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

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*Date of Decision: 01.12.2025*

CS(COMM) 1122/2025

HAVELLS INDIA LIMITED & ANR.

.....Plaintiffs

Through: Mr. Saikrishna Rajagopal, Ms. Julien George, Ms. Anu Paarcha, Mr. Avijit Kumar and Mr. Christo Sabu, Advocates.

versus

CAWELS ELECTRIC PRIVATE LIMITED

.....Defendant

Through: Mr. Rajiv Ranjan Dwivedi and Ms. Shivani Kandoi, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**TEJAS KARIA, J. (ORAL)**

**I.A. 25952/2025**

**FACTUAL BACKGROUND:**

1. The Plaintiff has filed the present Suit for permanent injunction restraining the Defendant from infringing the registered Trade Mark of the Plaintiffs, and for passing off, misrepresentation, dilution, damages, rendition of accounts, delivery-up etc.
2. *Vide* order dated 16.10.2025, Notice was issued in this Application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908



(“CPC”) and the Defendant was directed file Reply to this Application.

3. Accordingly, the Defendant has filed the Reply to this Application. The learned Counsel for the Plaintiffs submitted that the Plaintiffs did not wish to file Rejoinder to the Reply filed by the Defendant to this Application.

**SUBMISSIONS ON BEHALF OF THE PLAINTIFFS:**

4. The learned Counsel for the Plaintiffs made the following submissions:

4.1. The Plaintiffs, by themselves and their predecessors, have been in the business of manufacturing and selling electrical products, falling in Classes 7, 9 and 11, since the year 1942. The Plaintiffs’ products sold under the Marks / Artistic Works ‘HAVELLS’ /



‘ **HAVELLS** ’ /

(“Subject Marks”) enjoy market dominance across a spectrum of products, including Industrial and Domestic Circuit Protection Devices, Cables and Wires, Motors, Fans, Modular Switches, Home Appliances, Electric Water Heaters, Power Capacitors, LED Lamps, Luminaires for Domestic, Water Purifiers, Personal Grooming Products, Home Automation as well as Solar Lightning Solutions, Commercial and Industrial applications, covering the entire gamut



of household, commercial and industrial electrical needs (“**Plaintiff’s Products**”).

- 4.2. The Plaintiffs’ Products are sold in India and also exported to more than 60 countries. The Plaintiffs have a domestic presence across 45 cities with more than 6,500 professionals. The Plaintiffs also have exclusive brand showroom as Havells Galaxy Stores with over 600 Havells Galaxy Stores spread across the country. The Plaintiffs also have a mobile application named HAVELLS E-STORE for consumers to shop online.
- 4.3. The Subject Mark ‘HAVELLS’ is an invented / coined word from the first five letters of the first name of the Plaintiff’s predecessor Late Sh. Haveli Ram Gandhi, in the year 1942 and has been extensively used as a Trade Mark ever since. The Plaintiffs, by way of extensive usage, vast promotions and quality products have brought the Subject Mark ‘HAVELLS’ to its present goodwill and reputation.
- 4.4. The Plaintiffs have secured registrations over the Subject Mark ‘HAVELLS’, both as word as well as label across multiple classes. The earliest registrations of the Plaintiffs relate back to the year 1955. The Subject Mark ‘HAVELLS’ also forms part of the Corporate Name of Plaintiff No. 1. The Subject Mark ‘HAVELLS’ has also been declared as a well-known mark within the meaning



of Section 2(1) (zg) of the Trade Marks Act, 1999 (“Act”) by this Court, *vide* order dated 08.12.2014 passed in suit No. CS (OS) 3770/2014 titled as *Havells India Ltd & Anr. Vs M/s TT Plyboard & Ors.* As the Subject Mark ‘HAVELLS’ has been declared a well-known mark, it is entitled to the highest degree of protection.

4.5. The Subject Marks on account of their global use have also earned goodwill and reputation globally and the recognition of a well-known mark in international jurisdictions such as Turkey and the World Intellectual Property Organization (WIPO).

4.6. The details of registrations of the Subject Mark ‘HAVELLS’ in India are as below:

<b>Trademark No.</b>	<b>Trademark</b>	<b>Date Of Application</b>	<b>User Detail</b>	<b>Class And Specifications Of Goods And Services</b>
290541	HAVELL'S	01/09/1973	01/01/1955	Class 9
303571	HAVELL'S	10/03/1975	01/01/1975	Class 11
1087158	HAVELLS	14/03/2002	Proposed to be used	Class 11
2338943	HAVELLS	28/05/2012	01/01/1942	Class 35
2338944	HAVELLS	28/05/2012	01/01/1942	Class 37


4.7. The Subject Mark ‘HAVELLS’ and its variants have more than 800 applications / registrations in more than 130 countries including India. In addition, the Plaintiffs also own copyright



registrations in its favour in India as also abroad. The Subject Mark 'HAVELLS' is also an integral and inseparable part of some of the domain names owned by the Plaintiffs.

- 4.8. The sales and advertisements of the Plaintiffs' Products through various publicity mediums has added to the Plaintiffs' popularity, recognition, reputation and goodwill. The astounding sales revenue of the Plaintiffs under the Subject Marks, the publicity and goodwill associated with the Plaintiffs, are all indicators of the Subject Marks being recognized by the consumers, and public as a trade mark of the Plaintiffs only.
- 4.9. The Defendant is engaged in the business of manufacturing and selling electronic products and appliances under the Mark



'CAWELS' / 'CAWELS ELECTRIC' / '  ', ('**Impugned Marks**'). The Defendant on its website, <https://cawelselectric.com/> ('**Impugned Website**'), claim to offer products such as fans, electric kettles, wires and cables, LED products, smart TVs, induction cooktops, air coolers, among others bearing the Impugned Marks ('**Impugned Products**').



- 4.10. In September 2025, the Plaintiffs discovered the Impugned Website marketing the Impugned Products. The Defendant has



adopted the Impugned Marks which are deceptively and phonetically similar to the Subject Marks, to enrich itself, and usurp the goodwill and reputation of the Plaintiffs. The Defendant has carried out imitation by choosing a deceptively and phonetically similar marks where instead of letter 'H' the Defendant has used letter 'C' and instead of letter 'V' the Defendant has used letter 'W' and instead of using the letter 'L' twice the Defendant has used a single 'L', in order to infringe the Subject Marks and pass off the Impugned Products as those of the Plaintiffs. The said act has been done by the Defendant intentionally to come as close as possible to the Subject Marks, since the Impugned Mark 'CAWELS' otherwise has no meaning of its own and it is apparent that the same has been done solely to trade upon and benefit from the goodwill and reputation associated with the Subject Marks thereby causing deception and misrepresentation among the public.

- 4.11. Thereafter, upon further enquiry in the database of the Trade Marks Registry, the Plaintiffs also discovered two trade mark applications (“**Impugned Applications**”), the details of which are as below:



Trademark application no.	Trademark	Date of application	User detail	Class and Specifications of Goods and Services	Status
6496518		25/06/2024	Proposed to be used	Class 9	Formalities Check Pass
6981603		29/04/2025	Proposed to be used	Class 11	Accepted & Advertised

4.12. Upon going through the Impugned Applications and the related documents uploaded on the website of the Trade Marks Registry, the Plaintiffs found that Impugned Application No. 6981603 was filed on 29.04.2025, and thereafter, on 25.07.2025 the Defendant filed a request for 'Expedited Process of the Application For The Registration' wherein the reason for the said request was mentioned as *'imminent product or service launch that requires legal brand protection and immediate business expansion into new markets'*, even though as per the client testimonial's on the Impugned Website the Defendant appears to have already launched. Along with the request for 'Expedited Process of an



Application for the Registration’, the Defendant had filed a ‘No Objection Certificate’ dated 24.07.2025 (“NOC”) issued by one, Ms. Babita. In the NOC, Ms. Babita mentioned that Ms. Babita is the applicant of the application No. 5963101 for the Mark ‘Cawels Electric’ and that Ms. Babita grants her consent to the Defendant to use the Mark ‘Cawels Electric’. It is also mentioned in the NOC that *‘this NOC is provided solely for the purpose and does not transfer any ownership rights or grant any authorization for the use of the trademark beyond the stated purpose’*.

- 4.13. The application No. 5963101 was filed by Ms. Babita on 02.06.2023 in Class 11 in respect of apparatus for lighting, heating, steam generating, cooking, refrigerating, drying ventilating, water supply and sanitary purposes on a proposed to be used basis and was published in the Trade Marks Journal on 06.11.2023 and Plaintiff No. 1 had filed a notice of opposition No. 1285955 dated 06.03.2024 against application No. 5963101. However, Ms. Babita did not file a counterstatement to opposition No. 1285955 dated 06.03.2024 and thus, *vide* order dated 05.11.2024, the application No. 5963101 was treated as abandoned.
- 4.14. Thus, while application No. 5963101 was ordered to be treated as abandoned in November 2024, the Defendant obtained NOC from Ms. Babita in July 2025, and had filed a request for ‘Expedited



Process of an Application for the Registration’ in respect of Impugned Application No. 6981603. This issuance and grant of the NOC is dubious in nature and cannot in any manner be relied upon to validate the use of the Impugned Marks by the Defendant. Since the Impugned Marks are infringing in nature, and neither the Defendant, nor Ms. Babita have any right in the same, the NOC is of no consequence and relevance.

- 4.15. The Defendant was incorporated on 09.05.2024 and has also obtained an *Udyam* registration certificate from the Ministry of Micro, Small and Medium Enterprises, wherein the ‘Major Activity’ of the Defendant is mentioned as ‘manufacturing’. The domain name of the Impugned Website, <https://cawelselectric.com> appears to have been registered on 31.07.2023, however, the name of the registrant is not available in the public domain. As the Impugned Website also incorporate the Impugned Mark ‘CAWELS ELECTRIC’, the Impugned Website also infringes the Plaintiffs’ Trade Marks. The use of the Impugned Website by the Defendant is clearly intended for the purpose of diverting unsuspecting users to the Defendant, who would mistakenly access the Impugned Website believing the same to be of the Plaintiffs.
- 4.16. The Defendant, with the ulterior motive to pass off the Impugned Products as those of the Plaintiffs, has adopted the Impugned



Marks, which are deceptively similar to the Subject Marks. Thus, the adoption of the Impugned Marks by the Defendant is tainted with dishonesty and with the sole motive to gain an unfair competitive advantage by capitalizing on the reputation of the Subject Marks and to mislead the general public. The Defendant have compounded this infringement by adopting the Corporate Name 'Cawels Electric Pvt. Ltd.' (“**Impugned Corporate Name**”) which bears a deceptive resemblance to the Corporate Name of Plaintiff No. 1, thereby causing further violation and derogation of the Plaintiffs’ rights.

- 4.17. The consumers who purchase electrical products, include, *inter alia*, electricians, electrical contractors, builders, corporate offices etc, as well as the general public who usually do not read the mark / label or the name of the manufacturer on the packaging of the product. Owing to the high level of phonetic similarity in the Subject Marks and the Impugned Marks, the chances of confusion are therefore high in the present case.
- 4.18. The Plaintiffs have no control over the quality of the Impugned Products. Pertinently, in the product catalogues available on the Impugned Website, for most of the products, Indian Standards Institute (“**ISI**”) / Bureau of Indian Standards (“**BIS**”) certification or other mandatory compliances and certification numbers are not



mentioned and thus, it appears that the Impugned Products do not comply with such mandatory standards and requirements applicable for sale of electrical products. The products in question being electrical products, an extra caution has to be extended towards the Impugned Products. If Impugned Products are of low quality or non-compliant then it shall result in commercial as well as reputational loss to the Plaintiffs.

- 4.19. The Defendant is wilfully deceiving the public who may purchase the Impugned Products under the false belief that the Impugned Products originate from, are associated with, licensed or authorized by the Plaintiffs. The same is ought to cause irreparable damage to the reputation of the Plaintiffs and the negative repercussion of the same could be enormous. Therefore, the alleged acts on part of the Defendant violate the intellectual property rights of the Plaintiffs and are a threat to the safety and security of the general public.
- 4.20. The Defendant is fully cognizant of the reputation of the Subject Marks which explains the Defendant's deliberate actions of adopting a deceptively similar trade mark in respect of same products as those of the Plaintiffs. Such acts of infringement cannot be dismissed as a coincidence. The Defendant, if allowed, to continue the alleged activities, would cause immense loss and damage to the Plaintiff's reputation, while enabling the Defendant



to earn huge profits by misappropriating the Plaintiffs' goodwill and reputation associated with the Plaintiff's Products.

- 4.21. The unauthorized use of the Impugned Marks deceptively similar / identical to the Subject Marks dilutes and erodes the uniqueness and exclusivity of the Plaintiffs' Products and services offered under the Subject Marks. The selling power, distinctive quality, and value of the Subject Marks are severely undermined by the Defendant's use of the Impugned Marks. As a result, the Plaintiffs have suffered, and stand to suffer, incalculable and irreparable harm to the Plaintiffs' business, goodwill, and reputation. The Plaintiffs' intellectual property is thus exploited as an instrument of market fraud and that the alleged acts of the Defendant constitute criminal offences under Sections 101 and 102, punishable under Section 103 of the Act.
- 4.22. Reliance was placed on the following orders passed by this Court in earlier matters involving the Plaintiffs to submit that the Subject Marks have consistently been protected by this Court against acts of infringement and passing off:
- (i) Order dated 01.07.2014 in ***Havells India Limited & Anr v. Sudhir Agarwal & Ors.***
  - (ii) Order dated 15.01.2016 in ***Havells India Limited & Anr v. Havells Nepal (Pvt.) Ltd.***



- (iii) Order dated 23.08.2017 in *Havells India Limited & Anr v. Hallers Electricals Private Limited*
- (iv) Order dated 06.09.2017 in *Havells India Limited & Anr v. Amanpreet Sing & Ors.*
- (v) Order dated 30.05.2019 in *Havells India Limited & Anr v. Ovells Technology India Pvt. Ltd. & Ors.*
- (vi) Order dated 21.10.2020 in *Havells India Limited & Anr v. Harsh Saini & Ors.*
- (vii) Order dated 17.12.2020 in *Havells India Limited & Anr v. Mohit Talwar & Ors.*
- (viii) Order dated 09.05.2022 in *Havells India Limited & Anr v. Vicky Trading & Ors.*
- (ix) Order dated 08.08.2023 in *Havells India Limited & Anr v. Yash Royal Cables India Ltd. & Anr.*
- (x) Order dated 04.01.2024 in *Havells India Limited & Anr v. Cosmic Communication & Ors.*
- (xi) Order dated 27.05.2025 in *Havells India Limited & Anr v. Jai Bhagwan Sharma & Ors.*

4.23. Reliance was also placed on following cases to submit that where an impugned mark constitutes a dishonest or colourable variation of an earlier registered mark and is phonetically, visually or structurally similar particularly in relation to identical or allied



products minimal dissimilarities are immaterial, and that the likelihood of confusion for a consumer of average intelligence and imperfect recollection, warrants injunctive relief.:

- (i) *Castrol Ltd. v. A.K. Mehta*, 1997 SCC OnLine Del 342
- (ii) *Encore Electronics Ltd. v. Anchor Electronics & Electircals Pvt. Ltd.*, 2007 SCC OnLine Bom 147
- (iii) *CROCS INC v. Registrar of Trademarks*, 2025 SCC OnLine Del 6276
- (iv) *Exotic Mile v. Imagine Marketing (P) Ltd.*, 2025 SCC OnLine Del 5969
- (v) *Intercontinental Great Brands v. Parle Product (P) Ltd.*, 2023 SCC OnLine Del 728

4.24. The submissions of the Defendant that the Impugned Marks originates from the initials of the Defendant's promoter namely CA SHASHI KANT who is a member of the Institute of Chartered Accountants of India ("ICAI") combined with 'WELS', derived from the word 'Wellness', represents the Defendant's commitment to promoting wellbeing and delivering quality products for the benefit of people at large, is entirely false, as the Defendant was incorporated in 2024 subsuming the Impugned Mark 'CAWELS ELECTRIC' in the Impugned Corporate Name, whereas the details as available on the website of the Ministry of Corporate Affairs



(“MCA Website”) placed on record shows that the date of appointment of the promoter named CA SHASHI KANT is 11.02.2025. Therefore, the adoption of the Impugned Marks by the Defendant is dishonest and intended to trade upon the goodwill and reputation of the Plaintiffs.

- 4.25. Thus, the Plaintiffs have a *prima facie* case in their favour. The balance of convenience also lies in favour of the Plaintiffs, and the Plaintiffs shall suffer irreparably injury which cannot be repaired by monetary compensation if the interim injunction is not granted in their favour.

**SUBMISSIONS ON BEHALF OF THE DEFENDANT:**

5. The learned Counsel for the Defendant made the following submissions:

- 5.1. The present Application is not maintainable as the Plaintiffs have failed to satisfy three conditions required for the grant of an interim injunction.
- 5.2. The Defendant is using the Impugned Marks, which are completely different from the Subject Marks. The spelling, font, colour combination, trade dress and overall commercial impression of the Impugned Marks is completely different. The colour of the Impugned Marks is saffron, whereas the colour of the Subject Marks is red. Further, the Defendant uses the Impugned Mark



‘CAWELS ELECTRIC’, whereas the Plaintiffs use the Subject Mark ‘HAVELLS’.

- 5.3. Beyond a coincidental arrangement of letters common in the English language, the Impugned Marks have no conceptual, visual, or phonetic connection with the Subject Marks and the Plaintiffs’ attempt to dissect the Impugned Marks and the Subject Marks letter by letter to establish similarity is artificial, forced, and contrary to well settled principles governing comparison of Trade Marks and is an attempt to monopolize even dissimilar marks and stifle fair competition. The Plaintiffs cannot claim monopoly over all marks ending in ‘-ELLS’ or having a superficial resemblance. Also, a mere allegation of similarity cannot substitute for proof of dishonest intention or likelihood of confusion. The Plaintiffs have produced no instance of actual confusion, loss, deception, nor have the Plaintiffs shown that the Defendant attempted to imitate their trade dress, logo, colour scheme, or packaging.
- 5.4. The allegation that the Defendant would have ‘no reason’ to adopt the Impugned Mark is incorrect and ignores the documented rationale behind the Defendant’s branding. The Impugned Marks originates from the initials of the Defendant’s promoter, CA SHASHI KANT who is a member of the ICAI. The term ‘CA’, combined with ‘WELS’, derived from the word ‘Wellness’,



represents the Defendant's commitment to promoting wellbeing and delivering quality products for the benefit of people at large. The adoption of the Impugned Marks is therefore *bona fide*, original, and unconnected with the Subject Marks.

- 5.5. The incorporation of the Defendant on 09.05.2024, the existence of the Defendant's registered office, and the procurement of an *Udyam* registration certificate are publicly available records demonstrating that the Defendant is a lawfully established entity carrying on legitimate business activities. These facts do not, in any manner, support the Plaintiffs' false allegations of dishonesty or infringement. The mention of 'Major Activity' as 'manufacturing' in the *Udyam* registration certificate is entirely consistent with the Defendant's *bona fide* business operations and has no nexus with the Plaintiffs' claims.
- 5.6. The domain names for the Impugned Website incorporating the Impugned Mark 'CAWELS ELECTRIC' was registered independently and in the normal course of business reflecting the Impugned Corporate Name and the Defendant's business activities. The Defendant's adoption of the Impugned Website is honest, *bona fide* and consistent with standard commercial practice. The Impugned Website does not bear any resemblance to the domain names used by the Plaintiffs or the Subject Marks, in a



manner that would lead a consumer to assume any association between the Parties. The Plaintiffs cannot claim a monopoly over all domain names used in the electrical industry merely because the Subject Mark 'Havells' is well-known.

- 5.7. The Plaintiffs' attempt to attribute ulterior motives, or unfair competitive intent is speculative, and factually incorrect. Mere participation in the same broad industry does not impose any legal presumption of knowledge of every existing trade mark and does not automatically imply dishonest intent. The Plaintiffs' attempt to create a resemblance through selective and artificial comparison of letters is contrary to settled principles of trade mark law, which require assessment of overall structure, phonetics, conceptual meaning, and commercial impression. On all such parameters, the Impugned Marks and Subject Marks are distinct and non-conflicting.
- 5.8. Mere familiarity with the Subject Marks does not grant the Plaintiffs an exclusive right to prevent any other trader in the electrical industry from using a distinct and *bona fide* mark. The trade mark law protects against confusion, and not against competition. There is no similarity in the overall impression, meaning, trade dress, packaging, logo, colour scheme, or market presentation of the Impugned Products. The Plaintiffs' reliance on



their sales revenue, publicity, or goodwill does not establish infringement or passing off and a strong market presence does not entitle a party to claim a monopoly over all marks that are merely different combinations of letters.

- 5.9. The Plaintiffs' claimed market size and commercial stature is irrelevant to the issues in dispute and do not entitle the Plaintiffs to monopolize ordinary, dissimilar, or independently adopted Impugned Marks.
- 5.10. The Plaintiffs' attempt to rely on the doctrine of average intelligence and imperfect recollection is misplaced and misapplied. The Plaintiffs' claim that consumers 'usually do not read the label or name of the manufacturer' is incorrect, unsubstantiated, and contrary to real world purchasing practices. Electrical products such as switches, MCBs, wires, fixtures, and related equipment are typically bought by informed consumers, including electricians, contractors, and building professionals who exercise heightened care, as these electric products are critical to safety, durability, and compliance standards. The Plaintiffs cannot artificially lower the standard of consumer attention to manufacture a claim of similarity.
- 5.11. The Defendant is a start-up company and hence for the procurement of ceiling fans, the Defendant had expedited the



process of Trade Mark registration as it is the requirement of BIS and hence the Defendant had moved the application for expediting the Trade Mark registration in Clause 1.1. The Defendant is manufacturing only those products where BIS certification is not mandatory.

- 5.12. The Plaintiffs cannot presume the quality of the Impugned Products to be inferior in order to justify an injunction. The Plaintiff's submissions regarding quality of the Impugned Products are speculative, premature, and intended solely to prejudice this Court. The Defendant manufactures Impugned Products compliant with applicable standards and regulatory requirements. The Defendant is in the process of obtaining all necessary approvals, including BIS certification, which mandates a registered trade mark; hence the *bona fide* Impugned Applications.
- 5.13. The Impugned Products are still under production, awaiting statutory approvals such as BIS certification, and have not been introduced in the market. Therefore, the question of infringement, deception, or injury to the Plaintiffs' reputation does not arise.
- 5.14. The Plaintiffs' allegation of dilution is also misplaced. Dilution presupposes that the Impugned Mark is so similar as to weaken the unique identity of the Subject Marks, which is not made out in the present case. As none of the elements required to establish



infringement, passing off, unfair competition, misrepresentation, or dilution are made out, the Plaintiffs' claims deserve to be rejected.

- 5.15. Mere ownership of the Subject Marks do not automatically entitle the Plaintiffs to an injunction, especially when no *prima facie* case of infringement or deceptive similarity has been made out. In the absence of any instance of customer confusion, diversion of trade, or reputational injury, mere allegations cannot justify an extraordinary relief of interim injunction. The Plaintiffs have also failed to demonstrate any irreparable injury to the Plaintiffs' rights, particularly when monetary damages, if any, would constitute an adequate remedy in accordance with settled legal principles.
- 5.16. Reliance was placed on *Rustom and Hornsby Ltd. vs. The Zamindara Engineering Co*, AIR 1970 SC 1649 and on *Cadila Healthcare Ltd. v. Cadila Pharmaceuticals Ltd.*, (2001) 5 SCC 73, to submit that the overall structural, phonetic and visual similarity must be examined to determine deceptive similarity, and that in the present case, upon an overall comparison, no similarity is made out and, therefore, no likelihood of confusion arises.
- 5.17. Reliance was also placed on *Micolube India Limited v. Rakesh Kumar Trading*, 2012 SCC OnLine Del 1950 : (2012) 50 PTC 161, to submit that if the defendant's mark is not visually or phonetically similar, injunction cannot be granted.



5.18. The Plaintiffs have failed to show a *prima facie* case for the grant of an interim injunction, the balance of convenience is squarely in favour of the Defendant, who has already invested substantial resources in manufacturing, packaging, branding, and business operations under the Impugned Mark and that granting an interim injunction in the present case would cause severe and irreparable harm to the Defendant's ongoing business, considering that the Plaintiffs have shown no real or immediate danger to their own.

5.19. Therefore, this Application is without merits and deserves to be dismissed.

#### **ANALYSIS AND FINDINGS:**

6. The core issue that arises for consideration in this Application is whether the overall phonetic, visual and structural similarity between the Subject Marks and Impugned Marks is so close as to give rise to a likelihood of deception and confusion.

7. The Division Bench of the Bombay High Court in *Encore Electronics Ltd.* (*supra*) wherein the marks in question were mark 'ANCHOR' of the plaintiff therein and mark 'ENCORE', of the defendant therein while dismissing the appeal and affirming the grant of injunction in favour of the plaintiff therein observed that:

*“8...The overall impression conveyed by a mark as a whole, has to be assessed in evaluating whether the mark of the defendant is deceptively similar to the mark of the plaintiff. Phonetic similarity*



constitutes an important index of whether a mark bears a deceptive or misleading similarity to another. The phonetic structure indicates how the rival marks ring in the ears. Courts in a country such as ours whose culture is enriched by a diversity of languages and scripts have to consider how the rival marks are spelt and pronounced in languages in which they are commonly used.”

[Emphasis supplied]

8. Thus, the comparison must be made on an overall impression, considering the mark as a whole and in the way it is likely to be perceived by a consumer of average intelligence and imperfect recollection. In the facts of the present case, *prima facie* comparison of the Subject Marks and the Impugned Marks shows that both end with the suffix ‘-ELLS’ / ‘-ELS’, which constitutes the dominant and essential feature of the Subject Marks and the Impugned Marks. The substitution of consonants ‘H’ with ‘C’, ‘V’ with ‘W’, and the omission of one ‘L’ does not materially alter manner in which the Subject Marks and the Impugned Marks are pronounced. Such minor variations do not detract from the overall phonetic similarity between the Subject Marks and the Impugned Marks and, therefore, are likely to cause confusion in the mind of an average consumer with imperfect recollection.

9. The reliance placed on *Cadila (supra)*, *Rustom and Hornsby (supra)* and *Micolube India Ltd. (supra)* is of no assistance to the Defendant. The Supreme Court in *Cadila (supra)* observed that the test is one of overall impression, keeping in view the phonetic, visual and structural similarity of the marks, the nature of the goods, the class of purchasers and the likelihood



of confusion in the mind of a consumer of average intelligence and imperfect recollection. Applying the said principles to the present case, the Subject Marks and the Impugned Marks, when considered as a whole, exhibit phonetic and structural similarities that are likely to cause deception and confusion, particularly in relation to identical goods and overlapping consumer base.

10. This Court in *Exotic Mile* (*supra*) has observed that the plaintiff is only required to prove likelihood of confusion, and not actual confusion and whether there is, or is no, likelihood of confusion, is a view that the Court has to take on the material before it by a subjective comparison, and is not dependent on evidence.

11. The submission made by the learned Counsel for the Defendant that the Impugned Mark 'CAWELS' originates from the initials 'CA' of the Defendant's promoter CA SHASHI KANT and 'WELS' from the word 'Wellness' also does not inspire confidence. The material placed on record shows that the Impugned Marks were adopted prior to the appointment of CA SHASHI KANT on 11.02.2025. Therefore, the explanation offered to adopt the Impugned Marks appears to be an afterthought.

12. The Subject Mark 'HAVELLS' *vide* order dated 08.12.2014 passed by this Court in suit No. CS (OS) 3770/2014 titled as *Havells India Ltd & Anr. vs M/s TT Plyboard & Ors.* is a declared well-known mark within the meaning of Section 2(1) (zg) of the Act. The law accords a higher degree of



protection to well-known marks, extending such protection even against use in respect of goods or services which are dissimilar. In such cases, the proprietor does not have to demonstrate the likelihood of any confusion. In the present case, the Plaintiff's Products and Impugned Products are, in fact, similar / identical.

13. Thus, on a *prima facie* comparison in the present case, the Subject Marks and the Impugned Marks show similarities that are likely to deceive a consumer of average intelligence and imperfect recollection as to the source of the products thereunder.

14. In the online context, wherein the domain name of the website performs a source identifying function for the products and services offered thereon, the use of the Impugned Website is likely to mislead internet users into believing that the Impugned Products offered thereon are associated with or originate from the Plaintiffs. Accordingly, the use of Impugned Website amounts to infringement and passing off of the Subject Marks and is liable to be restrained.

15. The Impugned Corporate Name containing the Impugned Marks as its dominant and identifying part, *prima facie*, also gives rise to a likelihood of confusion and amounts to a misrepresentation of the business identity and goodwill of the Plaintiffs, and is also liable to be restrained.

16. It is trite law that the Court while restraining a defendant from exercising what the defendant considers his legal right and what the plaintiff



would like to be prevented, puts into the scales, as a relevant consideration whether the defendant is yet to commence his enterprise or whether he has already been doing so as for determining the grant of an interim injunction. Admittedly, in the present case, the Impugned Products are at an early stage of production and have only recently begun to be marketed. Therefore, the balance of convenience favours the Plaintiffs, being a prior user, registered proprietor and owner of a well-known mark with presence across India and abroad, and having placed material on record showing considerable sales, advertising and market recognition spanning several decades.

17. Given the nature of the products in question namely electrical products where safety, reliability and statutory compliance are of primary concern, any failure by the Impugned Products to meet such standards could erode consumer trust and cause prejudice to the Plaintiffs' commercial interests.

18. In view of the above, the Plaintiffs have made out a *prima facie* case for the grant of an interim injunction during the pendency of the Suit. The balance of convenience lies in favour of the Plaintiffs. If the Defendant is permitted to continue use of the Impugned Marks during the pendency of the Suit, irreparable injury would be caused to the Plaintiffs, which cannot be adequately compensated in monetary terms.

19. Accordingly, till the final disposal of the present Suit, the Defendant, its promoters, directors, servants, agents, assignees, distributors, franchisees



or anyone acting for and on its behalf are restrained from using, advertising, manufacturing, selling or offering to sale any products or dealing in any manner with the Impugned Marks 'CAWELS' / 'CAWELS ELECTRIC' /



' , or any other mark identical and / or deceptively similar



**HAVELLS**

to the Subject Marks 'HAVELLS' / ' , / ' **HAVELLS** ' in relation to the Impugned Products or any other product identical / similar to the Plaintiff's Products; using the Impugned Marks as part of the Impugned Corporate Name being Cawels Electric Pvt. Ltd. and using, operating, hosting, or commercially exploiting the Impugned Website being <https://cawselectric.com> or any other domain name incorporating the Impugned Marks or any other mark identical and / or deceptively similar to the Subject Marks.

20. The Application stands disposed of.

**TEJAS KARIA, J**

**DECEMBER 1, 2025**

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