CASE COMMENT: COCA-COLA COMPANY VS BISLERI INTERNATIONAL PVT. LTD. & OTHERS

Aaryan M Gupta*

INTRODUCTION

What trademark means and why it matters is a question at the heart of building a unique and legally protected brand. In Intellectual Property laws, the concept of a trademark is not just a legal formality – it's the secret sauce of a brand and its flavour, setting it apart in a sea of competitors. Imagine walking into a world where every brand looks the same and offers the same promises; it will be utterly confusing, right? That's where trademarks come in as a saviour of the businesses, swooping in to rescue them from the abyss of anonymity. It is said that a trademark is basically a recognisable sign, design, or expression that identifies the connection between a manufacturer & products that are being sold out in the market to the consumers. It is an identifier famously referred to as a "badge of origin." Crucially, a trademark must be distinctive so that one can distinguish between one entity's goods or services from those of others. The fundamental goal of trademark protection is firstly to prevent consumer confusion and, secondly, to enable people to identify the source of the products and their respective manufacturers; this enables customers to decide on the products before purchasing them. Furthermore, this protection also helps in maintaining fair competition in the marketplace for a trademark to qualify for legal protection. It must possess a certain level of distinctiveness. This distinctiveness is what sets apart a product or service from its competitors. Thus, mere prolonged usage of the mark does not suffice for claiming its protection; the mark must have acquired a unique character that makes it stand out. Moreover, the unauthorised and illegitimate use of a mark that is either identical or already registered trademark can lead to legal conflicts, which force the court to consider impugned marks to assess the likelihood, extent, & possibility of confusion in case of trademark infringement. In addition, section 29 of the Trade Marks Act 1999 provides brand owners with a strong foundation for trademark infringement claims. The judgement below clarifies the application of this provision.

*CHAUDHARY CHARAN SINGH UNIVERSITY, MEERUT.

BACKGROUND

Whenever Intellectual Property Rights are discussed, the landmark case "Coca-Cola Company vs. Bisleri International Pvt. Ltd & Others"[1] is always discussed. The Bisleri Company sold the trademark rights of "MAAZA" to the well-known company Coca-Cola. Even after this transaction, Bisleri started selling drinks under the same name, Turkey. When Coca-Cola learned this, it sued Bisleri for infringement of the trademark. Whenever one party tries to bypass the trademark agreement by limiting its application based on territory or geographical area, this case is usually cited. Due to the brand on which both the companies fought this case in court, this case is also known as the "Maaza War" case.

FACTS OF THE CASE

The Plaintiff (Coca-Cola company) is the largest soft drink brand in 200 countries, and, in this case, the defendant (Bisleri International Pvt Ltd) is a popular Indian brand that is well known for its bottled water. On September 18 September 1993, the defendant, the owner, Ramesh and Prakash Chauhan of Bisleri International, earlier known as Aqua Minerals Pvt Limited, sold all its intellectual property rights to five other brands called "THUMS UP", "LIMCA", "GOLD SPOT", "CITRA", AND "MAAZA" the intellectual rights included trademarks, formulation rights, goodwill, and know-how.

On 12 November 1993, the defendants signed the proclamation agreement with their affiliate Bisleri Sales, who made the beverage base for "MAAZA". The defendants continued to retain the use of the trademark in respect of countries other than India, where the brand mark was already registered.

In March 2008, the defendant came to be aware of the plaintiff's filing for registration of the impugned mark in Turkey. After intimation of this information to the defendant, the defendant immediately sent a legal notice claiming a breach of their agreement; he further argued that the assignment deed only allowed the plaintiffs to use the marks in India. The Defendants also spoke of their intention to start using the trademarks of MAAZA in India and repudiated the claims of a licensing agreement between both of them. The plaintiff thus approached The High Court of Delhi with a suit of temporary injunction under Section 20(c)[2] of the Civil Procedure Code (C.P.C). Additionally, the plaintiff also contended that according to the agreement, the

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[1] *Coca-cola Company v Bisleri International Pvt. Ltd. & Ors* (2009) 164 DLT 59

[2] The Code of Civil Procedure 1908, s20 (c)

right to use the formulation of MAAZA was of the defendant, and he had disclosed the information to a third party named M/S Varma International. The court allowed the injunction and appointed a local commissioner to look into illegal disclosure of information.

The plaintiff accused defendant no. 1, Ramesh Chauhan, of disclosing sensitive information about Maaza's recipe to Mr. Vishal Varma, owner of Varma International. The Plaintiff, therefore, asked for the impeachment of Mr. Ramesh Chauhan and Mr. Vishal Varma as necessary parties to the case. The court impleaded Mr Vishal Sharma as a defendant in the case.

LEGAL ISSUES

Issues raised in Delhi High Court were:

Does the Delhi High Court have jurisdiction over this matter?

Has infringement of trademark occurred? Is the plaintiff entitled to get a permanent injunction?

Is the export of the products with the trademark "MAZZA" considered a trademark infringement in the exporting nation?

Is 'Varma International' a party in this case?

LAWS CONCERNED IN THIS CASE

As per section 26[3] of the Trade Mark Act of 1999, if the trademark owner has not renewed the trademark by non-payment of renewal fees in the given time frame, it will lead to the removal of its registration of the same trademark by someone else within one year after its removal due to such reason, the same trademark will be deemed to be registered one, and this new application will be rejected unless it is shown to the tribunal that-

That there has been no bona fide trade use of the trademark which has been removed during the two years immediately preceding its removal or No deception or confusion would be likely to arise from the use of the trademark mark, which is the subject of the application for registration by reason of any previous use of the trademark mark, which has been removed.

[3] The Trade Marks Act 1999, s26

Section 41[4] of the Specific Relief Act 1993 states the grounds for refusal of injunction; the practical application of this section implies that parties cannot enter into such a contract that is detrimental or voluntary, which would prohibit the suit for injunction.

Section 42[5] of the above Act states that the plaintiff becomes entitled to the imposition of the injunction if they have performed part of their contract to which they made themselves bound.

CONTENTIONS

Arguments Of Plaintiff

According to the plaintiff, this court has the jurisdiction to entertain this suit since the defendant operates the business within its territorial boundaries, and the legal notice about the defendant's unlawful intentions was issued in New Delhi. Moreover, the defendant plans to utilise the infringing trademark within its jurisdiction as indicated in a publication in the Delhi edition of the journal Times of India.

In order to further support his arguments, the plaintiff contended the originality of the license agreement dated May 13, 2004, falls within the court's jurisdiction. Additionally, it is asserted that Mr Ramesh Chauhan, the individual with whom the correspondence was exchanged, currently resides in New Delhi. Based on Section (2) of The Trademarks Act. 1999 and Section 20(c) of the Code of the Civil Procedure (C.P.C), 1908, the plaintiff claims that the court has jurisdiction to hear the trademark infringement matter. The defendant's threat to use the mark across India, as stated in the notice, is more than sufficient to establish the court's jurisdiction.

Arguments Of Defendant

The defendant asserts that the only place where it conducts business inside the jurisdiction of the court is solely to a plant engaged in bottling and marketing of mineral water under the "Bisleri" brand. The defendant's principal corporate office is located in Mumbai. Moreover, all pertinent communications between the parties have been conducted through the defendant's office in Mumbai.

With respect to the allegation of intent to utilise the infringing trademark, the defendant argued that since the infringing mark is the plaintiff's registered trademark, the defendant harbours no

[4] The Specific Relief Act 1993, s41
[5] The Specific Relief Act 1993, s42

such intent within the territorial confines of this court's jurisdiction. The defence further claimed that the legal notice in question lists only the Mumbai address, thereby accusing the plaintiff of attempting to mislead the court by implying that the notice was being delivered from New Delhi. Furthermore, the defendant maintains that the article from the 'Times of India' cited by the plaintiff was initially published in the Mumbai edition and was subsequently also included in the Delhi edition, which operates under the same corporate umbrella as the Mumbai edition.

JUDGEMENT

The court held that because the defendant is substantially involved in the commercial activities in Delhi, this gives the court the appropriate jurisdiction to decide the case that concerns the violation of trademark rights and the provisions in the law that uphold this reasoning are given in section 20 (c) of the Code of Civil Procedure of 1908. The court explained that from a criminal law point of view, Indian Citizens are held accountable for the offences perpetrated outside the country as provided by the Indian Penal Code. The defendant produces his goods from Delhi, which consequently gives the Delhi High Court jurisdiction over this suit.

The Deed of assignment is a legal and binding agreement between parties to a contract as per the Specific Relief Act of 1963 under section 41(h) and (i)[6]. This means that the party responsible for breaching the contract is liable to the party that was wronged when the breach of contract occurred. The intellectual property rights and all the other associated rights of the trademark of "Maaza" were explicitly and unconditionally specified, and the defendant agreed to transfer them. Therefore, the defendant had no right to terminate the contract in any way. The time of the transfer of all these rights from the defendant to the plaintiff can be specifically pointed out as the date on which the contract was signed by the parties. This very contract gave the plaintiff the power of being the rightful owner of the trademark and, hence, the proprietorial discretion without the need to seek permission from anyone regarding its usage.

The court upheld that for trademark use, a sale made outside the country is equivalent to a sale made within the country as the plaintiff became entitled to use the trademark. After the execution of the assignment deed, whether within or outside India, trademark rights were infringed. A temporary injunction is being issued against the defendant that disallows the

[6] The Specific Relief Act 1963, s41(h) (i)

defendant from using the trademark of "Maaza" in India and outside India; this is a necessary step to safeguard the rights of the plaintiff and save from irreversible damages.

CONCLUSION

Trademark is one of the crucial aspects of IPR. It covers brand names and uses to signify business and products which cannot be used by any other company. Bisleri was neither held liable for manufacturing and exporting the product nor sharing the secret ingredients with Verma International due to lack of proof. There is a high probability that Bisleri has shared the secret beverage base with Varma International. However, Varma International was held liable for infringement of trademark laws and was restricted from exporting or selling the product of the Coca-Cola company illegally.