



2025:DHC:10790



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

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Date of Decision : 28.11.2025

+ **CS(COMM) 1302/2018, I.A. 17610/2018, I.A. 3223/2019, I.A. 14365/2019, I.A. 11441/2022, I.A. 11442/2022 & I.A. 29751/2025**

TOMMY HILFIGER EUROPE B.V.Plaintiff
Through: Mr. Ashish Somari, Ms. Bhavya
Verma & Mr. Chirayu Prahlad,
Advocates.

versus

PARTHA CHATTERJEEDefendant
Through: None.

**CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA**

TEJAS KARIA, J. (ORAL)

1. I.A. 29751/2025 has been filed on behalf of the Plaintiff under Order XIII Rule 10 of the Code of Civil Procedure, 1908 ("CPC"), seeking pronouncement of judgment against the Defendant.

2. The Plaintiff has filed the present Suit for a decree of permanent injunction restraining infringement of its Trade Marks, 'TOMMY HILFIGER', 'TOMMY', 'TOMMY SPORT', 'TOMMY GIRL',

'DREAMING TOMMY HILFIGER', , ,



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(“**Plaintiff’s Marks**”) passing off, dilution, damages, rendition of accounts, delivery up, etc.

PROCEDURAL HISTORY

3. *Vide* Order dated 20.12.2018, an *ex-parte ad-interim* injunction was passed restraining the Defendant, its partners, if any, officers, servants, agents, distributors, stockists and representatives from manufacturing, selling and/or offering for sale, advertising, or directly or indirectly dealing in any manner, in any goods bearing the registered Trade Mark, ‘TOMMY HILFIGER’, or any other similar Mark.

4. *Vide* Order dated 07.03.2019, the bank accounts of the Defendant were directed to be frozen and since the Defendant had refused service of summons, the Defendant was directed to be served once again through WhatsApp, e-mail and SMS, as per the Delhi High Court (Original Side) Rules, 2018 (“**Rules**”). *Vide* Order dated 14.05.2019, it was recorded that the summons had been served to the Defendant. *Vide* Order dated 03.07.2019, the Defendant was proceeded *ex-parte*.

5. Due to non-compliance of the Order dated 07.03.2019, the Plaintiff filed I.A. 14365/2019 under Order XXXIX Rule 2A of the CPC. Notice was issued in I.A. 14365/2019 on 16.10.2019 and it was directed that the notice shall also be served through the concerned Station House Officer. *Vide* Order dated 05.02.2020, it was recorded that the wife of the Defendant refused to accept service of the summons and accordingly, bailable warrants in the sum



of ₹10,000 (Rupees Ten Thousand Only) were issued against the Defendant, however, the bailable warrants could not be served against the Defendant as the Defendant had stopped residing at his address since 2017-18 and his wife was unaware of his whereabouts.

6. *Vide* Order dated 24.07.2023, fresh summons were issued to the Defendant on a new address based on the amended memo of parties filed by the Plaintiff, however, the Plaintiff could not serve the Defendant on the new address as well and accordingly, the Plaintiff was allowed to be served through substituted service.

7. *Vide* Order dated 30.07.2025, it was recorded that although the Defendant had been served through substituted service, the Defendant was still not appearing and, therefore, the Defendant was proceeded *ex-parte*. On 06.11.2025, the Plaintiff sought liberty to file an appropriate application under Order XIII Rule 10 of the CPC for pronouncement of judgment against the Defendant.

SUBMISSIONS ON BEHALF OF THE PLAINTIFF

8. The learned Counsel for the Plaintiff made the following submissions:

8.1 The Plaintiff is engaged in designing and manufacturing high end apparels for men, women and children, and a wide range of licensed products such as footwear, accessories, fragrances and home furnishings under the Plaintiff's Marks. The Plaintiff is a well-known American lifestyle brand which was founded by Mr. Tommy Hilfiger in 1985.

8.2 The Plaintiff has developed a reputation built upon providing high quality, designer products, as elaborated above. The

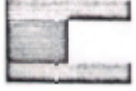

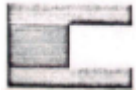



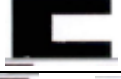
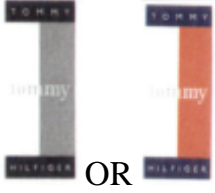
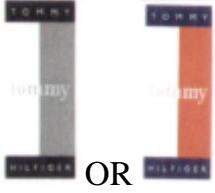



exclusivity of the Plaintiff's products is part of its brand image and consumers associate its products with style and elegance combined with practicality and quality. Due to these reasons, the Plaintiff has been recording huge sales of its products all over the world.

8.3 The Plaintiff in 2003 entered into a strategic licensing agreement with the Ahmedabad-based Arvind Group to market its brand in India. Due to its booming success in India, the Plaintiff eventually expanded business and now has stores located in over 45 cities in India, including 19 stores in Delhi. The Plaintiff rigorously invests in publicity and sponsoring of its brands every year. Advertisements have also been appearing in several Indian magazines like GQ India, Cosmopolitan and Vogue. The Plaintiff has incurred substantial communication and marketing expenditure in India and the Plaintiff has put in unparalleled efforts to advertise and promote the Plaintiff's Marks in India. The Plaintiff has also obtained registration of the Plaintiff's Marks. The details of registration of the Plaintiff's Marks are as under:

S. No.	Trademark	Registration No.	Class
1.	TOMMY HILFIGER	725528	9
2.	TOMMY HILFIGER	465059	18
3.	TOMMY HILFIGER	1275397	35
4.	TOMMY	964905	14
5.	TOMMY	964904	9
6.	TOMMY	1195244	3



7.	TOMMY	1275396	25
8.	TOMMY SPORT	1114705	25
9.	TOMMY SPORT	1116005	18
10.	TOMMY GIRL	725529	3
11.	DREAMING TOMMY HILFIGER	1673064	3, 18, 25
12.	 OR 	726014	9
13.		528964	3
14.		528965	14
15.		528966	18
16.		528968	24
17.		528969	25
18.	 OR 	661684	3
19.		2208025	3, 9, 14, 18, 24 and 25

8.4 The adoption and extensive use of the Plaintiff's Marks has led to an association of the Plaintiff's Marks as source identifiers of



the products of the Plaintiff. The use of the Plaintiff's Marks or any Marks similar to the Plaintiff's Marks, by any entity without the consent or license of the Plaintiff will cause confusion as to source of origin thereby resulting in passing off. The Plaintiff has been vigilant in protecting and safeguarding the Plaintiff's Marks from misuse by third-parties by filing multiple law suits against infringers before this Court wherein it has successfully restrained such infringers from violating its Trade Mark rights.

8.5 The Defendant, Mr. Partha Chatterjee, is the owner of 'Denim India', and is a supplier of various counterfeit products bearing the Plaintiff's Marks. As counterfeiting activities severely damage the business and brands of the Plaintiff, the Plaintiff periodically conducts internet searches in order to ensure that such activities involving counterfeits of its products are exposed and checked. It was during one such internet search in January, 2018, that one of the Plaintiff's representatives came across a LinkedIn page of the Defendant.

8.6 Upon physical investigation being carried out at the premises of the Defendant, it was revealed that the Defendant is supplying various counterfeit clothing articles under the Plaintiff's Marks ("**Infringing Products**"). The Defendant informed the investigator that he does not manufacture the Infringing Products, rather, he is a supplier / middle-man between the manufacturer and purchaser of the Infringing Products. The Defendant thereafter also showed samples of the Infringing



Products to the investigator and provided samples of the Infringing Products to the investigator.

8.7 Upon investigation of the Infringing Products, it was clear that the Infringing Products were counterfeits and were not sourced from the Plaintiff.

8.8 In view of the Defendant being proceeded *ex-parte*, judgment against the Defendant can be pronounced on the basis of the submissions made and the documents available on record.

ANALYSIS AND FINDINGS:

9. In view of the fact that the Defendant has not entered appearance and no Written Statement has been filed on behalf of the Defendant, all the averments made in the Plaint have to be taken to be admitted. Further, since no Affidavit of Admission / Denial has been filed on behalf of the Defendant in respect of the documents filed with the Plaint, in terms of Rule 3 of the Rules, the same are deemed to have been admitted.

10. From the averments made in the Plaint and the evidence on record, the Plaintiff has been able to prove that the Plaintiff is the registered proprietor of the Plaintiff's Marks. Due to its long and extensive use, the Plaintiff has also been able to demonstrate and prove its goodwill and reputation in respect of the same.

11. Having considered the submissions advanced by the learned Counsel for the Plaintiff, the pleadings, the documents on record, and the conduct of the Defendant, a case of counterfeit of the Plaintiff's products has been made out by the Plaintiff and the acts attributed to the Defendant are likely to cause confusion in the course of trade of the Plaintiff, such that the



consumers may associate the Infringing Products with the Plaintiff, leading to erosion of consumer trust and dilution of the goodwill and reputation of the Plaintiff amongst the members of the trade and public.

12. The Plaintiff is a renowned multi-national corporation with consistently high sales figures and in the Calendar Year 2015 the Plaintiff earned a revenue of \$6.5 Billion. The Plaintiff is the registered proprietor of the Plaintiff's Marks and the Plaintiff's Marks have amassed considerable goodwill across the world, including in India. The Plaintiff being the registered proprietor of the Plaintiff's Marks is entitled to protect the Plaintiff's Marks from infringement and counterfeiting.

13. The Defendant is not only riding on the immense and valuable goodwill and reputation enjoyed by the Plaintiff, but is also attempting to show association or nexus with the Plaintiff, where none exists. There is a strong likelihood that unwary consumers will be duped into buying the Infringing Products by believing them to be originating from the Plaintiff, which is detrimental to not only the reputation and goodwill of the Plaintiff, but is also detrimental to the consumers as they are being deceived into buying inferior quality products of the Defendant. The Defendant is dealing with identical goods. Even the Trade Channels as well as the consumers of the Defendants are identical to that of the Plaintiff.

14. In view of the above, a clear case of infringement of the Plaintiff's Marks is made out. The Defendant has taken unfair advantage of the reputation and goodwill of the Plaintiff's Marks and has also deceived the unwary consumers into believing their association with the Plaintiff by dishonestly adopting the Plaintiff's Marks without any plausible



explanation. Therefore, the Plaintiff has established a case of passing off as well.

15. The Plaintiff's investigator upon investigation of the Defendant's premises discovered 8,000-10,000 pieces of Infringing Products. Further, the Plaintiff had to purchase 86 pair of Infringing Product which cost the Plaintiff ₹60,000/- to verify that the Defendant is supplying Infringing Products as the Defendant being a wholesaler refused to provide the Plaintiff's investigator a sample of the Infringing Products.

16. In *Strix Ltd. v. Maharaja Appliances Ltd.*, 2023 SCC OnLine Del 7128, this Court held that in a case where the evidence is not led, the damages shall be notional and are to be granted on a reasonable and fair basis. It was further held that in such cases, the Court can only make a broad assessment based on the evidence on record.

17. Accordingly, the Suit is decreed against the Defendant in terms of Paragraph No. 47(i) to (iv), (vi) to (viii) of the Plaint and the Defendant shall pay an amount of ₹1,50,000/- (Rupees One Lakh Fifty Thousand Only) to the Plaintiff towards damages on account of loss suffered by the Plaintiff due to counterfeiting activities of the Defendant, because of which the Plaintiff had to undertake investigation and also file the present Suit. The amount of damages has been arrived at by considering and assessing the facts of the present case.

18. As regards the relief for costs as pressed by the Plaintiff, considering the facts and circumstances of this case, alleged non-compliance of the orders passed by this Court, non-appearance of the Defendant and issuance of bailable warrants for personal appearance of the Defendant, the Plaintiff



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shall be entitled to recover the costs of these proceedings from the Defendant in terms of the provisions of the Commercial Courts Act, 2015 and Delhi High Court (Original Side) Rules, 2018 read with Delhi High Court Intellectual Property Rights Division Rules, 2022.

19. The Statement on Bill of Costs has been filed by the Plaintiff on 25.11.2025, accordingly, list the matter before the learned Joint Registrar (Judicial), in capacity of Taxing Officer for computation of costs.

20. Let the Decree Sheet be drawn up, accordingly.

21. Accordingly, the Suit is disposed of with the aforesaid directions. All pending Applications also stand disposed of.

22. The next date of 16.02.2026 stands cancelled.

TEJAS KARIA, J

NOVEMBER 28, 2025/ 'A'