

dik

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
IN ITS COMMERCIAL DIVISION**

**COMMERCIAL IP SUIT (L) NO. 235 OF 2020**

International Society for Krishna  
Consciousness (ISKCON) ...Plaintiff  
vs  
Iskcon Appaeral Pvt. Ltd. & Anr. ...Defendants

.....  
Mr Hiren Kamod a/w Mr. Vaibhav Keni Ms. Neha Iyer i/b Legasis Partners  
for the Plaintiff  
Mr Roshan Baid, Director of Defendant No.2 present.

.....  
**CORAM : B. P. COLABAWALLA, J.**  
*(Through Video Conferencing)*  
**26<sup>th</sup> JUNE 2020.**

**P.C. :**

1           The Plaintiff has filed the present suit seeking permanent injunction restraining the Defendants from infringing the Plaintiff's registered trademarks, passing off and other reliefs. The Plaintiff has also sought a decree of declaration that the Plaintiff's trade mark ISKCON is a 'well-known trade mark' in India. By an order dated 6<sup>th</sup> March 2020, this Court granted ad-interim reliefs in terms of prayer clause (a) and (b) of the Interim Application No.1 of 2020 against the Defendants.

2           Mr. Roshan Baid, Director of Defendant No.2 who is present

7ad479f072c42b19a9d3761ac8709767

through video-conference submits that Iskcon Apparel Private Limited, i.e. Defendant No.1, has changed its name to Alcis Sports Private Limited, i.e. Defendant No.2 and that as on today Defendant No.1 does not exist. He submits that he has served a copy of his Affidavit-cum-Undertaking dated 23<sup>rd</sup> June 2020 upon the Plaintiff submitting to a decree in terms of prayer clauses (a), (b) and (c) of the plaint and has given an undertaking that the Defendants will not use the trade mark / name ISKCON by itself or as a part of the trade mark / name or in any manner whatsoever including the impugned expression "*Formerly known as ISKCON*". A copy of the said Affidavit-cum-Undertaking is e-filed by the Plaintiff's Advocate on 24<sup>th</sup> June 2010 and the same is on record.

3            Mr. Kamod, learned Advocate for the Plaintiff submits that in view of the averments made in the plaint and the documents / material produced therewith, apart from decreeing the suit in terms of prayer clauses (a), (b) and (c) of the plaint, the Plaintiff is entitled to a declaration that its trade mark ISKCON is a well-known trade mark in India. He has made detailed submissions regarding the nature of services offered by the Plaintiff under the trade mark ISKCON and the kind of wide reputation and goodwill that has been acquired by the trade mark ISKCON.

4            Mr. Kamod submitted that in or around the year 1966, the Plaintiff was founded by the Late Acharya, His Divine Grace A. C.

Bhaktivedanta Swami Prabhupada, when he started the Krishna Consciousness Movement in the name and style of “International Society for Krishna Consciousness” **(ISKCON)** in New York, United States of America. He submitted that within a short span of time, the said movement spread all over the world and gained immense popularity and/or name and fame. The acronym / term / mark ISKCON was derived and/or adopted from the Plaintiff’s name, i.e. **I** from **I**nternational, **S** from **S**ociety, **K** from **K**rishna and **Con** from **C**onsciousness. The Plaintiff is commonly known as “ISKCON”. He submitted that the mark ISKCON, apart from being the abbreviated name of the Plaintiff is also used and/or appears on all the advertising material. The Plaintiff has made applications/secured registrations in respect of the trade mark ISKCON and/or marks containing ISKCON as one its leading, essential, distinctive and prominent feature in respect of various goods/services/classes, details whereof have been set out in paragraph 10 of the plaint.

5 He submitted that presently, there are more than 600 ISKCON temples / 65 eco-farm communities, 110 Vegetarian Restaurants and centers all over the world including in India. In India, the first ISKCON temple was constructed in the year 1971. The Plaintiff has been regularly, openly, continuously, uninterruptedly and extensively using the said mark ISKCON in respect of various goods and services since at least the year 1971 with a view to distinguish the goods/services bearing the said mark

ISKCON from those of others. He submitted that the Plaintiff has also taken efforts and spent substantial amount of money on publicity, advertisement and sales promotion to promote and popularize the said trade mark ISKCON goods/services rendered there under. The Plaintiff also owns the domain name and/or website [www.iskcon.org](http://www.iskcon.org) which has been operational since the year 1994 and provides detailed information about the Plaintiff and/or the activities carried on by the Plaintiff under the said mark trade mark ISKCON. The Plaintiff has also secured registrations of the various other domain names, details whereof are set out in paragraph 12 of the plaint.

6 He submitted that the Plaintiff has been diligently safeguarding its rights in the said trade mark ISKCON and has successfully initiated proceedings before various forums against the misuse of its trade mark ISKCON as per details set out in paragraph 19 of the plaint. He submitted that the recognition, reputation and goodwill of the Plaintiff's said trade mark ISKCON is no longer restricted to any particular goods/services/activities but pertains to a diverse range of categories. He submitted that the Plaintiff's said trade mark ISKCON has come to enjoy a personality that is beyond the scope of mere products/services rendered under the trade mark ISKCON by the Plaintiff.

7 Mr. Kamod submitted that the parameters that are required to

be taken into consideration for a well-known trade mark as per Section 11(6) and 11(7) of the Trade Marks Act, 1999 are fulfilled in the present case. He relied on the following orders / judgments in support of his contentions:

- a. Order dated 3<sup>rd</sup> December 2018 of this Court in ITC Ltd. vs. Rani Sati Foods Pvt. Ltd. [Commercial IP Suit (L) No.1465 of 2018]
- b. Order dated 11<sup>th</sup> December 2017 of the Madras High Court in Texmo Industries vs. Taxmo Aqua Engineering Pvt. Ltd. and Ors. [C.S. No.50 of 2017]

8 I have heard the submissions made by Mr. Kamod in detail and perused the documents / material before me. At the outset, it is important to note that the claim of the Plaintiff that ISKCON is a well-known trade mark is not disputed by the Defendant. It is clear that ISKCON is a coined trade mark of the Plaintiff, that is to say that the said term ISKCON did not exist prior to the Plaintiff's adoption and use of the same. Since it is a coined trade mark which is associated exclusively with the Plaintiff, it undoubtedly deserves the highest degree of protection. The documents / material evidently show that the Plaintiff's trade mark ISKCON has acquired immense and long-standing reputation and goodwill throughout India and abroad. There can be no doubt that the trade mark ISKCON is associated with the Plaintiff and no one else. Furthermore, the Plaintiff has been diligently safeguarding and protecting its rights in the said trade mark

ISKCON and has initiated proceedings before various forums against the misuse of its trade mark ISKCON and been successful in enforcing its rights in its mark ISKCON. The reliance on the judgments of our Court and of Madras High Court by Mr. Kamod is well founded.

9           In view of the above, I have no doubt in my mind that the Plaintiff's trade mark ISKCON has come to enjoy a personality that is beyond the mere products/services rendered thereunder and the recognition, reputation and goodwill of the said trade mark ISKCON is today no longer restricted to any particular class of goods or services. From the material placed on record, it is evident that (a) the Plaintiff's trademark ISKCON has wide acceptability; (b) the popularity of the Plaintiff's trademark ISKCON extends not only in India but in other countries as well; (c) the Plaintiff is using its trade mark ISKCON openly, widely and continuously since the beginning; and (d) the Plaintiff has taken several actions against various infringers in the past. I am therefore of the opinion that Plaintiff's trade mark ISKCON satisfies the requirements and tests of a well-known trade mark as contained in Sections 11(6), 11(7) and other provisions of the Trade Marks Act, 1999. In view thereof, I find no difficulty in holding that the Plaintiff's trade mark ISKCON is a 'well-known' trade mark in India within the meaning provided in Sections 2 (1)(zg) of the Trade Marks Act, 1999.

10            In view of the Defendants' Affidavit cum Undertaking dated 23<sup>rd</sup> June 2020, the suit is decreed in terms of prayer clauses (a), (b) and (c) of the plaint. The Defendants undertake to file the original Affidavit cum Undertaking dated 23<sup>rd</sup> June 2020 within two weeks from the date on which the courts start functioning normally.

11            No order as to costs.

12            Refund of court fees, if any, as per rules.

13            In these circumstances, this order will be digitally signed by the Private Secretary of this Court and all concerned parties are directed to act on the digitally signed copy of this order.

**(B.P.COLABAWALLA ,J.)**