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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.O. (COMM.IPD-TM) 161/2021

M/S VANS INC. USA

..... Petitioner

Through: Mr. Himanshu Choudhary & Mr.
Aditya Rajesh, Advocates

versus

FCB GARMENT TEX INDIA (P) LTD. AND ANR. Respondents

Through: Mr. Saubhagya Agarwal, Ms.
Ridhima Purohit, Mr. Kartik Gupta,
Ms. Pooja Singh, Advocates
(M:9588845275)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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11.04.2022

1. This hearing has been done through hybrid mode.
2. This is a rectification petition seeking cancellation of the registered trademark no. 1849768 in Class 25, the trademark is 'IVANS NXT'. It is submitted by ld. Counsels appearing for the parties, that there were three related trademarks/copyright of which rectification was sought, one of them being the present mark.
3. The other two marks of which rectification is sought, are as under:
 - (i) Application No.1109073 for the mark 'IVANS'; and
 - (ii) Registration No. A-117174/2017 for 'IVANS Active'.
4. In respect of Application No. 1109073 for the mark 'IVANS', it is submitted by ld. counsel for the Petitioner, that there is an injunction order, which has been granted by the IPAB. These three appeals for rectification petitions are to be heard together.



5. It is also submitted by Id. Counsels for the parties that a civil suit being **CS(Comm.) 462/2019** titled **M/S VANS Inc. USA v. Fateh Chand Bhansali & Anr.** has also been filed before the Ld. ADJ, Patiala House Courts, New Delhi.

6. Rule 26 of the Delhi High Court Intellectual Property Rights Division Rules, 2022 (*hereinafter "IPD Rules"*), provides for consolidation of IPR disputes, reads as under:

"Consolidation of IPR subject matters or cases or proceedings or disputes Where there are multiple proceedings relating to the same or related IPR subject matter, irrespective of whether the said proceedings are between the same parties or not, the Court shall have the power and the discretion, wherever appropriate, to direct consolidation of proceedings, hearings, and also to direct consolidated recording of evidence/common trial and consolidated adjudication. If the Court is of the opinion that any matter pending before a Commercial Court is to be consolidated with a matter pending before the IPD, it may exercise powers of transfer under Section 24, Code of Civil Procedure, 1908 for transfer and consolidation of such matter to itself."

7. Accordingly, let the Registry trace the other two rectification petitions being rectification petitions for Application No. 1109073 for 'IVANS' and Registration No. A-117174/2017 for 'IVANS Active' and place all of them on the same date before this Court for hearing.

8. Moreover, considering that these three rectification petitions relate to the same very trademarks/copyright and in view of the spirit of the IPD Rules extracted above, let the said suit being **CS(Comm.) 462/2019** titled **M/S VANS Inc. USA v. Fateh Chand Bhansali & Anr.**, be also transferred from the Court of Ld. ADJ, Patiala House Courts, New Delhi, before this



Court for being adjudicated, along with the present three rectification petitions. The transferred suit be renumbered, scanned and placed before this Court, on the next date.

9. List the following matters, together, on 6th July, 2022:

- (i) The transferred renumbered suit, currently being **CS(Comm.) 462/2019** titled **M/S VANS Inc. USA v. Fateh Chand Bhansali & Anr.** pending before the Court of Ld. ADJ, Patiala House Courts, New Delhi
- (ii) The two rectifications petitions from the IPAB, for **Application No. 1109073** for '**IVANS**' and **Registration No. A-117174/2017** for '**IVANS Active**'; and
- (iii) The present petition being **C.O. (COMM.IPD-TM) 161/2021**.

10. Parties are permitted to obtain electronic copies of the Court's record in order to assist the Court. If there are any orders or pleadings which are missing which had already been filed in the said proceedings, parties may jointly file the same before this Court, before the next date of hearing.

PRATHIBA M. SINGH, J.

APRIL 11, 2022/aman/MS