Rules 1 and 2 CPC)

1. The present application has been filed under Section 94 read with Order XXXIX Rules 1 and 2, and Section 151 of the Code of Civil Procedure, 1908 [‘CPC’], seeking a temporary injunction against the Defendant.

2. The underlying suit has been filed by the Plaintiff *inter alia* seeking the relief of permanent injunction and other ancillary reliefs to restrain the

Defendant from using the mark [‘impugned mark’].

CASE SET UP IN THE PLAINT

3. The Plaintiff is a leading food products company in India. The Plaintiff’s product portfolio primarily comprises bakery products, such as biscuits, bread, and cake, and dairy products, such as cheese and milk.

3.1. The Plaintiff adopted the mark ‘BRITANNIA’ as a trademark and tradename at least since 1918. The wordmark ‘BRITANNIA’ has been declared as a well-known mark by the registry on 08.01.2024. Additionally, the Plaintiff also has copyright registrations, which have been set out at paragraph ‘42’ of the plaint.

3.2. In particular, in 2018, the Plaintiff adopted the trademark bearing TM no. 3827311 in class 29 and TM no. 3827312 in class 30, both dated 08.05.2018[1]. It is stated that the said mark is advertised by the Plaintiff in the marketing and sale of all of its products, including but not limited to 50-50, Good Day, Marie Gold, Britannia Bourbon, and Pure Magic, which are household names in India.

3.3. On 08.08.2023, the Plaintiff applied for and was granted registration of a blank device mark bearing TM No. 6056657 in class 30.

[1] Details of Plaintiff’s various BRITANNIA registrations have been set out at paragraph ‘13’ of the plaint.

3.4. The Plaintiff's revenue for the financial year 2022 to 2023 was approximately Rs. 16,000 crores. The advertising and marketing expenses incurred by the Plaintiff for the promotion of products from 2012 to 2023 have exceeded Rs. 12,000 crores.

3.5. The Plaintiff actively promotes its business through its official website https://www.britannia.co.in/ as well as through various social media platforms such as Facebook, Twitter, Instagram, etc.

3.6. Owing to the Plaintiff's goodwill and wide reputation not only in India but globally[2], it has won various accolades and awards, which have been set out in paragraph '9' of the plaint.

3.7. In March 2024, the Plaintiff learnt that the Defendant was using the impugned mark and had applied for registration thereof in Class 30, claiming use since 10.10.2022.

3.8. Thereafter, the Plaintiff issued a cease-and-desist notice dated 13.03.2024 to the Defendant; however, the Defendant vide its response dated 15.04.2024 refused to comply with the notice whilst stating that the rival marks are dissimilar. Thus, aggrieved by the same, the Plaintiff has instituted the present petition.

SUBMISSIONS BY THE PARTIES

Submissions by the Plaintiff

4. Mr. Sachin Gupta, learned counsel for the Plaintiff, states that the Plaintiff's trademarks consist of a highly distinctive and unique device with a five-sided pentagon-like stylised/curvaceous structure with arches at the bottom joining from both corners in the middle of the structure ['geometric

[2] Details of the Plaintiff's international trademark registrations have been set out at paragraph '26' of the plaint.

pentagonal structure']. He states that a bare perusal of the Plaintiff's mark and the impugned mark demonstrates that the essential features and distinctive elements of the Plaintiff's mark have been slavishly copied by the Defendant, making it deceptively similar. In this regard, reliance is being placed upon the judgments of the Coordinate benches of this Court in **Adidas AG and Another. v. Praveen Kumar and Others**[3] and **Nilkamal Crates and Containers and Another v. Reena Rajpal and Another**[4]**.**

4.1. He states that, given the near identity between the two [2] marks, the Defendant has dishonestly adopted the impugned mark in an attempt to imply a false connection inter se parties. An ordinary and unwary consumers may likely assume that the products bearing the mark 'RENEWTRIA' are a line of products from the Plaintiff.

4.2. He further states that most of the Defendant's products use the impugned mark with a colour combination of black and gold/orange, which is deceptively similar to one of the Plaintiff's mark 

bearing TM no. 3854696 in class 29 and TM no. 3854699 in class 30, used for its Pure Magic products since 2018.

4.3. He further states that the Plaintiff has black and white device registration, which confers upon the proprietor the right to use the mark in any colour combination.

4.4. He states that the Defendant has filed an application bearing no. 6074035 for the impugned mark in a colour combination of black and white;

[3] 2019 SCC OnLine Del 8693 [Paragraph No. 16]
[4] 2023 SCC OnLine Del 7129 [Paragraph No. 24 to 29]

therefore, the Defendant's use of the impugned mark amounts to infringement of the Plaintiff's mark.

Submissions by the Defendant

5. Mr. Divyanshu Choudhary, learned counsel for the Defendant, states that the Defendant is engaged in the business of manufacturing and selling flavoured candies, confectionery, cake decoration confectioneries, preserved dried fruits, and condiments, which are different and distinct from the Plaintiff's bakery and dairy goods. He states that the label, packaging, trade name, actual products, trade channels and class of consumers are entirely different and distinct. He further states that it is the admitted case of the Defendant that it has neither manufactured nor sold any form of bakery products/biscuits, nor does it intend to in the near future.

6. He states that the Defendant has also applied for the registration of its wordmark 'RENEWTRIA' vide TM nos. 6503619 and 6503623.

6.1. He states that while comparing the marks, the comparison has to be of the marks taken as a whole, and that the Court cannot vivisect the marks or compare parts thereof. Nor can the Court compare the whole of the one mark with the part of another. The likelihood of confusion has to be assessed by comparing the marks as a whole.

6.2. He states that the geometric pentagonal structure in itself is not the essential feature of the Plaintiff's marks. The mere geometric pentagonal structure, devoid of any colour combination and the trade name 'BRITANNIA', cannot be distinctive of the trademarks of the Plaintiff. There is no acquired distinctiveness in the mere shape of the geometrical structure, which would imply an unmistakable correlation between the goods and the Plaintiff. He states that distinctiveness as per Section 9 of the Trade Marks

Act 1999 [‘Act of 1999’] implies an unmistakable correlation by the public with the owner, and the same has to be obtained on or before the date of registration. He states that the Plaintiff cannot claim any distinctiveness without any actual use of the pentagonal geometric structure as a standalone mark for its products. He states that the Plaintiff has never applied the pentagonal geometric structure in isolation on its products and thus cannot claim any proprietary rights.

6.3. He further states that the device trademark of the Defendant is used in the colour combination of black and orange.

ANALYSIS AND COURT’S FINDINGS

7. This Court has heard the learned counsel for the parties and perused the record.

I. Vagueness in the plaint with respect to the plaintiff’s mark, which is being infringed

8. The Plaintiff has set out a visual comparison of the Plaintiff’s mark [which has been registered since 2018 and has been in use since then[5]], with the impugned mark in paragraph ‘31’ of the plaint, in black and white combination, which appears as under:

> “**TRADE MARK INFRINGEMENT**
>
> 31. For visual comparison the Plaintiff's Mark and the Impugned Mark is set out below:

Plaintiff’s Mark	Impugned Mark
 Use of the Plaintiff's Device - the five-sided pentagon-like stylized/ curvaceous structure	 Use of a structure identical to the Plaintiff's Device a five-sided pentagon-like

[5] Paragraph 2 of the written submissions dated 04.11.2025 of the Plaintiff

with similar arches at the bottom joining in from both corners in the middle of the structure with the placement of the trade name within the pentagon-like structure.	stylized/curvaceous structure with similar arches at the bottom joining in from both corners in the middle of the structure with the placement of the trade name within the structure.

”

9. The Defendant has disputed the aforesaid representation of the marks set out at paragraphs ‘31’ to ‘35’ in the plaint and has set out the comparison in its written statement at paragraph ‘16’, depicting the marks in colour as used by the parties on their products, which appears as under:

> “16. At the very outset, the Defendant submits that the instant case is not tenable either on facts or on law and is liable to be dismissed in limine. The Defendant solemnly submits that, in the main suit considering the merits there is no cause of action for infringement of trade marks, copyright, passing off etc. in the Plaintiff's Device. The prima facie perusal of the impugned mark of the instant Defendant would depict that there are drastic differences when juxtaposed with the Plaintiff's Device and the same does not have an iota of similarity either visually or phonetically. The prima facie perusal of both the labels would depict that there are drastic differences amongst the two and the same in no manner can tantamount to any adaptation/reproduction amounting to infringement under the purview of the Act of 1999 as alleged, let alone the slavish imitation of the same. It is pertinent to submit that there is no identity even in any of the single feature of both the marks. Even, the instant Plaintiff has miserably failed to point out the alleged identity/similarity in both the impugned labels and has brought the instant suit on the count of substantial similarity and copying of the essential features, which is prima-facie not the case at hand and the instant suit may be dismissed on merits. The label trade marks used by both the adversaries herein are depicted infra:

Plaintiff’s Label Trade Mark in use	Defendant’s Label Trade Mark in use
	

”

10. The Plaintiff in its replication at paragraph 15[6] has not denied the colour combination depicted in the written statement; it has however, contended that the colour combination has no relevance and has reiterated its reliance on the black and white comparison.

11. The Plaintiff, in paragraph ‘13’ of the plaint, has relied upon nineteen [19] registrations as set out in Table 2[7].

However, the Plaintiff has compared the impugned mark with only one [1] specific mark in paragraph ‘31’, and it is not specified as to which registered mark, out of the nineteen [19] registrations, is relied upon by the Plaintiff, and is alleged to have been infringed. Identification of the registered mark which is alleged to have been infringed is a material fact, as contemplated under Order VI Rule 2 of CPC, and the Plaintiff ought to specifically identify the same so as to make the scope of controversy in the plaint clear.

This is imperative so as to enable the Defendant to understand the allegations in the plaint and respond to the same accurately as contemplated in Order VIII Rule 5 of CPC.

12. It is the duty of a Plaintiff that while drafting a plaint, it is drafted in a manner which is clear, precise and helps both the Court and the Defendant in understanding the grievance accurately sought to be redressed. The Court cannot undertake the exercise of locating which registered mark of the Plaintiff is the one that is being allegedly infringed upon, particularly when the Plaintiff has furnished a list of nineteen [19] registrations without clearly

[6] Internal pages 15 and 16 of the replication.
[7] Internal pages 16 and 17 of the plaint.

specifying the mark that forms the subject matter of the present proceedings. A claim for infringement under Section 29 of the Act of 1999 is made by a registered proprietor with respect to a specific registered trademark. Therefore, there can be no impediment to the Plaintiff to identify the specific registered mark which is alleged to have been infringed by the impugned mark.

However, the Plaintiff in the facts of this case has failed to identify the TM registration which is alleged to have been infringed either at paragraph '31' of the plaint or in the prayer clause.

13. Even in its written submissions, the Plaintiff has referred to five [5] device trademarks for alleging infringement, which includes its trademark , whereas admittedly this trademark is not even referred/set out at paragraph '31' of the plaint in the comparison table, and ex facie there is no infringement of this mark. However, the Plaintiff, by making a blanket reference to all available registrations, is clearly seeking to create chaos in the plaint.

14. In the considered opinion of this Court, the non-identification of the specific TM registration at paragraph '31' makes the plaint deliberately vague, which leads to difficulty in the appreciation of the contents of the claim in the plaint and is thus likely to prejudice the Defendant, who is unable to meet the precise case of the Plaintiff. The plaint also creates difficulty for the Court to appreciate the allegations of infringement. The application is liable to be dismissed on this ground alone.

15. However, for the sake of bringing some clarity to the discussion and adjudicating the application on merits, this Court has taken the task upon itself and presumes that the registered mark on which the Plaintiff relies to claim infringement is TM Nos. 3827311 and 3827312 for the mark 

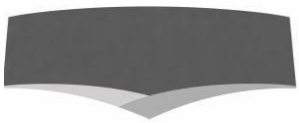
['Plaintiff's marks'], as it appears to be closest to the mark depicted in paragraph '31', though admittedly this mark is not used by the Plaintiff in this combination of black and white. In fact, the evidence on record shows that the mark has been/is used in a colour combination of 'red, yellow and green' as well as 'purple and gold', for which the Plaintiff has separate registrations in the said combinations.

II. Deceptive Similarity

16. To determine the Plaintiff's claim of infringement, the main issue arising for consideration is whether the impugned mark of the Defendant is deceptively similar to the Plaintiff's registered mark.

17. The Plaintiff contends that the impugned mark 

infringes upon the Plaintiff's mark.

18. The Plaintiff contends that the geometric pentagonal structure 
is the distinctive feature of its mark 

, which has been copied by the Defendant, leading to

infringement. It contends that the black and white registration confers upon the Plaintiff the right to use the mark in any colour combination and therefore the Defendant's use of the impugned mark [though in a different colour combination] amounts to infringement of the Plaintiff's registered mark.

19. It contends that the Plaintiff's marks are registered in Class 29 and Class 30; so also, the Defendant's goods sold under the impugned mark are similar to Plaintiff's goods and fall in the same class. The Plaintiff contends that it started using its registered device marks in 2018, whereas the Defendant commenced the usage of its impugned mark on 10.10.2022.

20. The Plaintiff has made a disclosure that it has subsequently, on 08.08.2023, filed an application with the Trademark Registry for registration of the blank geometric pentagonal structure device  vide the TM no. 6056657, in this colour combination of red, green and yellow. As on the date of filing of the suit, the said application had been accepted and advertised.

21. The Plaintiff has also placed on record the declaration of its wordmark 'BRITANNIA' as a well-known trademark. In the aforenoted facts, the Plaintiff avers that the impugned mark infringes the Plaintiff's registered marks.

22. The Plaintiff contends that it learnt about the Defendant's impugned mark while carrying out due diligence in March 2024 in the Trademark Registry and thereafter issued a legal notice on 13.04.2024, which was replied to on 15.04.2024.

23. The Defendant has stated that it is engaged in the manufacturing and sale of flavoured candies, confectionery, cake decoration confectionery, preserved and dried fruits, nuts, condiments and herbs. The Defendant, therefore, contends that its products are completely distinct from the Plaintiff's bakery and dairy products. It contends that its label packaging, trade name, actual products, trade channels and class of consumers are different and distinct.

It contends that it adopted the impugned [device] mark bearing the word 'RENEWTRIA' in October 2022 and has achieved goodwill through online sales on e-commerce platforms Amazon, Flipkart, Jiomart, and Meesho. The Defendant has clarified that it only sells its products on the e-commerce platforms and through no other means.

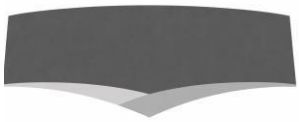
24. The Defendant contends that the true and correct comparison of the marks has been set out by the Defendant at paragraph '16' of its written statement and that,

(i) There is no similarity in the label trademarks of the parties when compared as a whole;

(ii) The goods covered by the rival marks are dissimilar;

(iii) There is no likelihood of deception amongst the customers.

25. The Defendant contends that the mark of the Defendant, when seen as a whole, the font, style, the colour scheme, the pentagonal structure, the curvaceous style with highlighted curves, is different and distinct.

26. The Defendant contends that the mere geometric pentagonal structure  of the Plaintiff's mark, devoid of any colour combination and without the word/name 'BRITANNIA', is not by itself a distinctive feature of the Plaintiff's registered mark. It contends that there is no acquired distinctiveness in the mere shape of the geometric pentagonal structure of the Plaintiff's mark, and there is no evidence on record that would show that the consumer associates the geometric pentagonal structure only with the Plaintiff's marks and goods. It contends that a geometric pentagonal structure is also used by other proprietors and illustratively refers to the device mark used by LEVI'S.

27. The Defendant contends that the Plaintiff would have to prove during the trial that the geometric pentagonal structure, per se, is a distinctive feature of the Plaintiff's marks and has become so distinctive that a customer associates the geometric pentagonal structure only with the Plaintiff's marks and goods.

28. This Court notes, at the outset, that though in the plaint at paragraph '37', there is an averment that the Plaintiff's wordmark 'BRITANNIA' and the Defendant's mark 'RENEWTRIA' are phonetically similar, however, no such plea was pressed during the oral arguments. Even otherwise, this Court is of the considered opinion that the Defendant's wordmark 'RENEWTRIA' is distinct from the Plaintiff's wordmark 'BRITANNIA'. The font, style and the colour scheme in which the word 'RENEWTRIA' is written in the impugned mark is distinct from the manner in which the word 'BRITANNIA'

is written in the Plaintiff's registered mark. This Court therefore finds no visual and phonetic similarity in the two [2] marks.

29. The next step would therefore be to consider whether the wordmark 'RENEWTRIA' appearing in the geometric pentagonal structure is visually and structurally similar to Plaintiff's wordmark 'BRITANNIA' appearing in its geometric pentagonal structure.

30. It is trite law that for testing the visual and structural similarity, rival composite marks are to be compared as a whole, rather than dissecting them and comparing the individual aspects to determine the likelihood of consumer confusion.

This is because the Courts acknowledge that it is the overall impression of the composite mark that imprints itself on the psyche of a consumer, rather than the parts of it. It is well established that an average consumer, while buying products, will not retain the individual elements of a mark. Instead, it is the overall impression created by the [Plaintiff's] mark upon the ordinary consumer, based on a cursory observation in the marketplace, that determines the likelihood of confusion when comparing it with an impugned mark, and not the impression derived from a meticulous comparison or a carefully weighed side-by-side analysis, as done legally. Thus, whilst determining deceptive similarity in trademark cases, the Courts have held that it has to assess the likelihood of confusion from the perspective of a person of average intelligence with imperfect recollection. The Courts have also held that while imperfect recollection is a fact, confusion or deception is not to be assumed easily, as the average consumer is not overly prone to being misled.

31. This Court therefore has to compare rival marks as a whole, so as to assess whether there is a deceptive element in the similar features of the rival

marks, irrespective of the individual dissimilar features. The similarity in the rival marks must be significant enough to lead an average consumer to believe that the products bearing the infringing mark are from the same manufacturer who is the proprietor of the registered mark, or are associated with it.

32. Thus, in the first instance, this Court deems it appropriate to compare the rival marks as a whole.

33. It is a matter of record that the Plaintiff is currently using its marks in 

and 

in this colour combination on its products. No other colour combination has been brought to record, even with respect to past use.

34. The Defendant, on the other hand, is using its mark in a distinct colour composition of black and orange 

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35. In order to assess whether the rival marks are deceptively similar, this Court also deems it appropriate to compare the rival marks as they are actually used on the product to consider whether they are deceptively similar. The said comparison, as relied upon by the Plaintiff in the written submissions, is as follows:

Particulars	Plf.	Def.
Use		

The Plaintiff has heavily relied upon the use of its mark as seen on its Pure Magic range of products to contend that the Defendant's mark is deceptively similar to this use of the Plaintiff's mark in the colour combination of purple and gold.

36. Having perused the impugned mark being used on the product by the Defendant reproduced hereinabove, this Court is of the prima facie view that there is no deceptive similarity in the rival marks, tested from the point of view of an average consumer with imperfect recollection. It appears highly unlikely that the consumer, upon seeing the Defendant's products bearing the mark 'RENEWTRIA', would be reminded of the Plaintiff's trademark so as to associate the mark 'RENEWTRIA' with 'BRITANNIA'. The feature of a geometric pentagonal structure appearing in the impugned mark fails to invoke any connection with the Plaintiff's mark.

37. However, even if this Court were to undertake a side-by-side comparison of the rival marks, this Court finds that the wordmark 'BRITANNIA' and the wordmark 'RENEWTRIA' are the prominent features

of the rival marks, which create an impression in the mind. In the considered opinion of this Court, the said prominent features in the rival marks are so dissimilar that they would outweigh any similarity arising on account of the geometric pentagonal structure, thereby nullifying any chance of confusion.

In this regard, reliance is being placed upon the judgment of a Coordinate Bench of this Court in **BRITANNIA Industries Ltd. v. ITC Ltd. and Others**[8]. The relevant paragraphs read as follows: -

> "15. The definitive test, whether in the case of infringement or passing off, is that of confusing or deceptive similarity. It is true that, in examining this aspect, the court is not expected to ferret out points of dissimilarity between two marks, as absolute identity between marks is rarely, if ever, encountered, except where one makes unauthorised use of the mark of another. The examination by the court is, generally, required to be directed towards assessing whether there is a deceptive extent of similarity between the marks irrespective of their individual dissimilar features. It is for this reason that courts have held that the approach should be one of emphasising the similarities, rather than the dissimilarities, between the marks.
>
> 16. Having said that, points of dissimilarity between rival marks cannot be regarded as irrelevant. They cannot be ignored. The perception, whether in the case of infringement or passing off, is to be that of a person of average intelligence and imperfect recollection - not of an idiot, or an amnesiac. The average human mind has not been particularly conditioned to observe only similarities, and overlook dissimilarities. Section 29(1) uses the word "deceptive", whereas Section 29(2) uses the expression "cause confusion". Deception and confusion are both states of mind, of which no physically tangible evidence can ever be found. **If similarities can cause deception or confusion, dissimilarities, if sufficient, can also obviate any such possibility**. At the end of the day, the court is required to come to an opinion as to whether a person of average intelligence and imperfect recollection is likely be deceived, or to confuse the defendants' marks (in the case of infringement) or the defendants' product (in the case of passing off) with that of the plaintiff. **If, therefore, between the rival marks, the points of dissimilarity are so stark that they shade or overweigh the points of similarity, the court may legitimately arrive at a conclusion that, irrespective of the points of similarity, no possibility of confusion or deception exists.**

[8] 2021 SCC OnLine Del 1489

> **17. For this, one of the most important assessments that the court is required to make is as to the features, of the rival marks, which are most prominent. If there is stark dissimilarity in the prominent, or essential, features of the rival marks, as would impress on the mind of the person of average intelligence and imperfect recollection, no finding of confusing or deceptive similarity can be arrived at**."
>
> [Emphasis supplied]

38. In addition, this Court, firstly, finds on the evaluation of the Plaintiff's mark that the geometric pentagonal structure is not the dominant/distinctive feature of the Plaintiff's mark. The said geometric pentagonal structure without the word mark 'BRITANNIA' fails to make any impression on the mind. Secondly, it is a matter of record that the Plaintiff does not use the geometric pentagonal structure as a standalone feature/mark on its products or advertisement campaigns or in any manner without its wordmark. Lastly, this Court notes that the Plaintiff has not placed on record any material which would lead this Court to form an opinion at this interlocutory stage that the geometric pentagonal structure [without the wordmark BRITANNIA] has acquired such distinctiveness in the minds of the consumers that they associate the said shape [without the wordmark BRITANNIA] only with the Plaintiff. There is no documentary evidence on record for the Court to conclude that the geometric pentagonal structure in the Plaintiff's mark has attained its own distinctiveness as a standalone mark. The Plaintiff has not placed on record any evidence to prove any goodwill associated with the geometric pentagonal structure, without the wordmark 'BRITANNIA'.

39. This Court, therefore, finds that there is no deceptive similarity in the rival marks.

III. Goods, Trade channels and absence of confusion

40. Also, this Court finds merit in the Defendant's submission that the goods which are being sold by the Defendant are distinct and separate from the Plaintiff's goods. To this extent, during arguments, even the Plaintiff has not disputed that the goods are separate; however, it has merely contended that the goods fall in the same Classes. Though in its plaint, the Plaintiff has asserted that the goods are identical, however, this submission was not pressed during the arguments. This Court thus finds that there is no similarity in the goods sold by the parties.

41. The Defendant has pleaded that it sells its goods only through e-marketplaces and not through brick-and-mortar shops. The Plaintiff has not disputed the said contention. On the basis of the products of the parties reproduced hereinabove, this Court is of the prima facie view that a bare comparison of the products, including the marks as a whole, the colour combinations, and the packaging style reveals no similarity whatsoever in their overall commercial impression, which may mislead the consumers surfing on the e-commerce website to mistake the goods of the Defendant for the goods of the Plaintiff. This Court is also of the view that the process of purchasing goods on e-commerce websites is intentional and mindful, and the likelihood of the consumer mistaking the goods of the Defendant as the goods of the Plaintiff, despite the distinct wordmark 'RENEWTRIA', seems highly unlikely.

42. This Court does not find that any consumer is likely to associate the Defendant's goods sold under the brand 'RENEWTRIA' with the Plaintiff's mark/brand 'BRITANNIA'. There are more than enough differentiating features on the packaging in order to avoid any issue of the Defendant's

products being mistaken for those of the Plaintiff. There is admittedly no evidence of any confusion of the consumers with respect to the rival marks.

IV. Infringement

43. Thus, this Court has considered the submissions of the parties in view of Section 29 of the Act of 1999. For infringement to be proved under the said section, the Plaintiff was required to fulfil the following essentials of the said section: -

i. That the impugned mark is similar or identical to the trademark of the plaintiff

ii. The goods/services rendered by the impugned mark are identical or similar to the goods/services of the plaintiff.

iii. In view of the similar marks and goods, there is a:

   a. Likelihood of confusion

   b. Likelihood of association

44. In cases of infringement, it is settled law that the burden lies upon the Plaintiff to prove that the Defendant is using the impugned mark in such a manner that is deceiving. However, in view of the foregoing discussion, the Plaintiff has evidently failed to fulfil conditions (ii), (iii) and (iv) of Section 29 of the Act of 1999. Furthermore, the Plaintiff has failed to persuade the Court that the geometric pentagonal structure is a distinctive feature of the Plaintiff's mark. Consequently, the plea of infringement stands rejected.

45. The Plaintiff has relied upon the judgment of **Adidas AG v. Praveen Kumar**[9] and **Nilkamal Crates and Containers and Another v. Reena Rajpal and Another**[10] to substantiate its arguments of infringement.

[9] 2019 SCC OnLine Del 8603
[10] 2023 SCC OnLine Del 7129

However, in the considered opinion of this Court, the aforesaid judgments are not applicable to the facts of this case for the following reasons: -

i. **Adidas AG v. Praveen Kumar-** In this case, the goods in question were identical, and the sole essential feature of the plaintiff's mark had been copied by the Defendant in an identical manner. The essential/dominant feature of the mark had also been determined by multiple authorities in earlier proceedings and had acquired its own distinctiveness. Further, the plaintiffs had placed on record documents showing various promotional activities of the brand bearing the 'Three Stripes'. The defendants themselves had no objection to the grant of a permanent injunction in those circumstances.

However, the Plaintiff herein has failed to establish its goodwill and reputation in the geometric pentagonal structure without the wordmark 'BRITANNIA'.

ii. **Nilkamal Crates and Containers and Another v. Reena Rajpal and Another-** In this case, the goods were identical and stark similarity was found in more than four features of the rival marks marks. On a comparison of the marks as a whole, the Court held the marks to be deceptively similar. Additionally, the defendant had given an undertaking to change its device mark.

46. While this Court takes note that the 'BRITANNIA' is a well-known trademark, the said well-known status rests with the wordmark 'BRITANNIA', and it has no bearing on the feature of the geometric pentagonal structure. The said feature on the Plaintiff's own showing was adopted in 2018, and there is no evidence on record to show that this feature, in isolation, has acquired distinctiveness in the minds of the consumers.

47. Since, the blank geometric pentagonal device is one of the elements of the trademark registered as TM nos. 3827311 and 3827312 and this Court has already opined that there is no evidence on record to persuade this Court that this is dominant/distinctive feature of this trademark and in the absence of any separate registration of this mark on 10.10.2022 when the impugned mark was adopted by the Defendant, this Court finds no merit in the submission of the Plaintiff that there has been any infringement by the Plaintiff's mark TM nos. 3827311 and 3827312.

48. During the pendency of this suit, the Petitioner's application for the mark 6056657 pertaining to the blank geometric pentagonal structure, which was filed on 08.08.2023, was granted registration on 21.09.2024. In this application, the registration was granted in a colour combination of red, green and yellow. Learned counsel for the Plaintiff has stated that he is not relying upon the said registration for the rights claimed in this application. Also, having taken into view that the Plaintiff has a registration for the mark , we find the said registration to be irrelevant herein, considering that it registered the said mark in the colour combination of red, green and yellow. Notwithstanding the above, the Defendant admittedly adopted the rival mark on 10.10.2022, much prior to the filing of this application. As noted above, the Plaintiff has not proved any goodwill in the blank geometric pentagonal structure. It would be a moot point, to be determined at trial, as to the extent of sales attributable solely to the geometric pentagonal structure as opposed to those arising from the trademarks consisting of the wordmark 'BRITANNIA'.

49. Therefore, the Plaintiff has, prima facie, failed to satisfy this Court at this stage that the geometric pentagonal structure is a dominant element of its registered TM no. 3827311 and 3827312. This Court has perused the documents placed on record, and admittedly, this feature of the mark is not used separately and independently so as to create any association in the minds of the general public of this feature.

50. The Defendant started using the mark in October, 2022, and the present suit was filed on 29.05.2024. There is nothing on record to show that the Plaintiff has suffered any damage due to the sales undertaken by the Defendant under the impugned mark. The Plaintiff's sales have remained unaffected. This Court, therefore, finds that the balance of convenience is in favour of the Defendant and no irreparable injury will be caused to the Plaintiff.

51. It is clarified that nothing said in this order will affect the rights of the parties to be decided post-trial.

52. However, to balance the equities so as to protect the interest of the Plaintiff in case it succeeds in its trial and is held entitled to its claim for damages, the Defendant is directed to maintain its books of accounts and file audited statement of its gross sales turnover for the goods sold under the impugned mark with the Registry every six [6] months for the period ending March and September of each financial year respectively until the final disposal of the suit, with a copy to the Plaintiff.

53. The application is accordingly dismissed.

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54. List before the Roster Bench for directions on 10.04.2026.

MANMEET PRITAM SINGH ARORA, J

MARCH 24, 2026/msh/aa