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

% Judgment reserved on: 17.02.2026
Judgment delivered on: 10.03.2026

CO(COMM.IPD-CR) 18/2023 & I.A. 23338/2023

HEINEKEN ASIA PACIFIC PTE. LTD. .....Petitioner

versus

MR. VIJAY KESHAV WAGH AND ORS. .....Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Priya Adlakha and Ms. Urvi Nama, Advocates.

For the Respondents : Ms. Apoorva Sharma, Advocate for R-1.
Mr. Sumit Nagpal, SPC with Mr. Kunal Khurana, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

1. The present petition has been filed under Section 50 of the Copyright Act, 1957 (hereinafter referred to as *'the Act'*) seeking rectification of the entry in the Register of Copyrights with respect to the impugned copyright registration for the Artistic Work titled "SHREE SAKSHAT" bearing Registration No.A-116796/2017 dated 04.05.2017.

2. The petitioner i.e. Heineken Asia Pacific Pte. Ltd. claims to be registered under the laws of Singapore and is an internationally recognized and global leader in the business of manufacture and supply of beverages, including but not limited to beer.

3. Petitioner claims that its string of world renowned beverages includes the 1932, Singapore-born lager beer under the trademark "TIGER". Petitioner claims that the said beer has been launched in a variety of flavours namely TIGER ORIGINAL, TIGER BLACK, TIGER WHITE, TIGER CRYSTAL, TIGER RADLER & TIGER SOJU INFUSED LAGER. Petitioner claims that TIGER beer is one of the premium brands across Asia and in many countries of the world. The label associated with TIGER beer is claimed to have evolved over the years and pictorially depicted as under:-

Years	Tiger logo
1932	
1962	
1986	
2005	
2016	

4. The aforesaid logos are said to be the outcome of creative endeavours of the petitioner's design team and constitute original artistic

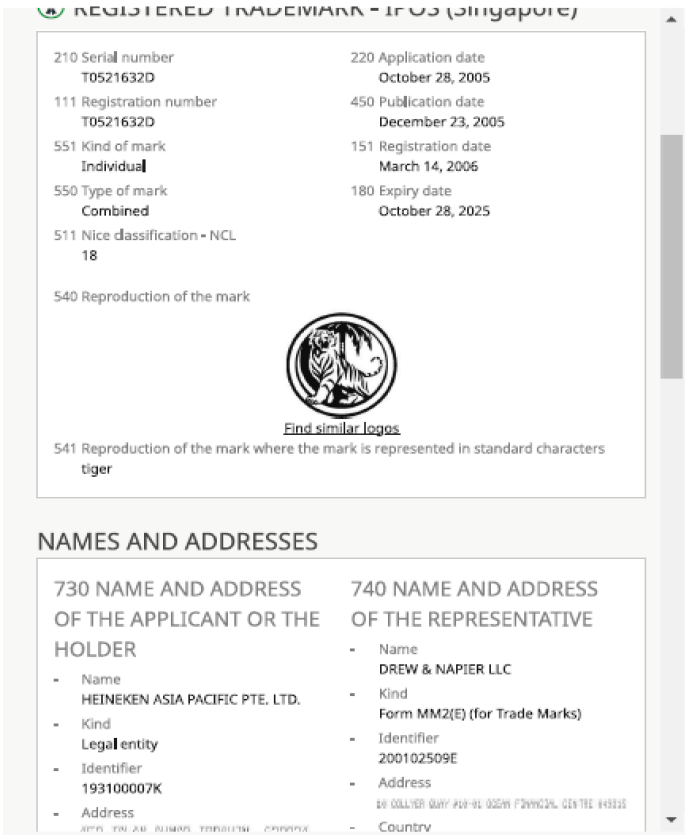
works of which the petitioner is the first owner of the copyright. Though the said logos were created in Singapore, however, by virtue of Berne Convention, copyright thereof would extend to all signatory countries including India. The logo which is subject matter of the present petition was first published as early as October, 2005, and is characterized by an artistic depiction of a Tiger with an outstretched left front paw, an open mouth where its teeth are visible, and a head that is turned towards the left. The tail is upturn and curled towards the right. A mane is visible around the Tiger's face and its eyes are not discernable. The pictorial depiction of the Tiger logos are reproduced hereunder:





5. The international registration enjoyed by the petitioner and as maintained in the global brand database by World Intellectual Property Organization (hereinafter referred to as "*WIPO*") is annexed as Document-12 to the petition at page 180 of the paperbook, which indicates the trans-border registration of the TIGER logo and its formative device and word marks. The same are not being reproduced hereunder for the sake of brevity and run into almost 180 registrations worldwide. Similarly, the registrations of the mark TIGER dated 05.12.2005 in Australia, China, Germany, Italy, Japan etc., are placed in the documents from page 192 onwards of the paperbook.

6. The subject matter mark of the petitioner registered in Singapore appearing at page 240 is extracted hereunder:



REGISTERED TRADEMARK - IPOS (Singapore)

210 Serial number
T0521632D

220 Application date
October 28, 2005

111 Registration number
T0521632D

450 Publication date
December 23, 2005

551 Kind of mark
Individual

151 Registration date
March 14, 2006

550 Type of mark
Combined

180 Expiry date
October 28, 2025

511 Nice classification - NCL
18

540 Reproduction of the mark

Find similar logos

541 Reproduction of the mark where the mark is represented in standard characters
tiger

NAMES AND ADDRESSES

730 NAME AND ADDRESS OF THE APPLICANT OR THE HOLDER

- Name
HEINEKEN ASIA PACIFIC PTE. LTD.
- Kind
Legal entity
- Identifier
193100007K
- Address

740 NAME AND ADDRESS OF THE REPRESENTATIVE

- Name
DREW & NAPIER LLC
- Kind
Form MM2(E) (for Trade Marks)
- Identifier
200102509E
- Address
- Country

REGISTERED TRADEMARK - IPOS (Singapore)

210 Serial number
T0521632D

220 Application date
October 28, 2005

111 Registration number
T0521632D

450 Publication date
December 23, 2005

551 Kind of mark
Individual

151 Registration date
March 14, 2006

550 Type of mark
Combined

180 Expiry date
October 28, 2025

511 Nice classification - NCL
18

540 Reproduction of the mark

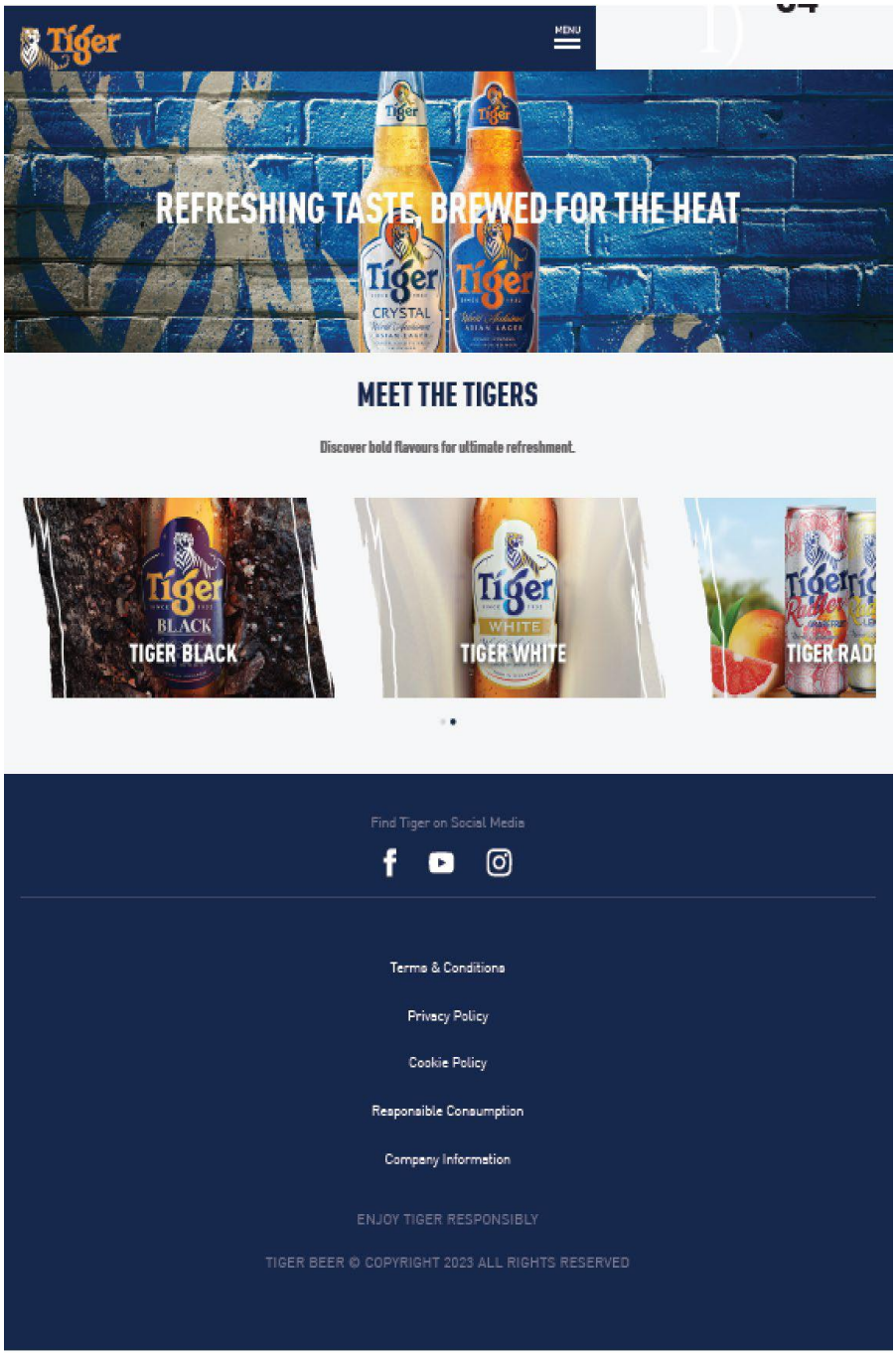
541 Reproduction of the mark where the mark is represented in standard characters
tiger

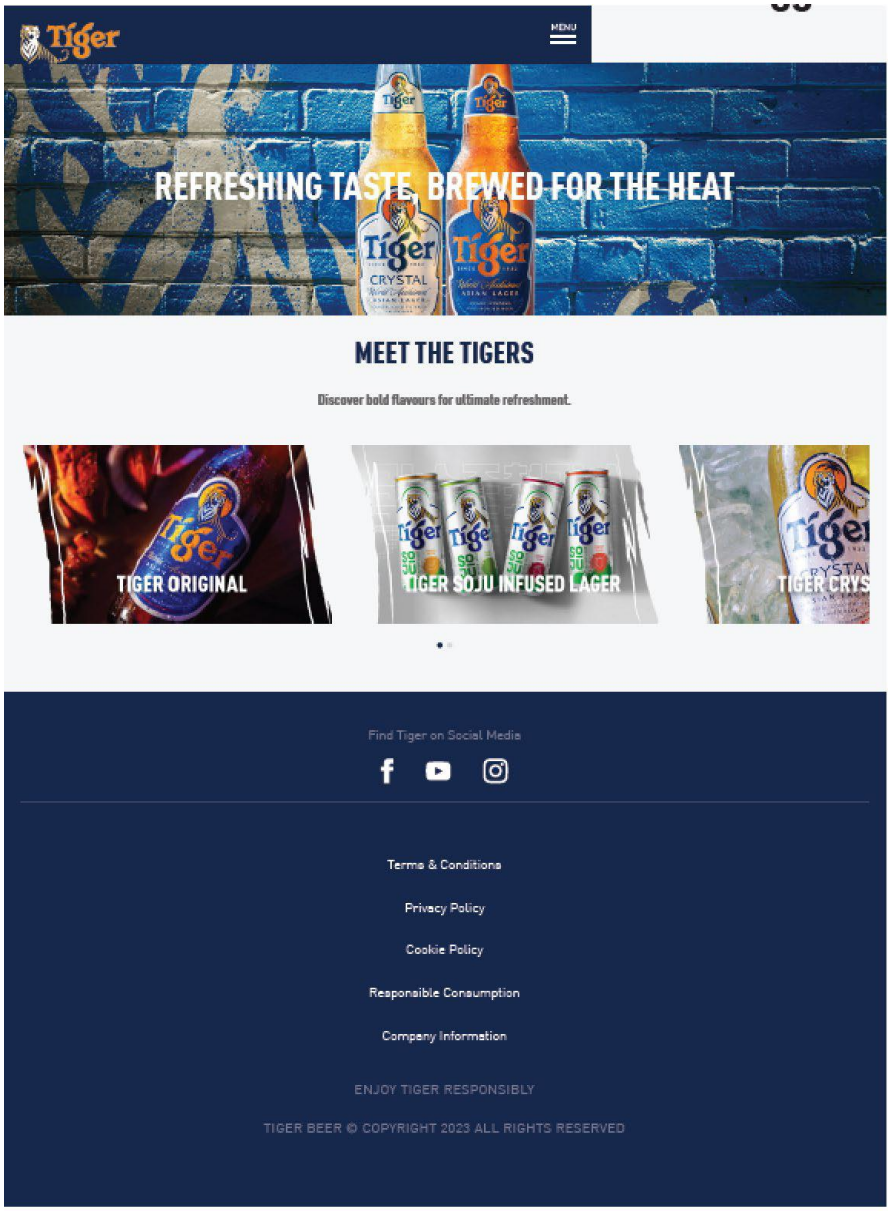
NAMES AND ADDRESSES

Similar registrations in Singapore follow from page 249 onwards of the documents annexed to the petition.

7. The advertisements depicting the TIGER BEER logo are also placed on record at page 64 of the paperbook, which is the website of the

petitioner, and at page 69 of the paperbook, which is a third-party website. The third-party website indicates the history of the TIGER logo commencing from the year 1932 onwards till date. Extracts of both the websites are reproduced hereunder:





8. Petitioner claims that in April, 2008, it entered the Indian market with its TIGER beer through its Indian subsidiary, Asia Pacific Breweries (India) Private Limited using the logo "Tiger". Though it is claimed that the TIGER beer was available in India even prior to the year 2008 when it

was launched. To support the claim that the TIGER beer was launched in the year 2008, the coverage of such launch captured on photographs is enclosed in Document-9, some of which are reproduced hereunder:

campaign

Document - 9

Marketing
Campaign India Team | Apr 16, 2008

APB launches Tiger beer in India

Asia Pacific Breweries has finally launched its flagship beer brand Tiger in India. The company aims to tap the burgeoning Indian beer market with this new entry. Tiger beer has been launched through APB's Indian subsidiary, Asia Pacific Breweries Aurangabad Limited. The brand will soon be rolled out in Delhi followed by Andhra Pradesh.



Asia Pacific Breweries has finally launched its flagship beer brand Tiger in India. The company aims to tap the burgeoning Indian beer market with this new entry. Tiger beer has been launched through APB's Indian subsidiary, Asia Pacific Breweries Aurangabad Limited. The brand will soon be rolled out in Delhi followed by Andhra Pradesh. The marketing campaign for the new brand will begin from next week. Chetan Gupta, marketing manager, APBL, said, "We are looking for experiential platforms for the marketing initiatives. The brand positioning will be around the theme, passion for winning, which has been the core philosophy of the brand. Ground activation will commence shortly. We are right now looking at various sports and music properties for tie-ups." Tiger is the official partner of FC Barcelona and FC Arsenal for the South East Asian markets. With the increasing popularity of European football in India, Tiger will most likely use football as a marketing platform in India as well.

Source: *Campaign India*

Tags
TIGER | APB

RELATED ARTICLES



ADVERTISING |
Mar 27, 2015
Weekend Fun: Tiger Beer launches cheeky 'Unofficial ...

campaign

Marketing
Campaign India Team | May 28, 2008

Tiger launches in India with 'Translate'

Asia Pacific Breweries' Tiger Beer has chosen to mark their entry into India through the launch of their global initiative Translate, a platform for musicians and artists to come together. Translate was launched globally in 2006 by Asia Pacific Breweries as a platform to showcase emerging Asian art. In India, Tiger is relying largely on efforts like Translate, besides radio and outdoor as a part of their marketing strategy for now.



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Password

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9. The petitioner exercises its statutory rights over the TIGER logo in India, under the Trade Marks Act, 1999 on the basis of numerous registrations commencing from 02.01.2006, which is the subject matter of the present *lis*. The said logo registrations are reproduced hereunder:

S. N.	Trade mark	Registration No.	Dated	Class
1.		1410757	January 02, 2006	32
2.		1410765	January 02, 2006	32
3.		IRDI-3466744	August 10, 2016	32
4.		IRDI-3479842	August 12, 2016	32
5.		IRDI-4956646	December 08, 2020	32
6.		IRDI-5110686	June 28, 2021	32

10. It is stated that serial nos.1 and 2 of the aforesaid table refers to the registrations in India, however, the registrations mentioned at serial nos.3 to 6 are international registrations to which, India too, is a party. The

application for registration of the TIGER logo device mark submitted on 02.01.2006 with user detail of 02.01.2006 for Class-32 (Beer, Ale, Lager, Stout and Mont Beverages) alongwith the image is extracted hereunder:

As on Date : 29/09/2023 View Registration Certificate
Status : Registered View TM Application

TM Application No.	1410757
Class	32
Date of Application	02/01/2006
Appropriate Office	CHENNAI
State	TAMIL NADU
Country	India
Filing Mode	Branch Office
TM Applied For	(TIGER LOGO)
TM Category	TRADE MARK
Trade Mark Type	DEVICE
User Detail	02/01/2006
Certificate Detail	Certificate No. 1611074 Dated : 19/07/2017 Notified in Journal No : 1808
Valid upto/ Renewed upto	02/01/2026
Proprietor name	(1) HEINEKEN ASIA PACIFIC PTE. LTD. Body Incorporate
Proprietor Address	459 JALAN AHMAD IBRAHIM, SINGAPORE 639934.
Email Id	
Attorney name	REMFRY & SAGAR[12441]
Attorney Address	REMFRY HOUSE AT THE MILLENNIUM PLAZA SEC 27, GURGAON 122009, NEW DELHI NATIONAL CAPITAL REGION INDIA
Goods & Service Details	[CLASS : 32] BEER, ALE, LAGER, STOUT AND MALT BEVERAGES.
Publication Details	Published in Journal No. : 1386-0 Dated : 16/02/2008

Opposition/Rectification Details

Date	Opp. Number	Opponent Code	Opponent Name & Address	Details
14/05/2008	[725165]	[16724]	BRITANNIA INDUSTRIES LIMITED 5/1A, HUNGERFORD STREET, KOLKATA-700 017	Details



As on Date : 29/09/2023 View Registration Certificate

Status : Registered View TM Application | View Additional Representation Sheet

TM Application No.	1410765
Class	32
Date of Application	02/01/2006
Appropriate Office	CHENNAI
State	TAMIL NADU
Country	India
Filing Mode	Branch Office
TM Applied For	TIGER (LOGO)
TM Category	TRADE MARK
Trade Mark Type	WORD
User Detail	02/01/2006
Certificate Detail	Certificate No. 1565651 Dated : 31/05/2017 Notified in Journal No : 1801
Valid upto/ Renewed upto	02/01/2026
Proprietor name	(1) HEINEKEN ASIA PACIFIC PTE. LTD. Body Incorporate
Proprietor Address	459, JALAN AHMAD IBRAHIM, SINGAPORE 639934.
Email Id	****puthrans.com
Agent name	PUTHRAN & ASSOCIATES[13400]
Agent Address	B-3, KESAVAN ORCHID (3RD FLOOR), 5/7, NORTH MADA ST., SRI NAGAR COLONY, SAIDAPET, CHENNAI-600015.
Goods & Service Details	[CLASS : 32] BEER, ALE, MALT BEVERAGES, STOUT, LAGER, PORTER, GOODS IN THE NATURE OF LAGER AND ALCOHOLIC BEER EXCLUDING COLD DRINKS AND ITS CONCENTRATES.
Publication Details	Published in Journal No. : 1385-1 Dated : 01/02/2008

Opposition/Rectification Details

Date	Opp. Number	Opponent Code	Opponent Name & Address	Details
16/04/2008	[723802]	[13202]	PERRY BOTTLING CO. PERRY LANE, BOMBAY MOTOR CIRCLE, JODHPUR-342003	Details
14/05/2008	[725164]	[16724]	BRITANNIA INDUSTRIES LIMITED 5/1A, HUNGERFORD STREET, KOLKATA-700 017	Details



11. Petitioner claims to be aggrieved by the impugned copyrighted work of the respondent no.1 whereby the device mark of the TIGER has been unauthorizedly adopted by respondent no.1. The impugned copyrighted work is reproduced hereunder:



12. Petitioner claims that the application for copyright registration of the impugned artistic work was filed on 02.03.2016, which was well after the date of first publication of petitioner's artistic work. It is claimed that the impugned artistic work clearly incorporates an identical artistic work of a mark TIGER, which belongs to the petitioner. Petitioner also claims that merely by adding a 'V' in the backdrop of the TIGER, and adding the words 'SHRI' (in Hindi) on top and 'SAKSHAT' (in English) at the bottom of the 'V' do not substantially change the character or nature of work, and that it infringes the petitioner's TIGER logo/mark.

13. Aggrieved by the above infringement of the copyrighted works by respondent no.1, the petitioner has preferred the present petition.

CONTENTIONS OF THE PETITIONER:-

14. Ms. Priya Adlakha, learned counsel appearing for the petitioner submitted that the right of the respondent no.1 to file its reply was closed by the Joint Registrar (Judicial) *vide* order dated 17.11.2025. She further submitted that even written submissions in respect of issue on law have never been filed by the respondent no.1. In such circumstances, she would submit that since there is no pleading objecting to or refuting the averments contained in the present petition, coupled with the fact that there is no traverse to the facts stated by the petitioner, such facts, statements and documents placed on record in support of the present petition ought to be deemed to have been admitted and a direction for rectification under Section 50 of the Act ought to be passed to the extent of expunging the impugned mark of the respondent no.1 from the Register of the Copyrights.

15. Ms. Adlakha, at the outset, submitted that the respondent no.1 *malafide*, filed an application dated 02.03.2016 seeking registration of its artistic work as an author on the basis that the work was unpublished, which is contrary to the records. She stated that the procedure prescribed under the Act, on such application is mentioned in Section 45 of the Act. A Search Certificate ought to be obtained before the copyright sought for is registered. Learned counsel submitted that curiously, the Search Certificate dated 18.01.2016 issued by respondent no.3/Registrar of Trade Marks is conspicuous by the absence of mention of petitioner's logo which would have indicated that the mark of respondent no.1 is clearly identical or deceptively similar to the original artistic work of the petitioner. She would contend that having regard to the illegality committed by the Trade Marks Registry, the petition ought to be allowed and the copyright registration in favour of respondent no.1 ought to be expunged from the Register of

Copyrights.

16. Learned counsel would next contend that respondent no.1 is a Trademark Squatter, and cannot be permitted to misuse the registrations. She would contend that the respondent no.1 has applied for the trademark registration of the identical mark across all 45 Classes. As an example to demonstrate the *malafide* of respondent no.1, she drew the attention of this Court to the trademark application no.2979728 for goods in Class-01 dated 09.06.2015 at page 105 of the petition, claiming the user detail of 21.05.2015 for the very same artistic work, which is now sought to be registered under the Act, to submit that it is contrary to, and violative of the declaration in the copyright application dated 02.01.2016 whereby respondent no.1 had declared that the mark is unpublished. She contended that in case the declaration was true and the artistic work was unpublished as on 02.01.2016, the trademark application for the very same mark applied for on 09.06.2015 would establish that the declaration is false. For this reason too, she forcefully contended that the impugned copyright registration must go. She also submitted that having regard to the conduct of respondent no.1, he must be declared to be a Trademark Squatter.

17. She relied on the order dated 19.10.2023 in C.O.(COMM.IPD-TM) 225/2023 and C.O.(COMM.IPD-TM)226/2023 passed by this Court between the same parties whereby in para 6 of the said order, in respect of the very same trademark, based on the impugned artistic work in Class-32 and 33, respondent no.1 was directed to maintain *status quo* and no transfer or license in respect of the said registration or assignment was permitted.

18. Learned counsel also referred to and relied on Section 13(1)(a), Section 17 and proviso to Section 45(1) of the Act in support of the

aforesaid contentions. She contended that the impugned registration had been granted in contravention of the aforesaid provisions including Rule 70(6), particularly clauses (e), (f), (g) and (h) of the Copyright Rules, 2013 on the ground that the Search Certificate dated 18.01.2016, issued by respondent no.3 under Rule 24(3) of the Trademark Rules, 2017 did not cite the prior existing trademark of the petitioner nor the pending applications. Thus, the impugned registration being erroneous and faulty, ought to be expunged from the Register of Copyrights.

19. She relied upon the following judgments in support of her aforesaid arguments:-

a) Marico Ltd. vs. Mrs. Jagit Kaur, (2018) SCC OnLine Del 8488;

b) . Polo/Lauren Company LP vs. Sandeep Arora & Anr., (2022) SCC OnLine Del 341;

c) BPI Sports LLC vs. Saurabh Gulati & Anr., (2023) SCC OnLine Del 2424;

d) Manju Singal Proprietor Singla Food Products vs. Deepak Kumar & Anr., (2023) SCC OnLine Del 5503;

e) Hugo Boss Trademark Management GMBH & Company KG vs. Sandeep Arora trading as Arras the Boss & Ors., (2023) SCC OnLine Del 7956.

CONTENTIONS OF THE RESPONDENT:-

20. *Per contra*, Ms. Apoorva Sharma, learned counsel appeared on behalf of the respondent no.1 and stated that it is well settled that the comparison of two logos have to be seen as a whole and in a composite manner and not in bits and pieces. She also submitted that there is no

exclusivity attached to the copyrights in the TIGER logo mark since there are many similar brands and trademarks using the word "TIGER" or the logo of a "TIGER", and as such, the purported original artistic work existing in the TIGER logo stands diluted. She would contend that in such circumstances, the original artistic work of respondent no.1 containing the TIGER logo with the alphabet 'V' in the background when compared in the composite manner with that of the petitioner, clear distinction can be drawn by any person merely by looking at it.

21. In support of the aforesaid contention, she also relied upon Section 50 of the Act, to submit that the prayer as made in the present petition can only be acceded to, if any entry is wrongly made, which is clearly not made out by the petitioner. Predicated thereon, she would contend that the petition be dismissed.

ANALYSIS AND CONCLUSION:-

22. At the outset, it would be relevant to straightaway compare both the marks/logos in the case at hand. The comparative table is reproduced hereunder:

Petitioner's Logos	Respondent No.1's impugned logo
	

23. A close scrutiny of both the logos clearly evidence the fact that the TIGER logo of the petitioner has been copied in totality, in that, the Tiger with an outstretched left front paw, an open mouth where its teeth are visible, and a head that is turned towards the left; the tail is upturned and curled towards the right; a mane is visible around the Tiger's face, and its eyes are not discernable, is clearly described by the petitioner. The mere placement of the letter 'V' in the backdrop with the letters "SHRI" (in Hindi) and "SAKSHAT" (in English) placed at the top and bottom of the logo respectively, would not, *ipso facto*, diminish the effect or the essentiality of the TIGER logo. In other words, the TIGER logo is the dominant feature or the prominent aspect of the entire mark/label of respondent no.1.

24. Another fact which has not been denied or rebutted by the respondent no.1 is that the petitioner has multiple registrations for the logo/mark TIGER both in India and in other foreign jurisdictions as detailed in paras 9 and 10 of the petition. This TIGER logo has been registered in Singapore on 06.04.2006, and continues to be valid till date. Same logo has also been registered in India *vide* the Certificate No.1611074 dated 19.07.2017. The said Certificate and the label is reproduced in the preceding paragraphs.

25. The petitioner has asserted that the TIGER logos were the outcome of creative endeavours of its design team which would constitute original artistic work, whereby the petitioner would be the first owner and as per the Berne Convention, such copyright would extend to all signatory countries, including India. This assertion is duly supported by the law laid down in ***Marico*** *(supra),* particularly in paragraph 11, whereby this Court has

observed that though the trademarks and copyright operate under different statutes, since the rights in original artistic work could overlap with the label mark registrable under the Trade Marks Act, 1999, the proviso to Section 45 in the Act has been engrafted. This Court in ***Polo/Lauren Company LP*** *(supra)****, Manju Singal*** *(supra)****, and Hugo Boss*** *(supra)* reiterated the same ratio. In other words, in cases where there is an overlap of the nature like in the present case, the proviso to Section 45 of the Act carves out a procedure where the original artistic work in a mark registrable under the Trade Marks Act, 1999 may also be protected as against a person or an entity, which may be seeking registration of a similar artistic work under the Act. One can perceive that the proviso is inserted to prevent such mischief. Having regard to the fact that the TIGER logos have been registered as trademarks in several countries of the world in various classes with dates of registration/use, the same could constitute as dates of publications for the said logos in the context of the Act.

26. In such circumstances, the application of the respondent no.1 seeking registration of its mark/label reproduced above does not appear to be *bonafide*. This is for the reason that the Search Certificate dated 18.01.2016 issued by the Trade Marks Registry is conspicuous by the absence of the prior registered TIGER logo of the petitioner, which was ordinarily warranted as per the Trade Marks Act, 1999. Thus, not providing the correct information to the Copyright Registrar is a failure on the part of the Trade Marks Registry. Even if one were to assume that the mark/label is not identical, the deceptive similarity between the two marks/logo cannot be undermined. In fact, it appears that the TIGER logo of the petitioner has simply been lifted and pasted in its entirety by respondent no.1 on its

mark/logo. Thus, the mandate upon the Trade Marks Registry to cite the TIGER logo of the petitioner was not properly discharged by the Registry.

27. In the above context, it would be appropriate to refer to Sections 13, 17 and 45(1) of the Act read with Rule 70 of the Copyright Rules, 2013 and are extracted hereunder:

SECTION 13:

*"**13. Works in which copyright subsists.—** (1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,—*

(a) original literary, dramatic, musical and artistic works;

(b) cinematograph films; and

(c) [sound recording].

(2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 40 or section 41 apply, unless,—

(i) in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of India;

(ii) in the case of an unpublished work other than a 2 [work of architecture], the author is at the date of the making of the work a citizen of India or domiciled in India; and

(iii) in the case of 2 [work of architecture], the work is located in India.

Explanation.— In the case of a work of joint authorship, the conditions conferring copyright specified in this sub-section shall be satisfied by all the authors of the work.

(3) Copyright shall not subsist—

(a) in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work;

(b) in any 1 [sound recording] made in respect of a literary, dramatic or musical work, if in making the 1 [sound recording], copyright in such work has been infringed.

(4) The copyright in a cinematograph film or a [sound recording] shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or, as the case may be, the [sound recording] is made.

(5) In the case of [work of architecture], copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of

construction."

SECTION 17:

"17. First owner of copyright.— *Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein:*

Provided that—

(a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work;

(b) subject to the provisions of clause (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

(c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

[(cc) in the case of any address or speech delivered in public, the person who has delivered such address or speech or if such person has delivered such address or speech on behalf of any other person, such other person shall be the first owner of the copyright therein notwithstanding that the person who delivers such address or speech, or, as the case may be, the person on whose behalf such address or speech is delivered, is employed by any other person who arranges such address or speech or on whose behalf or premises such address or speech is delivered;]

(d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

[(dd) in the case of a work made or first published by or under the direction or control of any public undertaking, such public undertaking

shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein.Explanation.— For the purposes of this clause and section 28A, "public undertaking" means—

(i) an undertaking owned or controlled by Government; or

(ii) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);or

(iii) a body corporate established by or under any Central, Provincial or State Act;]

(e) in the case of a work to which the provisions of section 41 apply, the international organization concerned shall be the first owner of the copyright therein.

[Provided that in case of any work incorporated in a cinematograph work, nothing contained in clauses (b) and (c) shall affect the right of the author in the work referred to in clause (a) of sub-section (1) of section 13.]"

SECTION 45:

***"45. Entries in Register of Copyrights**.— (1) The author or publisher of, or the owner of or other person interested in the copyright in, any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar of Copyrights for entering particulars of the work in the Register of Copyrights:*

[Provided that in respect of an artistic work which is used or is capable of being used in [relation to any goods or services], the application shall include a statement to that effect and shall be accompanied by a certificate from the Registrar of Trade Marks referred to in [section 3 of the Trade Marks Act, 1999 (47 of 1999)], to the effect that no trade mark identical with or deceptively similar to such artistic work has been registered under that Act in the name of, or that no application has been made under that Act for such registration by, any person other than the applicant.]"

xx xx xx

RULE 70 OF THE COPYRIGHT RULES, 2013:

***"70. Application for Registration of Copyright.-** (1) Every application for copyright shall be made registration of in Form-XIV and every application for particulars of registration of changes in the copyright entered in the Register of Copyright shall be made in Form-XV.*

(2) Every such application shall be in respect of one work only, and shall be

accompanied by the fee specified in the Second Schedule in this behalf.

(3) Every application should be signed only by the applicant, who may be an author or owner of right. If the application is submitted by the owner of copyright, it shall be enclosed with an original copy of no objection certificate issued by the author in his favour.

(4) Every application for registration of an unpublished work shall be accompanied by two copies of the work.

(5) Every application for registration of a computer programme shall be accompanied by the source and object code.

(6) Every application for registration in respect of an artistic work which is used or is capable of being used in relation to any goofs, such application shall include a statement to that effect and shall be accompanied by a certificate from the Register of Trade Marks referred to in section 3 of the Trade Marks Act, 1999, to the effect that no trade mark identical with or deceptively similar to such artistic work has been registered under the Act in the name of, or that no application has been made under that Act for such registration by, any person other than the applicant.

(7) Every application for registration in respect of an artistic work which is capable of being registered as a design under the Designs Act, 2000, such application shall be accompanied by a statement in the form of an affidavit containing the following, namely :-

(a) it has not been registered under the Designs Act 2000; and

(b) it has not been applied to an article through industrial process and reproduced more than fifty times.

(8) Every such application can be filed in the Copyright Office by person or by post or by online filing facility as provided on the website of the Copyright Office.

(9) The person applying for registration shall give notice of his application to every person who claims or has any interest in the subject-matter of the copyright or disputes the rights of the applicant to it.

(10) If no objection to such registration is received by the Register of Copyrights within thirty days of the receipt of the application, the Register of Copyrights shall, if satisfied about the correctness of the particulars given in the application, enter such particulars in the Register of Copyrights.

(11) If the Registrar of Copyrights received any objections for such registration within the time specified in sub-rule (7), or, if he or she is not satisfied about the correctness of the particulars given in the application, he or she may, after holding such inquiry as he or she deems fit, such particulars of the work in the Register of Copyrights as he or she considers necessary.

(12) The Registrar of Copyrights shall give an opportunity of hearing before rejecting any application filed for registration of any work.

(13) The process of registration is deemed to be completed only when a copy of the entries made in the Register of Copyrights is signed and issued by Registrar of Copyrights or by Deputy Registrar of Copyrights to whom such authority is delegated.

(14) The Registrar of Copyrights shall, as soon as may be, send, wherever practicable, a copy of the entries made in the Register of Copyrights to the parties concerned."

Section 13 of the Act stipulates the nature of works that may be registrable under the Act throughout India which may be original literary, dramatic, musical and artistic works; cinematograph films; and sound recording. Section 17 provides as to who would be the first owner of the copyright in the artistic works contemplated under Section 13. Section 45 prescribes the procedure for registration of such works as defined in Section 13 and conferred upon such owners as specified in Section 17 of the Act. The proviso to Section 45(1) read with the procedure prescribed in Rule 70 of the Copyright Rules, 2013 provides for steps an intending applicant is to follow and the manner in which the Registrar shall conduct an "inquiry" before grant of registration to such intending applicant and is significant to consider. Read together and harmoniously, it is manifest that the applicant has to issue a statement that no trademark identical with or deceptively similar to such artistic work has been registered under the Act in the name of, or that no application has been made under that Act for such registration by any person other than the applicant. This coupled with the mandate upon the Trade Marks Registry to issue a Certificate of identical nature, which is a necessary concomitant to fulfil the laudatory purpose of insertion of proviso to Section 45 of the Act. Sub-rule (6) of Rule 70 of the Rules, 2013, necessitates such declaration by the applicant and mandates the Certificate from the Trade Marks Registry. Reading in any other manner would defeat

the purpose and intent of the Legislature in engrafting proviso to Section 45(1) of the Act and Rule 70 of the Rules, 2013, particularly, sub-rule (6) thereof. Clearly, the intent is to obviate mischief.

28. In the present case, since there was a failure by the Trade Marks Registry, the Registrar of Copyrights did not have the opportunity to examine and conduct a proper inquiry as to whether the respondent no.1's work was original artistic work or not or whether there is already a registered trademark or registered copyright which may be identical or deceptively similar. Had the Trade Marks Registry been careful and vigilant in complying with the mandate of the Act, this situation, perhaps, would not have arisen.

29. It would also be significant to note that the respondent no.1 in his application for registration of the copyright in its artistic work dated 04.05.2017 declared that the work was "Unpublished" while in the Trade Marks Application No.2979728 dated 09.06.2015 claimed the user since 21.05.2015, which is contrary to and clearly violative of the declaration furnished before the Copyrights Registry. Thus, the declaration furnished by respondent no.1 is false to his knowledge. It is, thus, apparent that the adoption of the TIGER logo/mark by the respondent no.1 was not *bonafide* apart from the fact that evidently, the artistic work claimed to be original by respondent no.1 is itself a copy and not an original work, which would bestow any right upon respondent no.1 as an owner under the Act.

30. That too, when read with the fact that the respondent no.1 furnished a false declaration to the Copyright Registrar that the work was "Unpublished", manifestly discloses the *malafide*. Thus, it is clear that the intention of the respondent no.1 is not *bonafide* in seeking registration of

copyright in the impugned artistic work under the Act.

31. Another contention of the petitioner was that the respondent no.1 be declared a Trademark Squatter. However, upon perusal of the petition, it appears that the petition is bereft of any such grounds inasmuch as it does not contain any averment or document to substantiate the said contention. Thus, this Court is not persuaded to render any opinion in the present case.

32. On an overall examination and appreciation of the facts and law, this Court is of the considered opinion that the registration granted to the respondent no.1 *vide* the Registration Certificate dated 04.05.2017 for the impugned artistic work cannot be permitted to continue in the Register of Copyrights and hence, respondent no.2/Registrar of Copyrights is directed to remove the impugned artistic work of the respondent no.1 from the Register of Copyrights. The compliance be reported within four (4) weeks from the date of receipt of this order.

33. In view of the aforesaid, the rectification petition stands disposed of along with all the pending applications, if any.

TUSHAR RAO GEDELA

FEBRUARY 12, 2026/*rl*