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DELHI HIGH COURT ON SIMILAR TRADEMARKS

A. Introduction

The High Court of Delhi (“**High Court**”) in the case of *Red Bull AG v. Bakewell Biscuits Private Limited*,¹ restrained Bakewell Biscuits Pvt. Ltd (“**Bakewell**”) from offending use of marks ‘Red Horse’ and using Blue/Silver Trapezoid Red Horse Label which is identical and/or deceptively similar to the plaintiff Red Bull AG’s (“**Red Bull**”) registered trademarks ‘Red Bull’ and Blue/Silver Trapezoid Label (“**Trademarks**”) with respect to any goods in Class 30 (Food Products) and Class 32 (Non-Alcoholic Beverages) and on Bakewell’s website (<http://www.bakewellbiscuits.co.in/>).

B. Brief Facts:

1. A suit was filed before the High Court by Red Bull that Bakewell is using marks which are identical and/or deceptively similar to RED BULL’S Trademarks that are prior, well-known and registered.
2. Red Bull is the manufacturer and marketer of energy drinks with the Trademarks. In India, the trademark “Red Bull” is specifically recorded as a well-known trademark in the list of well-known marks maintained by the Trademarks Registry. Red Bull’s Double Bull Device and the Single Bull Device have been declared as well-known trademarks.² Red Bull has acquired various trademark registrations in India from the year 1997.
3. Bakewell manufacturers biscuits and other confectionary items including ‘Red Horse’ energy candy.
4. The trademarks and related products of the contesting parties are depicted below:³



C. Order and Reasoning:

1. The High Court held that: “*In view of the above, the Plaintiff has established a prima facie case in its favour. The balance of convenience also lies in favour of the Plaintiff and irreparable loss would be caused to the Plaintiff, in case ex-parte interim injunction is not granted.*”⁴
2. It restrained Bakewell from using the impugned marks or any other mark, device, logo, domain name or trade name which are deceptively or confusingly similar to Red Bull’s registered trademarks on its goods without the permission, consent, or licence of Red Bull until the date of the next hearing.⁵

This *Counselence Connect* contains information in a nutshell on a recent change in law.

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¹http://delhihighcourt.nic.in/dhcqrydisp_o.asp?pn=83132&yr=2021 CS (COMM) 227/2021

² in *Red Bull AG Vs. C. Esmari & Ors.*, CS (COMM) 1062/2018

³ The logos are depicted solely for comparison purposes.

⁴ Paragraph 11 of the High Court’s Order.

⁵ Paragraph 12 of the High Court’s Order.

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