

SUIT FOR PASSING OF THE TRADEMARKED DESIGN

THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. _____ OF 20__

_____ LLP,)
a Limited Liability Partnership)
incorporated under the provisions of)
The Limited Liability Act, 2008, having)
its registered office at)
_____)
_____)
_____)
_____)...Plaintiff

Versus

_____,)
a Private Limited Company incorporated)
Under the provisions of the Companies)
Act, 1956/2013 and)
having its registered office at)
_____)
_____)
_____,)

represented by its Director)

Mr. _____)...Defendant

THE PLAINTIFF ABOVENAMED STATES AS UNDER:

1. The Plaintiff is a limited liability partnership firm having its office at _____. The Plaintiff is engaged in carrying on the business of manufacturing and marketing of _____.

2. The Defendant is a company incorporated under the Companies Act, 1956/2013 having its office at _____. The Defendant company is engaged in the business of manufacture and marketing of _____.

3. The Plaintiff adopted a distinctive shape of bottle for selling its product *viz.* _____ which shape is inherently distinctive and has come to be associated with the Plaintiff on account of extensive use thereof as mentioned hereinafter. In fact, the shape of the Plaintiff's bottle has acquired the status of a well-known trade mark. The present Suit is in the nature of a *quia timet* action and pertains to the Defendant's dishonest adoption of a deceptive variation of the Plaintiff's trade mark *viz.* shape of the bottle of its _____ sold under the name/trade mark '_____' which is being marketed since _____.

The Defendant's adoption of a bottle, the shape of which is deceptively similar to the Plaintiff's trade mark-shape of the bottle is clearly aimed to usurp the valuable rights of the Plaintiff vesting in its said trade mark and dilute its distinctiveness. Further, the use of the offending shape is aimed at passing

off the goods of the Defendant as those of the Plaintiff. Reproduced hereinbelow for ease of comparison is the trade mark used by the Plaintiff in respect of its _____ and the shape of the bottle adopted by the Defendant. A plain comparison establishes the striking similarity of the Defendant's bottle with that of the Plaintiff:

COMPARATIVE VIEW		
PLAINTIFF'S TRADE MARK IN USE		DEFENDANT'S BOTTLE AS ON ITS WEBSITE
Front View	Back View	
		(NOTE: INSERT RELEVANT IMAGES)

4. ***(Note: - Give a brief history of the Plaintiff and how and when it thought of adopting the unique shape of the bottle)***

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