



2025:DHC:1586



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

% *Date of decision: 4th March, 2025*

+ CS(COMM) 571/2019, I.A. 14180/2019, I.A. 2290/2024 & I.A. 41103/2024

PIONEER CORPORATIONPlaintiff

Through: Ms. Ekta Sarin and Mr. Aman Venugopal, Advocates.

versus

MR. GAURAV KUMAR & ORS.Defendants

Through: None.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present suit has been filed seeking relief of permanent injunction restraining the defendants from infringement of trademarks and passing off of their goods as those of the plaintiff along with other ancillary reliefs.

PROCEEDINGS IN THE SUIT

2. Summons in the suit and notice in the application for interim injunction were issued to the defendants no.1 to 6 on 14th October, 2019. On the same date, an *ex-parte* injunction in favour of the plaintiff and against the defendants no.1 to 6 was granted and six Local Commissioners were appointed by this Court. The commission was executed on 23rd October, 2019.



2025:DHC:1586



3. The defendants no.7 to 14 were arrayed as parties in the suit by way of an amended memo of parties dated 23rd January, 2020 on 11th February, 2020 and summons were issued to them on the same date. Counsel for the defendant no.8 entered appearance on the same date, who waived issuance of formal summons.

4. All the remaining defendants were served on various dates recorded in the order of Joint Registrar dated 26th May, 2022.

5. The defendants no.1 to 6 and 8 to 10 entered appearance in the suit either in-person or through counsel. However, none of the defendants filed their written statement. Accordingly, the right to file written statement was closed for the defendants no.1 to 4 and 6 to 14 on 3rd November, 2022 and for the defendant no.5 on 19th May, 2023.

6. The matter was settled by the plaintiff with the defendants no.1 and 3 on 10th February, 2023, with the defendant no.9 on 4th December, 2023 and with the defendant no.2 on 3rd October, 2024. Accordingly, the suit was decreed against the aforesaid defendants.

7. The remaining defendants in the suit are defendants no.4 to 8 and 10 to 14 who have been proceeded against *ex-parte*.

8. The plaintiff now seeks a decree in terms of Order VIII Rule 10 of the Code of Civil Procedure, 1908 (hereinafter 'CPC') against the aforesaid remaining defendants.

CASE SET UP BY THE PLAINTIFF

9. The plaintiff is a Japanese company engaged in the business of developing and manufacturing innovative and high-tech entertainment and electronic products. The plaintiff is a world leader in the field of electronics products for car, home and business markets and is known for introducing



2025:DHC:1586



innovations such as consumer laser disc, car CD player, GPS car navigation, DVD-video player, etc.

10. The plaintiff carries out its business under the marks **PIONEER** and

Pioneer

(hereinafter 'PIONEER marks'). The word PIONEER also forms a distinctive part of the plaintiff's corporate name as well as its subsidiary in India, namely, Pioneer India Electronics Private Limited, which was incorporated on 17th October, 2008.

11. In India, the plaintiff has been continuously and extensively selling its goods under the PIONEER marks since 1969. Currently, the plaintiff's goods under the PIONEER marks are mostly imported into India through its aforesaid subsidiary.

12. The plaintiff's consolidated worldwide sales figures (including India) in relation to its goods under the PIONEER marks for the years 2008-09 to 2018-19 are given in paragraph no.9 of the plaint. The plaintiff's consolidated sales figures in India in relation to its goods under the PIONEER marks for the years 2008-09 to 2018-19 are given in paragraph no.10 of the plaint. Pertinently, the plaintiff's consolidated global sales and sales in India in the year 2018-19 has been 294 billion yen and Rs. 170 crores respectively.

13. The plaintiff advertises and promotes the PIONEER marks internationally as well as in India in print, television and digital advertisements, billboards, events and online/ social media drives. The plaintiff is also the owner of the website www.pioneerelectronics.com, which domain was registered on 9th August, 1996.



14. By virtue of the aforesaid, the PIONEER marks are exclusively identified with the plaintiff and its products, especially in respect of car speakers and twitters.

15. The plaintiff owns and is the registered proprietor of the mark PIONEER in around 200 jurisdictions of the world. The PIONEER marks are also registered in India in relation to various goods in class 9. A list of the plaintiff's registrations for the PIONEER marks in India is given in paragraph no.6 of the plaint. The earliest registration for the mark PIONEER in the name of the plaintiff dates back to 25th June 1969. The plaintiff therefore enjoys exclusive right over the PIONEER marks in several jurisdictions including India.

16. The plaintiff became aware about the counterfeit products being sold under the PIONEER marks around September 2019. The plaintiff therefore deputed independent investigating agency for making further inquiries into the counterfeit activities, which revealed that the defendants no.4 to 6 are engaged in selling counterfeit goods under the PIONEER marks.

17. During the execution of the commission, counterfeit products under the PIONEER marks were also found at the addresses of unidentified defendants, who were later arrayed in the suit as the defendants no.7 to 14.

18. The *malafides* of the defendants is evident from the fact that they have either refused to issue a valid invoice for the products obtained by the plaintiff or have only issued a simple paper invoice without any GST or tax registration number.

ANALYSIS AND FINDINGS

19. I have heard the submissions of counsel for the plaintiff and perused the material on record.



20. In *New Balance Athletics Inc. v. Salman Khan & Anr.*, 2023 SCC OnLine Del 6337, a Coordinate Bench of this Court held as follows:

“20. In that view of the matter, I am of the opinion that given the overall circumstances of the case and the fact that the allegations in the plaint have not been traversed on affidavit by the defendants, the suit can be decreed straightway under Order VIII Rule 10 of the CPC instead of keeping it pending.

*21. The facts noted hereinafter make out a clear case of infringement, by the defendants, of the NB marks of the plaintiff. The case is one of dealing in counterfeit goods. I have already expressed a view in **Louis Vuitton Malletier v. Capital General Store**, (2023) 94 PTC 274, that counterfeiting is a serious social evil, which erodes brand value which may have been gained over a long period of time and has, therefore, to be dealt with strictly. This view of mine has been accepted by the Division Bench vide order dated 10 April 2023 in FAO(OS) (COMM) 65/2023 (**Jawed Ansari v. Louis Vuitton Malletier & Ors.**).”*

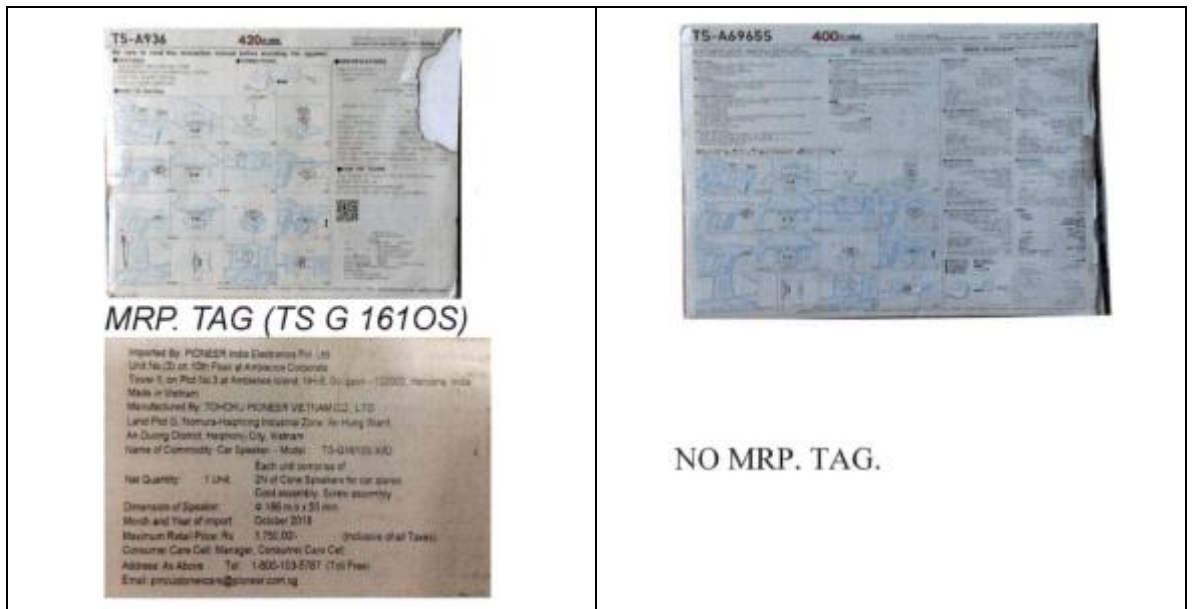
21. The plaint has been duly verified and is also supported by the affidavit of the plaintiff’s constituted attorney. In view of the fact that no written statement has been filed on behalf of the defendants no.4 to 8 and 10 to 14, all the averments made in the plaint are deemed to have been admitted. Further, since no affidavit of admission/ denial has been filed on behalf of the aforesaid defendants in respect of the documents filed with the plaint, the same are deemed to have been admitted in terms of Rule 3 of the Delhi High Court (Original Side) Rules, 2018. Therefore, in my opinion, this suit does not merit trial and is capable of being decreed in terms of Order VIII Rule 10 of the CPC.

22. From the averments made in the plaint and the evidence on record, the plaintiff has been able to prove that it is the registered proprietor of the mark PIONEER in India in relation to goods in class 9 with effect from 25th June, 1969 and has been continuously and extensively offering its products under the PIONEER marks in India.



23. A comparison between the plaintiff's products bearing the PIONEER marks and the defendants' counterfeit products, as given in the plaint, is set out below:

Plaintiff's Products	Defendant's Products
<p style="text-align: center;">TS-A936 model</p> 	<p style="text-align: center;">TS-A6965S</p> 
<p style="text-align: center;">TS-G-1610S model</p> 	<p style="text-align: center;">TS-G-1615R model</p> 
<p style="text-align: center;">TS-A936 model</p> 	<p style="text-align: center;">TS-A 6966R model</p> 
<p style="text-align: center;">TS-G1010S model</p> 	<p style="text-align: center;">TS-G1015R model</p> 
<p style="text-align: center;">Plaintiff's Original Product with MRP Tag</p>	<p style="text-align: center;">Defendant's Product without any MRP Tag</p>



24. A bare perusal of the competing products makes it apparent that the defendants have dishonestly and unauthorizedly adopted and are using the plaintiff's registered and well-reputed PIONEER marks in relation to the impugned products, which are also identical with the plaintiff's products under the PIONEER marks.

25. In view of the above, a clear case of infringement of trademarks is made out in favour of the plaintiff and against the defendants no.4 to 8 and 10 to 14.

26. The plaintiff, through its long and continuous use of the PIONEER marks in India, significant sales made thereunder and promotion thereof, has been able to establish its goodwill and reputation under the PIONEER marks in India. The defendants have been taking unfair advantage of the plaintiff's reputation and goodwill under the PIONEER marks and has also deceived the unwary consumers of their association with the plaintiff by dishonestly and unauthorizedly adopting and using the plaintiff's PIONEER marks without any plausible explanation. Therefore, the plaintiff has established a



case of passing off as well.

27. At this stage, it may be relevant to note that despite service of summons, the aforesaid defendants have failed to contest the present suit or settle the matter with the plaintiff. Neither a written statement nor any communication in respect of the plaintiff's allegations has been placed on record on behalf of the aforesaid defendants. In light of the aforesaid, it is evident that the aforesaid defendants have no defence to put forth on merits.

28. In view of the discussion above, the plaintiff would be entitled to a decree of permanent injunction against the defendants no.4 to 8 and 10 to 14.

29. Counsel for the plaintiff presses for the reliefs of damages and costs.

30. Reference in this regard may be made to the judgment in ***Aero Club v. M/s Sahara Belts***, 2023 SCC OnLine Del 7466. The relevant observations are set out below:

“20. In view of Order 26 Rule 10(2) CPC, 1908 and the judgment discussed above, the settled legal position that emerges is that the report of the Local Commissioner can be treated as evidence in the suit where it is not challenged by any party. In the present case, the photographs of the counterfeit products which are placed on record and the inventory which has been prepared, is also not denied by the Defendant either in the pleadings or in its reply. Accordingly, the report of the Local Commissioner and the contents therein can be relied upon by the Court as evidence to assess the damages, as the same stands unchallenged.”.

31. The aforesaid observations are fully applicable in the present case. Insofar as the reliefs of damages and costs sought in prayer clause contained in paragraph no.35(d) and (g) of the plaint are concerned, it is relevant to note that during the execution of the commission, counterfeit products under the PIONEER marks were found at the addresses of the aforesaid defendants. The quantum of seizure from the aforesaid defendants' premises



is given as under:

Defendants	Quantum of Seizure
Defendant no.4	50 pieces
Defendant no.5	241 pieces
Defendant no.6	37 pieces
Defendant no.7	6 pieces and 1 empty box
Defendant no.8	29 pieces
Defendant no.10	23 pieces
Defendant no.11	172 pieces
Defendant no.12	53 pieces
Defendant no.13	8 pieces
Defendant no.14	38 pieces

32. In light of the foregoing analysis, this Court concludes that the conduct of the defendants no.4 to 8 and 10 to 14 not only warrants but also necessitates the imposition of both damages and costs. To be noted, the plaintiff has spent Rs. 2,00,000/- towards court fees and Rs. 7,50,000/- towards the fees of Local Commissioners. Thus, in addition to a decree of permanent injunction passed in terms of prayer clause contained in paragraph no.35(a) and (f) of the plaint and taking into account the entire facts and circumstances of this case, this Court also awards damages and costs amounting to Rs. 1,50,000/- in favour of the plaintiff and against each the aforesaid defendants.

33. Counsel for the plaintiff does not press for the remaining reliefs claimed in the suit.

34. Let the decree sheet be drawn up accordingly.



2025:DHC:1586



35. All pending applications stand disposed of.

AMIT BANSAL, J

MARCH 4, 2025

Vivek/-