

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION (L) NO.5429 OF 2025
IN
COMMERCIAL IP SUIT (L) NO.5232 OF 2025

New Age Enterprises ... Applicant / Plaintiff

Vs.

Beauty Glazed Cosmetics and others ... Respondents / Defendants

Mr. Hiren Kamod a/w. Mr. Anees Patel and Ms. Disha Mehta i/b. Jehangir Gulabbhai and Bilimoria and Daruwalla for Applicant / Plaintiff.

Mr. Navankur Pathak i/b. Saikrishna & Associates for Defendant No.4.

Ms. Niyati Fatehpura i/b. Saikrishna & Associates for Defendant No.5.

CORAM : MANISH PITALE, J.

DATE : APRIL 29, 2025

P.C. :

. In these proceedings, the applicant / plaintiff is asserting its intellectual property rights in its registered trademark 'PROSKIRE', as also subsisting copyright in original artistic work / trade-dress associated with the said registered trademark. It is the case of the applicant that the impugned products of the defendants were found on third party e-commerce websites - Flipkart and Amazon i.e. defendant Nos.4 and 5 respectively.

2. The applicant has made attempts to serve the parties responsible for such alleged violation of the intellectual property rights of the applicant. On the basis of names and addresses stated on the impugned products, the pleadings in the present products were amended to add such defendants as defendant Nos.6 to 8. The addresses mentioned in the cause-title were on the basis of the details available on the actual products that were purchased by the applicant from the third party e-

commerce websites - Flipkart and Amazon i.e. defendant Nos.4 and 5 respectively.

3. The learned counsel for the applicant submits that when attempts were made to serve defendant Nos.1 to 3 and 6 to 8 on the said addresses, it was found that the addresses of defendant Nos.1 to 3, 6 and 7 are fake and that further efforts will have to be made to find out their detailed and correct addresses. In that light, the applicant is seeking specific directions for disclosures against defendant Nos.4 and 5. It is submitted that as regards defendant No.8, the packet sent by post is reported to have been served today morning.

4. It is further submitted that in this situation when the addresses of the contesting defendant Nos.1 to 3, 6 and 7 are still not available with the applicant and the impugned products are still shown on the websites of defendant Nos.4 and 5, unless appropriate orders are issued for taking down such products at this stage itself, the applicant will continue to suffer grave and irreparable loss.

5. Attention of this Court is invited to the detailed pleadings on record as regards the registration of the logo mark 'PROSKIRE' obtained by the applicant in its favour and the subsisting copyright in the original artistic work / trade-dress associated with the same. Considering the said pleadings and the documents placed on record along with the plaint, this Court is satisfied that a strong *prima facie* case is indeed made out by the applicant to assert its intellectual property rights in the said trademark 'PROSKIRE'.

6. Considering the peculiar situation wherein service of the pleadings on the contesting defendant Nos.1 to 3, 6 and 7 is taking time and in the meanwhile, the products are still available on the websites of defendant Nos.4 and 5, this Court is of the opinion that limited interim

reliefs / directions can be granted in favour of the applicant.

7. This Court is of the opinion that defendant Nos.4 and 5 can be directed to give disclosures about the details of the names and addresses of the parties that have caused listing of the impugned products on their websites and they can also be directed, as an ad-interim direction, to take down the listing of the counterfeit products in respect of which the details of URLs shall be provided by the applicant. The said direction is warranted in the light of comparison of products given in the plaint. The impugned products use identical mark 'PROSKIRE' and also art work / trade-dress that copy the leading and essential features of the label / artwork / trade-dress of the applicant.

8. In view of the above, there shall be ad-interim relief in terms of prayer clause e2(a).

9. Accordingly, the defendant Nos.4 and 5 shall place on record disclosure affidavits within four weeks from today.

10. By way of an ad-interim direction, the defendant Nos.4 and 5 are further directed to take down / remove all listings of impugned products 'PROSKIRE', 'URBANPROSKIRE', 'DERMALIST' and 'BEAUTY GLAZED' from their respective e-commerce websites, in respect of which the details of URLs shall be provided by the applicant, within two weeks from today.

11. List the application for further consideration on 25.06.2025, High on Board.

12. This Court is informed that there are six service affidavits sworn on behalf of the applicant. The same shall be placed on record within a week from today.

(MANISH PITALE, J.)