



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% ***Judgment Reserved on: 27<sup>th</sup> January 2025***  
***Judgment Pronounced on: 17<sup>th</sup> February, 2025***

**I.A. 44613/2024**

IN

+ **CS(COMM) 995/2024 & I.A. 44614/2024**

HAVELLS INDIA LIMITED

.....Plaintiff

Through: Mr. Jayant Mehta, Mr. Sudeep  
Chatterjee, Mr. Kunal Vats and  
Mr. Sanyam Suri, Advocates

versus

CAB-RIO INDUSTRIES, & ORS.

.....Defendants

Through: Mr. Aditya Gupta, Mr. Yash Raj and  
Ms. Aishwarya Kane, Advocates for  
D-1, 3, 5 & 6

**CORAM:**

**HON'BLE MR. JUSTICE AMIT BANSAL**

**JUDGMENT**

**AMIT BANSAL, J.**

**I.A. 44613/2024 (under Order XXXIX Rules 1 and 2 of CPC)**

1. The captioned application has been filed seeking relief of interim injunction restraining the defendants from infringing the trademark of the plaintiff, passing off their goods as that of the plaintiff, along with other ancillary reliefs.

**CASE SET UP IN THE PLAINT**

2. The case set up by the plaintiff in the plaint is as under:

2.1. The plaintiff, Havells India Limited, was incorporated in the year 1983 and is engaged in the business of Electrical and Power Distribution Equipment



dealing in cables and wires and other industrial and domestic circuit protection devices.

2.2. The plaintiff company has extensive production and distribution networks across India and internationally, providing a wide range of world class industrial and consumer electrical products.

2.3. The plaintiff company sells its products under various brands like 'Havells', 'Standard', 'Crabtree', 'Lloyd' and 'Promptec'.

2.4. Sometime in and around the year 2012, the plaintiff introduced the brand 'REO' in various markets across the country. It is the case of the plaintiff that the word 'REO' is an acronym for 'Revolutionary Economical Outstanding' quality. This three-letter word 'REO' was coined keeping in mind that it is easy to pronounce, easy to identify and easy to recollect by the rural public. Hence, the brand 'REO' is a unique and coined term which has no dictionary meaning.

2.5. The plaintiff filed a multiclass application bearing application no.3040744 on 25<sup>th</sup> August, 2015 for registration of logo/mark- 'REO'/'



under classes 7, 9 and 11 and obtained registration. The plaintiff's trademark registration remains valid and subsisting as on date. However, a rectification action filed by a third party namely, Rico Appliances, is pending adjudication with regard to the said registration.

2.6. The plaintiff has also been granted copyright registration bearing no.'A-150743/2024' in respect of the packaging of 'REO' wires -



2.7. The plaintiff's mark 'REO' was declared to be a 'well-known' trademark in an order passed by the Co-ordinate Bench of this Court, ***Havells India Limited v. G.P. Industries & Ors.***, CS(COMM) 562/2023 [decided on 30<sup>th</sup> May, 2024].

2.8. The products bearing the mark 'REO' are being sold by the plaintiff through its brand stores across India. The plaintiff has a strong pan India presence with 17000+ dealers.

2.9. In addition to this, the products of the plaintiff bearing the mark 'REO' are being exported in multiple countries including Nepal, Bangladesh, South Africa, Sri Lanka, UAE, etc.

2.10. The year-wise annual turnover of the plaintiff from the financial years 2012-2013 to 2023-2024 is provided in paragraph 24 of the plaint. The annual turnover of the plaintiff for the year 2023-2024 from selling products under the mark 'REO' is to the tune of Rs. 946.86 Crores.

2.11. The plaintiff has been actively advertising its products on various social media channels, e-commerce platforms and its official website <https://reo.havells.com/>. The year-wise advertisement expenses of the plaintiff from the financial year 2012-2013 to 2023-2024 are given in paragraph 23 of the plaint. The total expenditure of the plaintiff for advertisements and promotions relating to its brand 'REO' for the year 2023-2024 is to the tune of Rs. 7.85 Crores.

2.12. The defendants are engaged in the business of manufacturing and



selling identical products as that of the plaintiff viz. electrical cables/wires. In the first week of October, 2024, the plaintiff gained knowledge from its dealers/distributors that various electrical products, specifically cables/wires, are being sold in the market by the defendants under the mark 'CAB-RIO'.

2.13. Aggrieved by the aforesaid, the present suit has been filed seeking relief of permanent injunction along with other ancillary reliefs.

### CASE SET UP IN THE WRITTEN STATEMENT

3. The case set up by the defendants in the written statement is as under:

3.1. Defendant no.1, M/s Cab-Rio Industries, is a partnership firm which came into effect in November, 2017. The defendants no.2 to 6 are the partners of the defendant no.1 firm. With effect from 28<sup>th</sup> June, 2022, the defendants no.2 and 4 retired from the partnership firm.

3.2. The defendant no.1 has been engaged in the business of manufacture and sale of electrical wires and cables.

3.3. The defendants adopted the mark 'CAB-RIO' in relation to electrical wires and cables in the year 2017.

3.4. In addition to having common law rights in the aforesaid mark, the defendants are also registered proprietor of the trademark 'CAB-RIO'/'



bearing trademark registration no. 3711018 under class 9 in respect of “*wire and cables, electrical and electronics apparatus & instruments including, inverter, battery, stabilizer transformer, switch accessories, electric iron, switchboard, MCB box, junction box, kitkat, change over, starter, cut outs, plugs, sockets, distribution box, electric chokes, PATTI and CATV System included in class 9*” with effect from 25<sup>th</sup> December, 2017 (hereinafter “the impugned mark”). The aforesaid trademark registration



remains valid and subsisting.

3.5. The products of the defendants bearing the impugned mark have received certifications from various quality certification bodies including Bureau of Indian Standards, etc., which indicates that the products of the defendants are of good quality.

3.6. The defendants have been extensively promoting their products bearing the impugned mark through their official website, <https://cabriowire.com/>, through their Facebook page as well as third party websites. Since its incorporation till 31<sup>st</sup> March, 2024, the total sales of the defendant no.1 amount to over Rs. 1.24 crores.

3.7 It is stated that the registration granted in favour of the plaintiff is invalid, as prior registered mark of third party already exists in the Trade Marks Register.

#### **PROCEEDINGS IN THE SUIT**

4. Summons in the present suit and notice in the captioned application were issued on 11<sup>th</sup> November, 2024. On the same date, this Court appointed a Local Commissioner to visit the premises of the defendant no.1 to inventorize the products bearing the impugned mark.

5. The Local Commissioner conducted the commission on 18<sup>th</sup> November, 2024 and prepared an inventory of all the products found at the aforesaid premises.

6. Pleadings in the captioned application were completed, arguments were heard on behalf of the counsel for the parties on 10<sup>th</sup> January, 2025 and 27<sup>th</sup> January, 2025, when the judgment was reserved.

#### **SUBMISSIONS ON BEHALF OF THE PLAINTIFF**

7. Mr. Jayant Mehta, Senior Counsel appearing on behalf of the plaintiff,



has made the following submissions:


7.1. The plaintiff adopted the mark 'REO' in 2012 and has been using it in relation to electrical cables and wires since then. The plaintiff adopted the said mark in a *bonafide* manner and is the prior user of the aforesaid mark.

7.2. The plaintiff has acquired immense goodwill and reputation in respect of the mark 'REO', which is evident from the sales figures in the financial years 2012-13 to 2023-24. In contrast, the total sales of the defendant no.1 since its incorporation till 31<sup>st</sup> March, 2024 were to the tune of Rs. 1.24 crores.

7.3. The defendants have failed to provide any justifiable reason for adopting the mark 'CAB-RIO'. Given the popularity of the brand 'REO', it is highly unlikely that the defendants were unaware of its presence in the market. Hence, the adoption of the impugned mark by the defendants is dishonest.

7.4. The defendants are also using the mark 'CAB-LINE' along with electric waves which is deceptively similar to another mark/trade dress of the plaintiff, namely 'HAVELLS LIFE LINE'. While the mark 'CAB-LINE' is not the subject matter of the present suit, the use of the aforesaid marks by the defendants indicates that the word 'CAB' is a descriptive term and is used as an acronym for 'cables' by the defendants.

7.5. The defendant no.1 has falsely claimed user since 2017 in order to legitimise the use of the impugned mark. As per the invoices, the earliest use of defendant no.1's mark is in 2019.

7.6. Despite obtaining registration of the mark 'CAB-RIO/  
, the defendants have been using it in a different form '

', as displayed on their website.



7.7. The products of the plaintiff and the defendants are generally sold to contractual workers or builders, who usually do not read the mark/label or the name of the manufacturer on the packaging of the product. Usually, the customers are of average intelligence with imperfect recollection. Therefore, the phonetic and structural similarity between the rival marks is likely to cause confusion.

7.8. The plaintiff's brand 'REO' is not a sub-brand under 'HAVELLS'. The defendants have wrongly relied on plaintiff's counter-statement to third party rectification action to prove otherwise.

#### **SUBMISSIONS ON BEHALF OF THE DEFENDANTS**

8. Mr. Aditya Gupta, counsel appearing on behalf of the defendants, has made the following submissions:

8.1. The plaintiff has played fraud upon the Court by suppressing the following material facts:

8.1.1. The plaintiff did not disclose the contents of the rectification petitions, counter statement and evidence affidavits filed by the plaintiff in the third party rectification action.

8.1.2. In its counter-statement, the plaintiff has admitted that addition of the mark 'HAVELLS' to the mark 'REO' acts as a source identifier. It is further stated in the counter statement that the plaintiff uses the aforesaid marks in association with each other to eliminate any chances of confusion/deception.

8.2. Even on merits, the plaintiff does not have a *prima facie* case in its favour for grant of interim injunction:

8.2.1. The defendants adopted the mark 'CAB-RIO' in 2017.

8.2.2. The impugned mark is registered in favour of the defendants,



making them entitled to seek protection under Section 28(3) of the Trade Marks Act, 1999. Therefore, the plaintiff cannot press for an infringement action. The plaintiff may, at best, make out a case for passing off.

8.2.3. The plaintiff failed to file any document in support of its claim to show prior use from 1<sup>st</sup> September, 2012 in respect of the mark 'REO' under class 9. The product catalogues of the plaintiff for the years 2012 to 2017 show that the plaintiff did not use the mark 'REO' in respect of electrical wires and cables.

8.2.4. While comparing the two competing marks, the words have to be seen as a whole and cannot be dissected letter-by-letter or syllable-by-syllable.

8.2.5. The device of electric waves used by the plaintiff and the defendants in their respective marks is common to trade and does not amount to passing off goods as that of the plaintiff.

8.2.6. The logo, packaging, font colour etc. used in conjunction with the impugned mark constitutes 'added matter'. In the present case, the added matter is sufficient to distinguish the goods of the defendants from that of the plaintiff. Hence, it is unlikely that the customers with average intelligence and imperfect recollection would be confused between the two competing marks.

### **ANALYSIS AND FINDINGS**

9. I have perused the material on record and heard the submissions made on behalf of the parties.

10. The present suit has been filed by the plaintiff for infringement as well as passing off. Under Section 27(2) of the Trade Marks Act, 1999, an action



on the basis of passing off is maintainable *dehors* the registration granted under the Act. In *S. Syed Mohideen v. P. Sulochana Bai*<sup>1</sup>, the Supreme Court has held that the rights of the prior user are superior to the rights of a subsequent user emerging out of registration. It was also observed that the rights of the prior user remain unaffected by the registration granted under the Act.

11. In *S. Syed Mohideen* (Supra), it was also held that the three elements which are necessary to make out a case of passing off are goodwill and reputation attained by the plaintiff, misrepresentation by the defendant and the damage caused to the plaintiff's goodwill and reputation by the acts of the defendant. The fact that both the 'prior user' and the 'subsequent user' are registered proprietors shall be irrelevant for the purposes of passing off action.

12. In *Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd.*<sup>2</sup>, the Supreme Court laid down the following tests for determining deceptive similarity between the competing marks. Paragraph no.35 of the aforesaid judgment is set out below:

*"35. Broadly stated, in an action for passing-off on the basis of unregistered trade mark generally for deciding the question of deceptive similarity the following factors are to be considered:*

*(a) The nature of the marks i.e. whether the marks are word marks or label marks or composite marks i.e. both words and label works.*

*(b) The degree of resemblance between the marks, phonetically similar and hence similar in idea.*

*(c) The nature of the goods in respect of which they are used as trade marks.*

*(d) The similarity in the nature, character and performance of the goods of the rival traders.*

*(e) The class of purchasers who are likely to buy the goods bearing the marks they require, on their education and intelligence and a degree of*

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<sup>1</sup> (2016) 2 SCC 683

<sup>2</sup> (2001) 5 SCC 73



*care they are likely to exercise in purchasing and/or using the goods.*  
*(f) The mode of purchasing the goods or placing orders for the goods.*  
*(g) Any other surrounding circumstances which may be relevant in the extent of dissimilarity between the competing marks.”*

[Emphasis is mine]

13. It is an undisputed position that both the plaintiff’s mark ‘REO’ and the defendants’ mark ‘CAB-RIO’ are registered in class 9 and both the plaintiff and the defendants use their respective marks in relation to identical goods, *i.e.*, electrical cables and wires.

14. Counsel for the plaintiff submits that the plaintiff is the prior adopter of the mark ‘REO’ and has been using the same since the year 2012. However, counsel for the defendants disputes this position and asserts that the product catalogues of the plaintiff for the period between 2012-2017 does not show that the plaintiff has been using the mark ‘REO’ in relation to electrical cables and wires. Therefore, what has to be seen is who is the prior user of the mark.

15. A perusal of the documents placed on record would show that the plaintiff has filed invoices in respect of electrical goods being sold under the mark ‘REO’ from the year 2012 to establish its user claim (*filed as document no. 8 along with the plaint*). On the other hand, even though the defendants in their trademark application claimed user from 1<sup>st</sup> December, 2017, the earliest invoice filed by them bearing the mark ‘CAB-RIO’ is of the year 2019.

16. Therefore, on the basis of the material on record, it is clear that the plaintiff is the prior user of the mark.

17. At this stage, it may be apposite to look at a comparison between the mark of the plaintiff and the mark of the defendants.



<b>Plaintiff's Trademark</b>	<b>Defendants' Mark</b>
<b>REO</b>	<b>CAB-RIO</b>

18. The comparison above would show the similarity between the mark adopted by the defendants and the mark adopted by the plaintiff. Even though the mark adopted by the defendants is 'CAB-RIO', the prominent part of the mark is the word 'RIO', which is phonetically and structurally similar to the plaintiff's mark 'REO'. The aspect of phonetic similarity has to be assessed from the point of view of the consumer, who is a person of average intelligence and imperfect recollection and he cannot be treated as one who is over-familiar with either of the marks.

19. Counsel for the plaintiff has also drawn attention of the Court to another mark of the plaintiff which has been copied by the defendants. Even though the said mark is not the subject matter of the present suit, it may be relevant to refer to the comparison between the aforesaid marks as set out below:

<b>Plaintiff's Mark</b>	<b>Defendants' Mark</b>
	
	

20. The comparison above would show that the latter part of the defendants' mark 'LINE' is identical to the latter part of the plaintiff's mark 'LINE'. The defendants have also adopted the electric waves used by the



plaintiff in its mark, even though the defendants claim it is common to trade. Further, the prefix used by the defendants ‘CAB’ is the same which has been used in the present case.

21. Counsel for the defendants submits that the mark ‘RIO’ should not be seen in isolation but should be read as ‘CAB-RIO’ as a whole.

22. However, this contention is belied by the fact that the defendants themselves use ‘ - ’ (hyphen) between the words ‘CAB’ and ‘RIO’.

23. The fact that the defendants have adopted the prefix ‘CAB’ in respect of two of its products which are cables, reinforces the belief that the word ‘CAB’ has been used as an acronym for cables, a product which both the plaintiff and the defendants are dealing with. In addition to this, the defendants have been advertising their electrical cables/wires on social media platforms and on their own official website, using a tagline in Hindi - “केब-रीओ लगालो सुरक्षा बढालो ” [install Cab-Rio, increase safety]. The fact that the defendants have used the word “केब ” and not “कैब”, fortifies the impression that ‘CAB’ has been used as a descriptive term, as a short form for cables.

24. In my view, adoption of the mark ‘REO’ by the plaintiff in relation to cables is completely arbitrary and inherently distinctive in nature.

25. There is no explanation given by the defendants in their written statement for adopting the mark ‘RIO’. On a pointed query from the Court as to the reasons for the defendants adopting the mark ‘RIO’, no satisfactory explanation was forthcoming.

26. The defendants have not pleaded that they were unaware of the plaintiff or the mark ‘REO’ used by the plaintiff. The defendants, being later users,



ought to have been aware of the existence of the plaintiff and its mark, particularly taking into account the substantial sales turnover of the plaintiff.

27. Furthermore, counsel appearing on behalf of the plaintiff has correctly pointed out that there is a difference between the registration granted in favour of the defendants and the way it is being used by the defendants.

28. It emerges from the trademark registration certificates filed by the defendants that the defendants obtained registration in respect of the mark



. However, the defendants have been using the logo



on their website.

29. Hence, on a *prima facie* view, the adoption of the impugned mark/logo by the defendants is not *bonafide* and it appears the same has been adopted to ride on the goodwill and reputation of the plaintiff.

30. The plaintiff has given in the plaint its revenue for the last five years (till 31<sup>st</sup> March, 2024) supported by a CA Certificate, which shows that the revenue in respect of the products sold under the mark 'REO' of the plaintiff is quite substantial. For the financial year 2023-2024 alone, the sales figures are to the tune of Rs. 946.86 crores. On the other hand, the defendant no.1 has provided sales figures since its incorporation in 2017 till 31<sup>st</sup> March, 2024 amounting to Rs. 1.24 crores, which is insignificant compared to those of the plaintiff.

31. Further, the advertisement and sales promotion expenses of the plaintiff under its brand 'REO' for the last five years (till 31<sup>st</sup> March, 2024) as supported by a CA Certificate (*filed as document no.17 of the plaintiff's documents*) shows that the advertising expenses are enormous. For the



financial year 2023-2024, the advertisement and promotion expenses amount to Rs. 7.85 crores.

32. The gross turnover pertaining to exports of the plaintiff under its brand 'REO' for the last five years (till 31<sup>st</sup> March, 2023) as supported by a CA Certificate (*filed as document no.18 of the plaintiff's documents*) reinforces the 'REO' brand's popularity abroad. For the financial year 2022-2023, the gross turnover pertaining to exports is to the tune of Rs. 55.42 crores.

33. Based on the averments made in the plaint and the documents placed on record, at a *prima facie* stage, the plaintiff has been able to establish its goodwill and reputation in the mark 'REO'.

34. On behalf of the defendants, it has been argued that the added matter, such as logo, packaging, font colour etc. used in conjunction with the impugned mark, is sufficient to distinguish the goods of the defendants from that of the plaintiff. Hence, it is unlikely that the customers with average intelligence and imperfect recollection would be confused between the two competing marks.

35. I am unable to agree. When there is a high degree of phonetic similarity between the two competing marks, the aforesaid added factors would not be sufficient to distinguish them. The customers who purchase electrical goods and equipment are generally electricians, electrical contractors, builders etc., who are unlikely to appreciate the differences in logo or colour scheme. The prospective customers of the products of the plaintiff and the defendants would be unwary customers of average intelligence and imperfect recollection and not likely to discern the difference between the marks of the plaintiff and the defendants.



36. Counsel appearing on behalf of the defendants contends that the plaintiff uses its mark 'REO' with its house mark 'HAVELLS' and therefore, the same would distinguish the mark of the plaintiff from the mark of the defendants. In this regard, attention of the Court has been drawn to paragraph 20 of the counter statement filed by the plaintiff in response to the rectification petition filed by the third party (*at page 664 of the defendants' documents*).

37. The aforesaid contention is countered by the plaintiff submitting that the plaintiff uses 'REO' as a brand in itself and therefore, has sought registration of the same. It is submitted that the aforesaid counter statement filed by the plaintiff has to be read as a whole and reference cannot be made to a few selected paragraphs. In this regard, attention of the Court has been drawn to paragraphs 12 and 13 of the aforesaid counter statement where the plaintiff has clearly claimed rights in the mark 'REO' by itself.

38. When the aforesaid counter statement is read as a whole, it is clear that the plaintiff has emphasized its usage of the trademark 'REO' by itself and promoted the same.

39. A perusal of the official website of the plaintiff, brochures of the plaintiff, as well as the promotional activities carried out by the plaintiff on various social media platforms, would unequivocally show that the plaintiff has been using the mark 'REO' on a standalone basis and not as a sub-brand of Havells. This is also evident from the invoices placed on record on behalf of the plaintiff as well as the trademark registrations of the plaintiff.

40. Counsel for the defendants submits that the plaintiff has failed to disclose the third-party rectification petitions filed against the trademark registration of the plaintiff along with the counter statement and evidence



affidavits filed on behalf of the plaintiff.

41. In my considered view, the non-filing of the third party rectification petitions and the counter statement thereto would not amount to concealment or suppression in the facts and circumstances of the present case.

42. Applying the principles of passing off as set out in the aforesaid precedents to the facts of the present case, in my *prima facie* view, the plaintiff has established a case of passing off.

43. The balance of convenience is also in favour of the plaintiff and against the defendants inasmuch as the plaintiff has been using the mark 'REO' since the year 2012 whereas the defendants have admittedly launched its products under the mark 'CAB-RIO' only in 2017.

44. Further, the use by the defendants of a deceptively similar mark 'CAB-RIO' in relation to their electrical cables and wires would not only cause irreparable loss, harm and injury to the goodwill and reputation of the plaintiff but is also likely to cause confusion and deception in the market and injury to the public at large.

45. Accordingly, the defendants, its proprietors, partners, directors, officers, servants, agents, distributors, dealers, retailers, representatives and anyone acting for and/ or on its behalf is/are restrained from using, selling, soliciting, exporting, displaying, advertising or by any other mode or manner

dealing in under the impugned trademark 'CAB-RIO' /



and/ or any other mark which may be phonetically/ deceptively/ structurally similar and/ or identical to the plaintiff's mark 'REO' and its variants in relation to the impugned goods being electrical cables and



wires and/or any other allied/ related/ cognate goods till the final adjudication of the suit.

46. Consequently, I.A. 44613/2024 filed on behalf of the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 is allowed.

47. Since the aforesaid corporate name has been used by the defendant no.1 since 2017, one (1) month's time is given to the defendant no.1 to take steps to change its corporate name/ trade name.

48. Needless to say, any observations made herein are only for the purpose of adjudication of the aforesaid application and would have no bearing on the final outcome of the suit.

**CS(COMM) 995/2024 & I.A. 44614/2024**

49. List before Joint Registrar on 02<sup>nd</sup> April, 2025.

50. List before Court on 21<sup>st</sup> July, 2025.

**AMIT BANSAL  
(JUDGE)**

**FEBRUARY 17, 2025/Vivek/-**