

**IN THE COURT OF DR. RAVINDER BEDI  
DISTRICT JUDGE (COMMERCIAL COURT)-01  
SOUTH-EAST DISTRICT, SAKET COURTS, NEW DELHI.**

**In the matter of:-  
CS (COMM) No. 345/19**

**M/S LUXOTTICA GROUP S.P.A**  
Piazzale L. Cadorna  
2-20123, Milan, Italy

.....Plaintiff

**Versus**

**Muneet Kumar**  
Trading as Metro Optics  
Shop No.6495, Masjid Fatehpuri  
Delhi- 110006.

..... Defendant no.1

**Mohd. Abid**  
Trading as Super Optics  
Shop No.298, Masjid Fatehpuri,  
Chandni Chowk, Delhi- 110006.

..... Defendant no.2

**Lakshay Kalra**  
C/o Samar Optics  
Shop Nos. 6478 and 6479  
Katra Bariyan, Fatehpuri, Delhi- 110006

**Rajesh Nagpal**  
C/o Samar Optics  
Shop Nos. 6478 and 6479  
Katra Bariyan, Fatehpuri, Delhi- 110006

..... Defendant no.3

Date of institution of suit	: 10.09.2018
Date of final arguments	: 08.04.2026
Date of final Judgment	: 08.04.2026

Plaintiff is represented by Advocate Mr. Mankaran Singh.  
Defendants are ex-parte.

## JUDGMENT

1. The Plaintiff- M/s Luxottica Group, SPA, has instituted the instant suit, seeking permanent injunction against the Defendants from infringement of its trademark & copyright in the trade mark / label 'RAY-BAN' besides passing-off action and other reliefs.

2. It is necessary to take note, *albeit* briefly of the facts as mentioned in the plaint.

- a) Plaintiff is a Corporation organized under the laws of Italy having its registered office at Milan, Italy. Plaintiff was founded in the year 1961 and in the year 1964, the same became a joint stock company, duly organized under the laws of Italy under the name of Luxottica S.P.A. In the year 1967, the Luxottica started to manufacture eye glass frames under the Brand 'Luxottica'.
- b) In the year 1999, the plaintiff acquired the Trade Mark RAY-BAN from Bausch & Lomb and the said trade-mark RAY-BAN has been continuously in relation to its said goods and business. Plaintiff has built up a worldwide valuable goodwill and reputation therein and acquired proprietary rights therein. Plaintiff's said goods are sold and traded directly/through a wide network of its associates, affiliates and licensees, including through retail, internet and e-commerce.
- c) A detail of plaintiff's registration trademarks RAY-BAN in India is mentioned in para 9 of the plaint. The artwork involved in the plaintiff's various stylized, formative/ bearing and labels are original artistic work and plaintiff holds copyright therein. Plaintiff is the owner and proprietor of the artistic features involved in the said

trademark/label and device. Plaintiff has spent enormous amount of money, efforts, skills and time on promotion of its said trademark through extensive advertisements, publicity and marketing. The said registrations mentioned in para 9 of the plaint are subsisting.

- d) Plaintiff's said trademark is a well known trademark within the meaning of Section 2 (1) (zg) of the Act. The RAY-BAN products of the plaintiff are high quality products, which are highly demanded in the world market, including in India.
- e) The grievance of plaintiff has been that defendants are engaged in selling, trading, manufacturing, marketing and soliciting of:-
  - a) Sunglasses, Glasses, Spectacles, eyeglasses, eye-wears etc. and other allied/cognate goods (*referred to as "the impugned goods" & "impugned business"*);
  - b) tags, labels, accessories and machineries related to such impugned goods.
- f) Defendants have adopted the trademark RAY BAN, and other formative trademarks/ labels in relation to their impugned goods, which are identical and deceptively similar to the plaintiff's trademark in each and every respect. Defendants are also indulged in counterfeiting the impugned goods in complete violation of plaintiff's statutory and common law right in the said trademark and copyright. Defendants are also passing off and enabling others to pass off their impugned goods and business as that of the plaintiff.
- g) Defendants are not the proprietors of the impugned trade mark/ Label and have adopted so in relation to their impugned goods and business, without any license. Defendants are selling and distributing spurious goods in the markets of Delhi including South-East Delhi

viz. Greater Kailash, Okhla, Lodhi Colony, Lajpat Nagar, etc.

h) Plaintiff avers that during a market survey conducted in the 3<sup>rd</sup> week of August, 2018, the Plaintiff came to know that the trademarks and logos adopted by the defendants were deceptively and confusingly similar to the trademark/label RAY BAN, of plaintiff. It is stated that the unwary customers are likely to be easily deceived, confused or misled by such activities of Defendants.

3. Plaintiff has prayed for restraint against the defendants from manufacturing, marketing, selling or dealing in any manner in the impugned trade mark/ label RAY BAN or similar to Plaintiff's said trademark/tradename/label 'RAY BAN'.

4. Plaintiff has further prayed for restraining defendants from passing off and violating the Plaintiff's rights in the trade-name RAY BAN, besides delivery up of the impugned goods with impugned trademark label device, or any other similar device bearing the plaintiff's trademark /label for purpose of destruction. Plaintiff has also prayed for cost of proceedings.

5. Pertinently, by Order dated 11.09.2018, Local Commissioner was appointed on request of plaintiff to execute the Commission at the premises of defendants at *Katra Bariyan, Fatehpuri Masjid and Fatehpuri*. Plaintiff was also granted an *ad-interim* injunction against Defendants. Ld. LC during execution seized large quantity of infringed products from the premises of Defendants, as is evident from his Report on 12.09.2018.

6. Defendant no.1 and 2 did not file their written statement despite having filed their memo of appearance on 18.12.2018 and despite opportunities granted to them. By order dated 16.08.2022, the right of defendant no.1 and 2 to file the written statement stood forfeited.

7. On the application under Section 151 CPC, Defendants were impleaded in place of *Sh. Ashok Kumar, under John Doe principal*. Defendant no.3 Lakshay Kalra appeared and filed his written statement.

In his written statement, Defendant no.3 took certain preliminary objections *inter-alia* :-

- Plaintiff had not approached the court with clean hands.
- the suit was filed by an unauthorised person who claimed himself as the constituted attorney based upon the document i.e. resolution cum authority letter dated 20.03.2018.
- the Court lacked the territorial jurisdiction to try and entertain the present suit.
- the goods were seized by Id. Local Commissioner at the shop at Fathepuri Masjid, where defendant was working on salary basis only as an employee. Thus, plaintiff did not disclose any cause of action against defendant no.3.
- the defendant was only an employee under the partnership firm “*Samara Optics India*” owned by Sh. Gunjan Bagga and Sh. Ashok Kumar Bagga.
- Defendant was not carrying on or being involved in any alleged activity as described by the plaintiff.

8. Plaintiff did not file rejoinder to the written statement of defendant no.3.

9. It is pertinent to state that plaintiff filed an application seeking amendments in para 33 (b) of the plaint in respect of value for the purpose of jurisdiction and to file additional Court Fee. The same was allowed by Order dated 12.10.2022 and the amended plaint was taken on record.

10. By Order dated 16.08.2022, following issues were settled for adjudication :-

- 1. Whether the plaintiff is the prior user/proprietor of trademark/label "Rayban" and having copyrights in the packaging/label thereof? OPP.*
- 2. Whether defendant is passing of the trademark and copyright of the plaintiff by adopting the deceptively similar impugned trademark/label "Rayban"?OPP.*
- 3. Whether plaintiff is entitled to the relief of permanent injunction, as prayed in the plaint? OPP.*
- 4. Whether plaintiff is entitled to relief of rendition of account? OPP.*
- 5. Whether this Court lacks territorial jurisdiction to decide the case? OPD.*
- 6. Relief, if any.*

11. Plaintiff in order to prove its case has examined Sh. Nirmal Singh, as the sole witness as PW-1, who has proved on record the following documents :-

- Ex.PW1/1 being photographs/representation of trade mark/ label of the plaintiff and screenshots of the plaintiff website (colly).
- Ex.PW1/2 being photographs/ representation of trade mark/label of the defendant (colly).
- Ex.PW1/3 being status report alongwith the registration certificate of the plaintiff's trade mark/ label and legal proceedings certificate (OSR).
- Ex.PW1/4 being advertisements, financial reports, press releases related to the plaintiff (colly).
- Ex.PW1/5 being copy of Authorization Letter in favour of PW-1 (OSR).
- Ex.PW-1/6 being plaintiff's authorized dealers/showrooms in South East Delhi(colly).

12. What is discernible from the record is that after the issues were framed on 06.08.2022 and the matter was posted for evidence of parties, the defendant no.3 stopped appearing and participating. Defendant no.3 was proceeded *ex parte* and matter was taken up *ex-parte* qua Defendants.

13. Ld. Counsel for plaintiff argues that Report of Id. Local Commissioner shows the infringing goods were seized from the premises of the defendants. He refers to the Report to submit that the infringing material was seized from all three premises belonging to defendant no.1 to 3. It is argued that the Defendant no.3 did not come forward to adduce evidence in support of his defence taken in the written statement. It is

argued that the right of defendant no.1 and 2 to file their defence was closed by order dated 16.08.2022. Ld. Counsel submits that having chosen to refrain themselves from participating in proceedings, the Plaintiff's case stands established.

14. Ld. Counsel has placed reliance upon the Judgments of *Atlantic Industries Vs. Simron Food Processor, 2014 SCC Online DEL 3241; Midas Hygiene Industries P. Ltd. Vs. Sudhir Bhatia, 2004 SCC Online 106; Gilead Sciences Ireland Vs. Gopal Agrawal & Ors. (DOD as 30.05.2023) and Coty Germany GMBH Vs. Xeryus Retails Private Limited & Anr. decided on 21.07.2023 all by Hon'ble Delhi High Court* in support of his submissions.

15. Ld. Counsel further prays for Damages for the loss suffered by infringing activities of Defendants.

16. I have heard submissions as addressed by Sh. Mankaran Singh, Counsel for Plaintiff and perused the entire material on record.

17. **Issue No(s). 1 to 4 :**

*1. Whether the plaintiff is the prior user/proprietor of trademark/label "Rayban" and having copyrights in the packaging/label thereof? OPP.*

*2. Whether defendant is passing of the trademark and copyright of the plaintiff by adopting the deceptively similar impugned*

*trademark/label "Rayban"?OPP.*

*3. Whether plaintiff is entitled to the relief of permanent injunction, as prayed in the plaint? OPP.*

*4. Whether plaintiff is entitled to the relief of rendition of account? OPP.*

18. The onus to prove these issues was upon the plaintiff. The plaintiff examined Sh. Nirmal Singh as PW-1 who proved the documents relating to the trademark/label of plaintiff company and the registration certificate of trademark. PW-1 has also proved the authorized dealers/showrooms in South-East Delhi as well as his authorization as Ex.PW-1/5 and Ex.PW-1/6. The documents issued by office of Registrar of Trade Marks prove the chain of Transfer of Titular Rights over the Trade Marks. Plaintiff being a juristic entity is represented by PW-1, the Attorney Holder and thus, his competence to depose with respect to the facts in controversy cannot be discountenanced. Moreover, testimony of PW-1 has gone uncontested in evidence. Defendants have failed to come up in rebuttal in support of their pleas taken in written statement. The defendants also did not cross-examine the witness despite opportunities granted.

19. Apropos the report of Ld. Local Commissioner, reliance can be placed on the judgment of [Levi Strauss & Co. v. Rajesh Agarwal](#) 2018 IAD (Delhi) 622 wherein, Hon'ble Delhi High Court examined Order 26 Rule 10 (2) CPC and held that once the Commissioner has filed the evidence along with his report, it becomes an evidence in the suit

itself. Under this provision, it is not mandatory to examine the Commissioner to admit his report as evidence in the suit. The relevant observations are as under:

*“8. The Local Commissioner is in fact a representative of the Court itself and it is for this reason that Order 26 Rule 10 (2) of CPC clearly provides that once the Commissioner has filed the evidence along with his report the same shall be treated as evidence in the suit and shall form part of the record.*

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*10. The rationale behind Order 26 Rule 10 (2) of CPC is clear i.e. the Commissioner is appointed as a representative of the Court and evidence collected by the Commissioner along with the report of the Commissioner would be evidence in the suit, subject to any objection raised by any party. If any party has any objection to Commissioner's report or to the evidence, such party has an option to examine the Commissioner personally in open Court. Such examination is however, neither compulsory nor required especially in cases where the party does not challenge the report. In the present case, a perusal of the written statement filed by the Defendant clearly reveals that the Defendant does not challenge the Commissioner's report. Para of the written statement is set out below...”*

20. It is further reiterated by Hon'ble Delhi High Court in [Vinod Goel v. Mahesh Yadav \[RFA 598/2016 decided on 23rd May, 2018\]](#) wherein Hon'ble Court observed as under :

*"7. It is the settled proposition in law that when a Commissioner is appointed, he acts as the officer of the Court and it is not necessary for the Commissioner to be examined. This is clearly laid down by the Supreme Court in Misrilal Ramratan & Ors. Mansukhlal & Ors. v. A. S. Shaik Fathimal & Ors., 1995 Supp (4) SCC 600, wherein the Court held as under:*

Thus, the report of the Commissioner is an important piece of evidence worth looking.

21. Based upon the averments of plaint and documents on record, it is evident that the defendants have been infringing, supplying and selling the impugned goods under the trademark, which is similar to plaintiff's subject mark. The impugned trademark show the deceptive similarity of the products by defendants to that of products of plaintiff. It stands proved that the Defendants are involved in infringing activities of the trademark / mark/copyright of plaintiff's products. By adopting exactly the identical trademark of plaintiff, they have apparently tried to confuse the potential customers of plaintiff and also dent their revenues allegedly. The well reputed products of plaintiff cannot be allowed to be usurped by the unscrupulous persons to make quick bucks.

22. Defendants have also not turned up and stayed away from proceedings instead of contesting the matter. The material on record proves that customers can be misled by acts of defendants. Defendants have derived the impugned marks/logos by just copying the plaintiff's mark without any right in the same. The adoption and use of an identical mark without any authorization amounts to infringement of plaintiff's statutory rights. The plaintiff is entitled to statutory remedies against infringement of its trade mark and copyright. The plaintiff is also entitled to protection of its goodwill in the trademark and common law remedy of passing off. The weight of the evidence and the clear infringement of plaintiff's trademark by defendants stands proved.

23. Having observed thus, Issue no.1 to 4 stand decided in favour of plaintiff and against the defendants.

***Issue No.5 Whether this Court lacks territorial jurisdiction to decide the case? OPD.***

24. Ld. Counsel submits that this Court has territorial jurisdiction to decide the case. Placing reliance upon judgment titled as *Diamond Modular Pvt. Ltd. Vs. Vikash Kumar & Anr. of Hon'ble High Court of Delhi* (DOD as on 05.05.2025), counsel submits that the website of the plaintiff is interactive and can be accessed by any party within the jurisdiction of this Court. Counsel further relies upon the Judgment of Hon'ble Delhi High Court cited in 2014 (16) PTC 462 Del, to submit that the Court has the territorial jurisdiction to entertain the suit as per Section

134 (2) of the Trade Mark Act, 1999 and Section 62 (2) of the Copyright Act, 1957, since the place in the ‘physical sense’ is replaced by the ‘virtual shop’ because of the advancement of technology and Plaintiff is deemed to carry on its business within the jurisdiction of this Court. Reliance is further placed upon the Judgment of ***Suman Devi & Anr. Vs. Rakesh Kumar Sharma 205 DHC 6149 DB*** and of ***Diamond Modular P. Ltd. Vs. Vikash Kumar & Anr. 2025 DHC 3619 DB***. Ld. Counsel submits that Plaintiff’s products were sold through interactive websites and other online market places, accessible to consumers residing within the jurisdiction of this Court.

25. I find that the contention of the defendant that this Court does not have territorial jurisdiction, has essentially to be rejected. The plaintiff has categorically averred, and proved that the impugned products were sold within the territorial jurisdiction of this Court. Even though the products may not have been delivered to the plaintiff, this Court would have territorial jurisdiction. Reference can be made to the decision of Ho’ble Delhi High Court in the case of ***Shakti Fashion and Another Versus Burberry Limited, 2022 SCC OnLine Del 1636*** , and ***Impresario Entertainment and Hospitality P. Ltd. Vs. S&D Hospitality 2018 (73) PTC 275 Delhi*** .

#### RELIEF

26. In view of the averments made in the plaint, the annexures as also the discussion above, this Court is of the view that Plaintiff is entitled for a decree in respect of reliefs and against the Defendants as prayed in para no. (a) to (c) in Prayer Clause.

The suit of the plaintiff stands decreed in respect of the reliefs prayed.

In so far as the relief of costs and damages as sought in para (e) of prayer Clause concerns, plaintiff submits that Defendants have blatantly infringed the registered mark of plaintiff. Given the fact that defendants are guilty of infringement by dishonestly adopting and using trademark/mark "RAY BAN" and have chosen to deliberately stay away from the proceedings, I am of the view that plaintiff is entitled to costs of Rs.1,00,000/-.

27. So far as prayer regarding delivery up of the goods lying in *superdari* concerns, the defendants shall hand over all the products, which are lying in *superdari* with them to the Authorized Representative of plaintiff company.

The plaintiff is also entitled for notional damages for a sum of Rs.1,50,000/- against the defendants.

Decree sheet be prepared in the above terms.

File be sent to Record Room.

**Announced in open  
court on 08.04.2026**

**(Dr. Ravinder Bedi)  
District Judge (Commercial Court)-01  
South -East District, Saket Courts  
New Delhi/08.04.2026**