IN THE COURT OF SH. RAJ KUMAR TRIPATHI
DISTRICT JUDGE (COMMERCIAL COURT)-05
WEST DISTRICT, TIS HAZARI COURTS, DELHI

CS (COMM) No.941/2024
(ASICS Corporation v. Sachin Sheokand & Another)
CNR No. DLWT01-009439-2024

M/s ASICS Corporation
1-1, Minatojima Nakamachi,
7 Chome Chuo-Ku Kobe City,
Hyogo Prefecture, Japan.

Through:-
Mr. Kartik Malhotra,
Constituted Attorney of plaintiff
G-10, LGF, Nizamuddin West,
New Delhi-110 013, India.

…… Plaintiff
Through:- Mr. Shivam Jaimini along with
Mr. Jatin Gola, advocates

Versus

1. Mr. Sachin Sheokand
   Trading as Bunk House,
   Railway Road,
   Near Girl College, Uchana Mandi,
   Jind, Haryana-126 115.

…… Defendant no.1
Through:- Mr. Satish Kumar along with
Mr. Mohit, advocates

2. Mr. Shamsher Gahlawat
   Trading as MSI Shoes Co.,
   Khasra No.663, Ext. Lal Dora,
   Village Mundaka, West Delhi, Delhi-110 041.

…… Defendant no.2

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Summary Judgment

1.1 *Vide* this judgment, this Court shall dispose of the application filed by plaintiff under Order VIII Rule 10 read with Order XIII-A of The Code of Civil Procedure, 1908 (in short 'CPC'), for summary judgment against defendant no. 2.

1.2 Plaintiff filed the present suit under Sections 134 and 135 of The Trade Marks Act, 1999 for grant of permanent injunction, passing off, delivery up, rendition of accounts etc.

Factual matrix of the case

2.1 Plaintiff is a Japanese Corporation, having its permanent address in Japan. Mr. Kartik Malhotra is the constituted attorney of plaintiff, who has been authorized to file and institute the present suit, depose on behalf of plaintiff and to do all other acts necessary for conduct of the present proceedings.

2.2 Plaintiff is engaged in the business of manufacturing, marketing, selling and trading the goods namely shoes, clothing, sporting goods, sport wear and other allied and cognate goods (hereinafter to be referred as the 'said goods').

2.3 Plaintiff claims to have honestly and bonafidely conceived and adopted the trademark, label and artistic work comprising the "ASICS" logo and various ASICS-formative trademarks and labels in the year 1966 in relation to its goods and business. The said marks have been continuously and extensively used thereafter.

2.4 Plaintiff is the registered proprietor of the trademark and label "ASICS" in India since at least 08.01.1982 and holds several registrations in respect thereof. The particulars of the relevant registrations are given in para no.5 of the amended plaint.

2.5 The Registrar of Trade Marks accepted and published the mark "ASICS" as a well-known trademark in Trade Marks Journal No.2131 dated 20.11.2023. Subsequently, the mark "ASICS" was declared to be a "Well-Known

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Trademark" at Serial No.249 in the list of well-known trademarks maintained by the Office of the Controller General of Patents, Designs and Trade Marks.

2.6 Plaintiff claims to have promoted and exhibited their products through their official India-dedicated website and official global website and have used corresponding domain names in the course of trade and thereby acquired substantial goodwill and reputation in the "ASICS" trademark and its formative variants globally.

2.7 As per plaintiff, they have also maintained their presence on social-media platforms, including Facebook, Twitter and Instagram. They have engaged eminent Bollywood celebrities and sportspersons, including Ms. Shraddha Kapoor, Mr. Tiger Shroff, Mr. Manpreet Singh, Mr. Bhuvneshwar Kumar, Mr. Ravindra Jadeja and Mr. Jasprit Bumrah, as brand ambassadors.

2.8 The plaintiff claims to have further entered into agreements with sportspersons, including Indian tennis player Ms. Karman Kaur Thandi and Indian wrestler Mr. Bajrang Punia, for endorsement, promotion and television advertisements in respect of "ASICS" trademark and its formative variants.

2.9 According to plaintiff, substantial expenditure has been incurred towards publicity and promotion of the said marks, as a result of which the "ASICS" trademark and its formative variants have acquired considerable reputation and goodwill.

2.10 Defendant no.2, as reflected in the amended memo of parties, is Mr. Shamsher Gahlawat, trading as MSI Shoes Co., having his address at Khasra No. 663, Ext. Lal Dora, Village Mundaka, West Delhi, Delhi-110 041.

2.11 Plaintiff alleges that defendant no.2, along with the erstwhile defendant no.1, was engaged in manufacturing, selling, retailing, marketing, soliciting and trading in counterfeit and infringing sports shoes, sneakers, T-shirts, shorts, socks

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and other allied and cognate goods bearing the mark "ASICS" and the striped device in a stylised manner identical or deceptively similar to the plaintiffs' trademark and label.

2.12 On the aforesaid averments and other assertions made in the plaint, the documents filed in support of the same and as defendant no.2 has chosen not to contest the suit by way of filing written statement, plaintiff prays for passing a decree of permanent injunction, in terms of para no.43 (i) and (ii) of the plaint and also for grant of other reliefs as prayed in prayer clause of the suit.

3.1 I have heard and considered the submissions advanced by learned counsel for plaintiff and perused the material on record.

4.1 *Vide* order dated 11.11.2024, this Court granted an *ex parte ad interim* injunction restraining the defendants from using the impugned trademarks and labels or any other marks and labels deceptively similar thereto. By the same order, plaintiff's application under Order XXVI Rule 9 CPC was allowed and Local Commissioners were appointed to visit and inspect the premises of defendants.

4.2 Pursuant to the said order, the local commission was executed on 20.11.2024. Ms. Mitali Thakkar, one of the Local Commissioners, visited the premises situated at Mundaka, Delhi, who in her report has stated that a flex board bearing the name "MSI Shoe Co." was displayed at the ground floor of the premises. One shoe box bearing a design identical to the designs depicted at Serial No.2 of page 19 and Serial No.4 of page 20 of the plaint was also found in the office room. The same was cross-verified by learned counsel for the plaintiff present at the spot.

4.3 She further reported that at the first floor, various cartons containing shoes, soles and uppers bearing different brands were found. Nine cartons containing 24 pairs of ASICS shoes each, totaling 216 pairs, were set aside. In addition, approximately 1,100 pairs of shoe-upper packets, including black and white-

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Date: 2026.10.08 16:03:39 +0530

coloured uppers, were found, as detailed in the inventory annexed to the Local Commissioner's report.

4.5 The second floor was found to be a manufacturing setup, where shoe boxes and soles bearing trademarks of other brands were being manufactured or assembled. Since the said marks did not correspond to the plaintiff's trademarks, the same are not relevant for adjudication of the present proceedings.

4.6 As per Local Commissioner's report, the goods bearing the plaintiff's trademark could not be seized as defendant no.2 and his wife obstructed the execution of the commission.

4.7 The plaintiff thereafter filed an application under Order I Rule 10 (2) read with Section 151 CPC seeking addition of the information relating to the defendant which had emerged during execution of the local commission on 20.11.2024. The application of plaintiff was allowed *vide* order dated 10.03.2025 and the amended memo of parties was taken on record, whereby Mr. Shamsher Gahlawat was impleaded as defendant no. 2.

4.8 The dispute between the plaintiff and defendant no.1 was subsequently amicably settled on 02.09.2026.

5.1 As per record of the case, defendant no.2 was duly served in the case on 09.02.2026. However, despite service of summons, he chose not appear and contest the suit by way of filing written statement.

5.2 As defendant no.2 did not file written statement to the suit within stipulated time as prescribed under Order VIII Rule 1 CPC, opportunity given to him for filing of written statement to the suit was directed to be closed.

5.3 Learned counsel for plaintiff submitted that defendant no.2 has no real prospect of successfully defending the present suit, having neither appeared nor filed a written statement and, thus, the assertions and allegations contained in the plaint

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have remained unrebutted. He further submitted that Order VIII Rule 10 CPC empowers the Court to pronounce judgment against a party which fails to file its written statement within the time permitted by the Court.

5.4 He argued that the Local Commissioner's report establishes the presence of 216 pairs of infringing ASICS shoes and approximately 1,100 pairs of infringing ASICS shoe-upper packets at the premises of defendant no. 2. The goods could not be seized only because defendant no.2 obstructed the execution of the commission. He submitted that as defendant has no prospect of either defending or winning the case, the suit of plaintiff may be decreed.

5.5 In respect of monetary relief, learned counsel submitted that defendant no. 2 has neither appeared nor placed any material on record to enable rendition of accounts. In the alternative, damages were claimed on the basis of the estimated value of the infringing goods.

5.6 Taking the value of each pair of shoes at Rs.1,000/- and each shoe-upper packet at Rs.300/-, plaintiff assessed the value of the goods found at the premises at Rs.5,46,000/-. On the basis that the goods had been manufactured for approximately 28 working days before the grant of injunction, the plaintiff estimated the total production value at Rs.1,52,88,000/- and, applying a profit margin of 10%, claimed damages of Rs.15,28,800/-.

5.7 For sake of convenience, the provisions contained under Order VIII Rule 10 CPC is extracted hereinbelow:-

> ***"10. Procedure when party fails to present written statement called for by Court.***
> *Where any party from whom a written statement is required under rule 1 or 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment, a decree shall be drawn up."*

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5.8 Thus, the Court may pronounce judgment against such party or make such order in relation to the suit as it deems fit, and upon pronouncement of judgment, a decree shall be drawn accordingly. The provision therefore empowers the Court to proceed in the absence of a written statement, but does not mandate an automatic decree merely on account of such failure.

5.9 Further, it is useful to refer to Order XIII A, Rule 3 CPC (as amended by The Commercial Courts Act, 2015) which deals with grounds for passing summary judgment. Same is reproduced hereunder for ready reference:-

> *"**3. Grounds for summary judgment.—** The Court may give a summary judgment against a plaintiff or defendant on a claim if it considers that–*
> *(a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and*
> *(b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence."*

5.10 Order XIII-A CPC enables the Court to decide a claim pertaining to a commercial dispute without recording oral evidence, where the claim or defence has no real prospect of succeeding or defending and there is no other compelling reason why the matter should proceed to trial.

5.11 The Supreme Court in ***Reliance Eminent Trading and Commercial Private Limited v. Delhi Development Authority*, 2026 INSC 436**, has reiterated that summary judgment is appropriate, where the Court is satisfied that the claim or defence has no real prospect of success and that no compelling reason exists for requiring a full trial. The Court is not required to conduct a mini-trial, but must examine whether the material on record discloses a genuine and substantial issue requiring oral evidence.

5.12 Further, in ***Bright Enterprises Private Ltd. & Ors. v. MJ Bizcraft & Ors.*** **2017 SCC OnLine Del 6396 : 2017 (69) PTC 596 (Del.)**, Hon'ble High Court of

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Delhi observed that the procedure prescribed under Order XIII-A CPC is required to be scrupulously followed and that an application for summary judgment may be considered after service of summons and before framing of issues, subject to fulfillment of the requirements of Order XIII-A Rule 3 CPC.

5.13 Now, the question arises whether in the present matter, the defendant no.2 has a real prospect of winning or not.

5.14 Plaintiff has placed on record particulars of its trademark registrations, including registrations in respect of the "ASICS" mark and its formative variants. The details of the same are provided below:-

S. No.	Trademark	Application No.	Class	Date of Application	User Detail	Status
1.		385150	25	08-01-1982	Proposed to be used	Registered & valid upto 08/01/2030
2.		1525866	25	29-01-2007	Proposed to be used	Registered & valid upto 29/01/2027
3.		1525867	25	29-01-2007	Proposed to be used	Registered & valid upto 29/01/2027
4.		2688260	18	27-02-2014	01-01-2001	Registered & valid upto 27/02/2034
5.		2688261	18	27-02-2014	01-01-2001	Registered & valid upto 27/02/2034
6.	ASICS	2690130	18, 24, 25, 28 & 35	03-03-2014	01/01/2001	Registered & valid upto 03/03/2034

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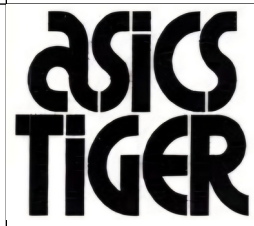
7.		341997	25	23-10-1978	Proposed to be used	Registered & valid upto 23/10/2026
8.		551902	25	31-05-1991	Proposed to be used	Registered & valid upto 31/05/2025
9.	ASICS Tiger	3443285	25	27-12-2016	01/04/2016	Registered & valid upto 27/12/2026
10.		3443287	25	27-12-2016	01/10/2016	Registered & valid upto 22/05/2025
11.		3443286	25	27-12-2016	01/10/2016	Registered & valid upto 27/12/2026

5.15 The declaration of the "ASICS" mark as a well-known trademark by the Registrar of Trade Marks is also part of the record. Plaintiff has further placed material concerning the extensive use, publicity, promotional activities, websites, domain names and social-media presence.

5.16 A local commission was executed on 20.11.2024 pursuant to the order dated 11.11.2024. The Local Commissioner recorded the presence of 216 pairs of shoes bearing the plaintiffs' ASICS and other formative marks and approximately 1,100 pairs of shoe-upper packets at the premises, where a flex board bearing the name "MSI Shoe Co." was displayed.

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5.17 Section 29 (1) of The Trade Marks Act, 1999 prohibits unauthorised use in the course of trade of an identical or deceptively similar trademark in relation to goods or services in respect of which the trademark is registered. In the present case, the impugned goods were shoes and shoe uppers, namely, goods covered by the plaintiff's registrations. The use of the similar ASICS and other formative marks on such goods, in the absence of any licence, authorisation or permission from the plaintiff, constitutes infringement within the meaning of Section 29(1) of The Trade Marks Act, 1999.

5.18 The quantity of goods found at the premises, coupled with the manufacturing setup noticed at the site, demonstrates commercial use of the plaintiff's trademark and not an isolated or bona fide occurrence. Section 29(4) of The Trade Marks Act, 1999 is also relevant, since the plaintiff's mark has acquired reputation in India and the impugned use is likely to take unfair advantage of, and cause detriment to, the distinctive character and repute of the plaintiff's mark. The display of the name "MSI Shoe Co." at the premises further corroborates the connection between the premises, the business carried on there and the impugned goods. The circumstances are also relevant for the purposes of Section 29(5) of The Trade Marks Act, 1999.

5.19 The use of a similar mark on identical goods is inherently likely to cause confusion and deception. An average consumer, proceeding on the basis of general impression and without undertaking a detailed investigation into the identity of the manufacturer, is likely to believe that the impugned goods originate from, or are affiliated with, the plaintiff. The likelihood of confusion is further aggravated by the status and reputation of plaintiff's mark as a well-known trademark.

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5.20 In ***Hamdard National Foundation (India) v. Sadar Laboratories Pvt. Ltd.*, 2022 SCC OnLine Del 4523,** the Division Bench of the Hon'ble High Court of

Delhi held that the requirement of protection varies inversely with the strength of the mark and that a well-known mark, having acquired a high degree of goodwill, requires a higher degree of protection against piracy and attempts to derive unfair advantage from its reputation. The relevant observations are reproduced below:-

> *"63. As noted above, the trademark 'ROOH AFZA' has been used in respect of the appellant's product for over a century. Prima facie, it is a strong mark. It is also well settled that the requirement of protection varies inversely with the strength of the mark; the stronger the mark, the higher the requirement to protect the same. Trademarks serve as source identifiers. It is also well-settled that in case of a well-known mark, which has acquired a high degree of goodwill, the mark requires higher protection as it is more likely to be subjected to piracy from those who seek to draw an undue advantage of its goodwill. In the present case, the appellants claim that the trademark 'ROOHAFZA' is a well-known mark.*
> *64.In Planters Nut & Chocolate Co. v. Crown Nut Co., the United States Court of Appeals for the Federal Circuit had observed that a mark's fame is an incentive for competitors "to tread closely on the heels of a very successful trademarks". In cases of a weak trademark, where the trademark has not acquired significant goodwill, a higher degree of similarity is permissible. However, strong marks which have acquired immense goodwill are vulnerable from competitors seeking to ride on their goodwill. Such marks require a higher degree of protection and it is necessary to ensure that the marks of a competitor do not come close to the said senior marks."*

5.21 The plaintiff's claim of passing off is also made out. The use of the similar ASICS and other formative marks on goods, in the same commercial field, is calculated to represent the goods of defendant no.2 as those of, or connected with, the plaintiff. Such use is likely to divert trade and cause injury to the plaintiff's goodwill and reputation.

5.22 In the present case, defendant no.2 was duly served. He neither entered appearance nor filed a written statement. His right to file the written statement was thereafter closed by order dated 07.04.2026. No defence, document, licence, authorisation, explanation or contrary evidence has been placed before the

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Court. The failure of defendant no. 2 to appear or file a written statement, by itself, is not treated as an automatic decree. However, in the present case, his non-participation assumes significance because it leaves the documentary and contemporaneous evidence produced by the plaintiff wholly unrebutted. Therefore, defendant no. 2 has no real prospect of successfully defending the plaintiff's claims.

5.23 The present case is also not one in which credibility of witnesses, disputed oral testimony or a contested factual inference is essential for adjudication. No compelling reason has been shown for requiring the plaintiff to lead *ex parte* oral evidence. Therefore, the requirements of Order XIII-A Rule 3 CPC are accordingly satisfied.

5.24 Plaintiff has sought rendition of accounts, which could not be effectively worked out in the absence of participation or disclosure by defendant no.2, and therefore alternatively claimed damages of Rs.15,28,800/-. However, the quantified claim is based on estimated value of goods, an assumed manufacturing period of 28 working days and a 10% profit margin, without supporting documentary or independent evidence. Although the Local Commissioner found 216 pairs of shoes and approximately 1,100 pairs of shoe-upper packets at the premises, the report does not establish the period of manufacture, actual sales, sale price, profits earned or loss suffered by the plaintiff. The failure of defendant no.2 to render accounts may warrant an adverse inference but cannot, by itself, establish the exact quantum of damages.

5.25 In view of the decision in ***Shri Kirit Bhadiadra v. Wings Pharmaceuticals Private Limited***, 2025:DHC:11709-DB, while infringement has been established, the plaintiff has not proved the actual loss or profits earned by defendant no.2 . Nevertheless, the deliberate infringement of the well-known "ASICS" mark, substantial quantity of goods, apparent manufacturing activity,

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obstruction during execution of the commission and non-participation of defendant no. 2 establish injury to the plaintiff's proprietary rights and goodwill. Accordingly, the quantified claim of Rs.15,28,800/- is declined, but nominal damages of Rs.2,00,000/- is awarded in favour of plaintiff and against defendant no. 2.

6.1 In view of foregoing reasons and discussions, the application under Order VIII Rule 10 read with Order XIII-A of CPC filed by plaintiff is allowed. Plaintiff's suit is decreed with cost against defendant no.2. The cost of litigation is quantified to Rs.1,50,000/- including Local Commissioner's fee.

7.1 A decree of permanent injunction, in terms of para no.43 (i) and (ii) of the plaint is granted in favour of plaintiff and against defendant no.2. A damages to the tune of Rs.2,00,000/- is also awarded in favour of plaintiff.

8.1 Decree sheet be prepared accordingly.

9.1 **File be consigned to record room.**

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Announced in open Court
on 7th day of October, 2026

(Raj Kumar Tripathi)
District Judge (Commercial)-05
West District/Tis Hazari Courts/Delhi