

IN THE HIGH COURT AT CALCUTTA
(Intellectual Property Rights Division)
ORIGINAL SIDE

IA NO. GA-COM/1/2024

In

IP-COM/44/2024

MOONDUST PAPER PVT LTD.

Vs

VINAY SHAW AND OTHERS

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 8th August, 2025

Appearance:

Mr. Sayantan Basu, Sr. Adv.

Mr. Tanmoy Roy, Adv.

Mr. Bhavesh Garodia, Adv.

Mr. Abhishek Chakraborty, Adv.

Ms. A. Roy, Adv.

...for the plaintiff/petitioner.

The Court: This is a rolled-up action complaining of infringement of trade mark, copyright and passing off.

Briefly, the petitioner is a company engaged in the manufacture, trade, import and export of smoker's articles like cigarette paper booklet, matchboxes, card board filter tips for cigarette, booklets of rolling paper, crushing tray, cone filler, cone roller, pre-rolled smoking-paper cone, blunt paper, pre-rolled blunt smoking cone, roll of cigarette paper, booklets of flavoured rolling paper, pre-rolled flavoured smoking cone etc.

The petitioner has been carrying on the above business under the trade mark "CAPTAIN GOGO" "GOGO". It is submitted that the above mark of the petitioner was conceived of and coined by its predecessor-in-interest since 2015. The mark has become synonymous with the products of the petitioner and is exclusively identifiable with the petitioner. The petitioner is also the owner of

the artistic work in the mark “GOGO”. The petitioner relies on different trade mark registrations as well as registration under the Copyright Act, 1957 insofar as the artistic work contained in the label and packaging in the various products are concerned.

It is contended that the petitioner sells its products both through offline and online through its website, www.captaingogo.com The petitioner claims to have made substantial expenditure insofar as its advertisement is concerned. The petitioner also boasts of impressive sale figures.

This suit has been instituted primarily against the respondent nos.1, 2, 3, 5, 6, 8, 9 and 10 carrying on identical business and selling deceptively similar products as that of the petitioner. The respondent nos. 7 and 11 are manufacturers of deceptively similar products as that of the petitioner. It is alleged that the respondent nos.1, 2 and 3 are dealing with identical goods under the deceptively similar name “GOGO” and “GOGA”, thereby infringing on the mark of the petitioner and the artistic work in the copyright owned by the petitioner. The respondent no.4 to 11 are also infringing the mark and the artistic work in the copyright owned by the petitioner and are also passing off its goods as that of the petitioner. In such circumstances, the petitioner prays for protective reliefs.

Despite service, none appears on behalf of any of the respondents even in the second call.

A comparison of the rival products is set out below:

Sl.	Respondent Name / No.	Marks Used by the Respondents	Petitioner's Mark	Seizure Date	Boxes Seized
1.	Ranajoy Chaurasiya / no. 4	CAPITAL COCO & GO THREE	CAPTAIN GOGO &	16.05.2024	80 boxes paper roll of CAPTAIN COCO each boxes

			GO TWINS 		containing 56b pieces & 160 boxes of Go Three paper each box containing 50 pieces
2.	Toufique Ahmed / no.5	Captain GOGO, Captain COCO, Super Go India, 'Go Three' Paper, 	CAPTAIN GOGO 	16.05.2024	30 boxes of Captain GOGO rolled papers each box contains 70 pieces, 20 boxes of captain COCO, each box contains 56 pieces, 50 boxes of Super Go India Pre-Rolled Cone, each box contains 64 pieces and 650 boxes of 'Go Three' Paper each box containing 50 pieces and apart from that there are good number similar articles bearing the mark BABA MG
3.	Munna Singh / no.6	CAPTAIN GOGO 	CAPTAIN GOGO 	16.05.2024	600 boxes of GOGO paper rolled each box contains 10 pieces each.
4.	Vinay Gupta / no.7	CAPTAIN COCO 	CAPTAIN GOGO 	NA	NA

					
5.	Hirendra Kumar Sahoo / no.8	GO N GO 	CAPTAIN GOGO 	02.07.2024	120 packets of GO N GO Perfect Roll Ultra-Thin Paper and 12 packets of GO THR3E Filter Tips and 3 Rolling Papers.
6.	Twinkle Sahoo / no. 9	GO N GO  	CAPTAIN GOGO 	02.07.2024	40 packets GO N GO Perfect Roll Ultra-Thin Paper and 27 packets GO THR3E three paper, Ultra-Thin Paper.
7.	Rabinarayan Sahoo / no.10	GO N GO  GO THREE 	CAPTAIN GOGO 	02.07.2024	100 packets GO N GO Perfect Roll Ultra-Thin Paper and 77 packets GO THR3E Ultra-Thin Paper.
8.	Sujoy Roy / no. 11	GO N GO  GO THREE 	CAPTAIN GOGO 	NA	NA

It is evident that the impugned products fall in the same category as that of the petitioners' and are also being sold through the same trade channels. In

selling the impugned products, the respondents are acting in a fraudulent and dishonest manner. There is every attempt made to imitate not only the petitioner's name but also the copyright registration which is being enjoyed by the petitioner. *Prima facie*, there is every possibility of confusion and disruption among the public.

In such circumstances, there is a strong case for infringement of trade mark and copyright as well as passing off which has been made out by the petitioner. On a bare examination, the marks of the respondent are visually and phonetically similar to that of the petitioner. There is every likelihood of the public being confused and deceived. While examining such cases, what has to be kept in mind is the purchaser of such goods in India who may have absolutely no or very little knowledge of the English language and to whom different words with minor difference in spellings may sound phonetically similar.

Insofar as passing off is concerned, one of the important tests which has to be applied in each case is whether the misrepresentation made by the respondent is of such a nature that is likely to cause an ordinary consumer to confuse one product for another due to similarity of marks and other surrounding factors. [*Cadila Healthcare Limited Vs Cadila Pharmaceuticals Limited*, (2020) 5 SCC 73]

In *Laxmikant V. Patel v. Chetanbhai Shah*, (2002) 3 SCC 65 it has been held as follows:

“10. A person may sell his goods or deliver his services such as in case of a profession under a trading name or style. With the lapse of time such business or services associated with a person acquire a reputation or goodwill which becomes a property which is protected by courts. A competitor initiating sale of goods or services in the same name or by imitating that name results in injury to the business of one who has the property in that name. The law does not permit any one to carry on his business in such a way as would persuade the customers or clients in believing that the goods or services belonging to someone else are his or are

associated therewith. It does not matter whether the latter person does so fraudulently or otherwise. The reasons are two. Firstly, honesty and fair play are, and ought to be, the basic policies in the world of business. Secondly, when a person adopts or intends to adopt a name in connection with his business or services which already belongs to someone else it results in confusion and has propensity of diverting the customers and clients of someone else to himself and thereby resulting in injury.”

Prima facie, the respondents appear to be infringing the petitioner’s mark and passing off their products as that of the petitioner.

The petitioner has been able to demonstrate a strong case on merits. The balance of convenience and inconvenience and irreparably injury is also in favour of orders being passed as prayed for herein.

In such circumstances, there shall be an order in terms of prayers (a), (b) and (c) of the Notice of Motion.

With the above directions, IA NO. GA-COM/1/2024 stands disposed of.

(RAVI KRISHAN KAPUR, J.)