



2025:DHC:2906



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **C.A.(COMM.IPD-TM) 22/2024****VINEET KAPUR**

.....Appellant

Through: Mr. Vaibhav Vutts, Ms. Bijaharini G.,  
Ms. Aamna Hasan and Ms. Aarya  
Deshmukh, Advs.  
M: 9971576500  
Email: email@vutts.com

versus

**REGISTRAR OF TRADE MARKS**

.....Respondent

Through: Ms. Nidhi Raman, CGSC with Mr.  
Zubin Singh and Mr. Arnav Mittal,  
Advs. for R-1.  
M: 9891088658  
Email: nidhiramanoffice@gmail.com

**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****JUDGMENT**

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**25.04.2025****MINI PUSHKARNA, J:**

1. The present appeal has been filed under Section 91 of the Trade Marks Act, 1999 ("Trade Marks Act") and under Rule 156 of the Trade Marks Rules, 2017, challenging the order dated 29<sup>th</sup> February, 2024, passed by the learned Registrar of Trademarks, by which the application of the appellant bearing application no. 5151862 dated 28<sup>th</sup> September, 2021, for registration of the mark '2929' in Class 3, in respect of cosmetics, nail polish, soaps, shampoos etc., was rejected.

2. It is the case of the appellant that the mark '2929' was conceived and adopted, in relation to goods when no such mark existed or was known in



the market, with respect to the goods applied under the mark. The mark '2929' is a unique and arbitrary mark and is inherently distinctive and capable of being registered.

3. *Per contra*, it is the case of the respondent that the mark in question has not acquired any distinctive character by way of use. The mark in question is a combination of common numbers, which cannot be monopolised by any individual. There is no creativity in the mark in question. Marks consisting of single letters or two letters will be generally regarded as devoid of distinctive character for goods, because of tendency in trade to use letters as models or catalogue references. Merely alleging that the mark in question is coined, does not satisfy the threshold of Section 9 of the Trade Marks Act. Further, the appellant is not entitled to get a word mark registration merely on the basis that device mark was granted. The nature of the device and word marks, are different. The appellant has failed to establish as to how the appellant is entitled to be given word mark registration for a combination of common numbers, with no creativity.

4. Having heard learned counsels for the parties, at the outset this Court notes that Section 2 (1)(m) of the Trade Marks Act defines the term 'Mark', as including 'numerals' and any combinations thereof. The definition of the mark, as given in Section 2 (1)(m) of Trade Marks Act, is reproduced as under:

***"2. Definitions and interpretation.—(1) In this Act, unless the context otherwise requires —***

*xxx xxx xxx*





*(m) "**mark**" includes a device, brand, heading, label, ticket, name, signature, word, letter, **numeral**, shape of goods, packaging or combination of colours **or any combination thereof**;*  
*xxx xxx xxx"*



(Emphasis Supplied)

5. Since numerals and their combination fall within the definition of 'Mark', the same are capable of being registered as a trademark, if it fulfils the requirements of registration as provided under the Trade Marks Act. A mark cannot be refused registration merely on the ground that it consists of a combination of numbers. Rather it has to be seen, whether or not, such numeral mark is devoid of any distinctive character.

6. From the pleadings on record, it is manifest that the appellant has various numerical trademarks registered in his favour, both as device mark and word mark, in the following manner:

Sr. No.	Trademark Appl.	Class	Relation	Status and Publication Details
1.	5153713	3 DEVICE	2929 	Registered
2.	5151860	3 WORD	9292	Registered
3.	5153711	3 DEVICE	9292 	Registered
4.	5151859	3 WORD	1111	Registered
5.	5153710	3 DEVICE	1111 	Registered
6.	5151861	3 WORD	1010	Registered
7.	5153712	3 DEVICE	1010 	Registered



7. It is to be noted that courts on various occasions have protected the marks which consist of combination of numbers, as follows:

7.1 The mark '501' in respect of Half Bar Washing Soap was granted protection in the case of ***Tata Oil Mills Company Ltd. Versus Reward Soap Works, 1982 SCC OnLine Del 116.***

7.2 The mark '345' in respect of Bidis was granted protection in the case of ***Samrat Bidi Works and others Versus Dayalal Meghji and Company, 1998 SCC OnLine MP 53.***

7.3 The mark '22' in respect of Bidis was protected in the case of ***M/s. Vrajlal Manilal and Co. Versus M/s N.S. Bidi Co. and another, 1987 SCC OnLine Del 144.***

7.4 The mark '1001' in respect of Paints was protected in the case of ***Glossy Color & Paints Pvt. Ltd. and Anr. Versus Mona Aggarwal & Ors., 2015 SCC OnLine Del 11902.***

7.5 The mark '555' in respect of Agarbattis was protected in the case of ***Jagan Nath Prem Nath Versus Bharttya Dhoop Karyalaya, 1975 SCC OnLine Del 79.***

7.6 The mark '7'o clock' in respect of Razor Blades, Shaving Cream, Shaving Brushes was protected in the case of ***Kamal Trading Co., Bombay and Others Versus Gillette U.K. Limited, Middlesex, England, 1987 SCC OnLine Bom 754.***

7.7 The mark '91' was protected in respect of Bicycles in the case of ***Alphavector India Pvt. Ltd. Versus Sach Industries and Others, 2023 SCC OnLine Del 615.***

8. Thus, it is manifest that mark also includes numerals, which shows that the numerals can also perform the function of a trademark. Combination



of numbers, have been accorded registration as trademark, time and again. Thus, in this regard, this Court in the case of *Alphavector India Pvt. Ltd. (supra)*, while granting protection to the mark ‘91’, has held as follows:

“xxx xxx xxx

*42. Apropos the aspect of deceptive similarity, though Mr. Puri has not sought to contest the submissions of Mr. Gupta on the point, even on merits, the submissions commend acceptance. **Both “91” and “99”, whether used in words or in numerals, are arbitrary when used in respect of cycles and cannot be treated as descriptive. As an arbitrary mark, “91” or “NINETY ONE” is entitled to greater protection under the Trade Marks Act. The defendants have no explanation as to why they have chosen to use the mark “99”. The mark “99”, when used on a bicycle, is clearly deceptively similar to the mark “91” especially as the first digit of both numbers, “9” is the same.** Additionally, the placement of the respective marks on the cycles is also similar, to the extent that the manner in which the defendants have written “NINETY NINE”, on the cross bar of their bicycles, is clearly deceptively similar to the writing “NINETY ONE” on the cross bar of the plaintiffs bicycle.*

xxx xxx xxx”

(Emphasis Supplied)

9. The mark ‘2929’, which is sought to be registered by the appellant is a coined and arbitrary mark, having no meaning whatsoever with respect to the goods for which it is applied, i.e., Cosmetics and Skincare. A mark is said to be distinctive if it is of such a nature, so as to distinguish the goods of one manufacturer from those of the others and the public immediately correlates the mark with the source of a particular manufacturer. In the present case, the mark ‘2929’ is not ordinarily used in trade with respect to the goods in question, and does not in any manner, directly or indirectly, describe the goods. Hence, the said mark is capable of distinguishing the goods of the appellants from those of others. It is a well established principle in Trademark Law that distinctive nature of a mark is to be decided in reference to the goods to which it is applied.



10. As regards registration of numerals as mark, *McCarthy on Trademarks and Unfair Competition (Volume 1, Fifth Edition)*, has stated that one or more numbers, either alone or in combination with other designations, can achieve trademark status to identify and distinguish the source of goods and services. Thus, it has been stated, as under:

“xxx xxx xxx

*§ 7:14 Numbers as marks*

One or more numbers, either alone or in combination with other designations, can achieve trademark status to identify and distinguish the source of goods and services. For well over a century, numbers have been recognized as trademarks in American law. Numbers can be trademark if used alone, as part of an alphanumeric combination or spelled out in letters, such as “TEN.”

.....

*§ 7:15 Numbers as marks – Validity and strength of number marks*

As early as 1882, the courts recognized that numbers, like any other visual symbol, could function as a mark:

[I]f for a long period of time he had used the same figures in combination, as "3214," to distinguish his own goods from those of others, so that the public had come to know them by these numerals, he would be protected.

.....

*§7:16 Numbers as marks – Numbers as style or grade designation*

.....

It is very clear that no manufacturer would have the right exclusively to appropriate the figures 1, 2, 3, and 4, or the letters A, B, C, and D, to distinguish the first, second, third and fourth quality of his goods, respectively.....It is equally clear, however, that if for a long period of time he had used the same figures in combination, as ‘3214’, to distinguish his own goods from those of others, so that the public had come to know them by these numerals, he would be protected.

.....

xxx xxx xxx”

(Emphasis Supplied)

11. The mark, ‘2929’ is an arbitrary mark and is a unique combination of



numbers '2' and '9', having no reference to the kind or character of the goods under the mark. Being so, the mark is inherently distinctive. A combination of numbers, inherently distinctive and having no meaning or relation to the goods for which it is sought to be registered, is capable of being registered. Hence, the ground of refusal that the mark in question is devoid of any distinctive character, that is to say, not capable of distinguishing the goods of one person from those of another person, is not maintainable.

12. It is also noted that a corresponding mark '2929' already stands registered in favour of the appellant for identical goods in Class 3.

13. The mark in question has been applied 'on a proposed to be used' basis. As noted, the said numerical mark is inherently distinctive, and thus, is capable of being registered without acquiring any secondary meaning.

14. In view of the detailed discussion hereinabove, the impugned order dated 29<sup>th</sup> February, 2024 passed by the Trade Marks Registry is not sustainable. Accordingly, the same is set aside. The trade mark application no. 5151862, of the appellant, shall proceed for advertisement in the Trademark Journal, with the condition that the appellant shall not claim any exclusive right over the numerals '2' and '9'.

15. The Registrar of Trade Marks is directed to advertise the mark applied by the appellant. However, it is clarified that the present order shall not bind any opposition proceedings that may be instituted by any third party.

16. The Registry of this Court is directed to supply a copy of the present judgment to the Office of the Controller General of Patents, Designs and Trade Marks of India, on E-mail ID: [llc-ipo@gov.in](mailto:llc-ipo@gov.in), for compliance.



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17. The present appeal is allowed in the aforesaid terms.

**(MINI PUSHKARNA)  
JUDGE**

**APRIL 25, 2025**  
Au/Ak/Kr