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2026:DHC:10530

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

\# **CNR No. DLHC010716122024**

\+ **C.O.(COMM.IPD-CR) 23/2024 & I.A. 42683/2024**

TIKTOK LTD.
P.O. BOX 31119, GRAND PAVILION,
HIBISCUS WAY, 802 WEST BAY ROAD,
GRAND CAYMAN, KY1-1205,
CAYMAN ISLANDS .....Petitioner

(*Through: Mr. Ajay Amitabh Suman, Advocate.*)

versus

1. SANDEEP SINGH
2304, ABDULLAPUR BASTI,
LUDHIANA, PUNJAB – 141 003

2. THE REGISTRAR OF COPYRIGHT
COPYRIGHT OFFICE,
BOUDHIK SAMPADA BHAWAN,
PLOT NO. 32, SECTOR 14, DWARKA,
NEW DELHI – 110 078

3. THE REGISTRAR OF TRADE MARKS
DEPARTMENT FOR PROMOTION OF INDUSTRY AND INTERNAL TRADE,
MINISTRY OF COMMERCE AND INDUSTRY,
BOUDHIK SAMPADA BHAWAN,
PLOT NO. 32, SECTOR 14, DWARKA,
NEW DELHI – 110 078 .....Respondents

(*Through: Mr. Rahul Rajput, Advocate for R-1. Ms. Nidhi Raman, CGSC with Ms. Nikita Singh, Advocate for R-2 and R-3.*)

VERDICTUM.IN

2026:DHC:10530

% Reserved on: 29.10.2026
Pronounced on: 26.11.2026

JUDGMENT

INDEX

I. FACTS 3
II. SUBMISSIONS ON BEHALF OF THE PETITIONER 6
III.SUBMISSIONS ON BEHALF OF RESPONDENT NO. 1 8
IV.SUBMISSIONS ON BEHALF OF RESPONDENT NOS. 2 AND…..9
V. ANALYSIS 10
A. THE TEST FOR GRANT OF INTERIM INJUNCTION 10
B. LOCUS OF THE PETITIONER 12
B.1 *Whether the petitioner is a person aggrieved* 12
B.2 *Whether the blocking of the TikTok application takes away the locus of the petitioner* 14
C. PRIMA FACIE CASE 17
C.1 *Whether the adoption of the impugned work by respondent no. 1 is dishonest* 17
C.2 *Whether the petitioner can use its mark in India* 24
C.3 *Whether respondent no. 1 can use the mark* 25
D. BALANCE OF CONVENIENCE AND IRREPARABLE INJURY ……..26
E. CONDUCT OF THE PETITIONER 27
F. PURITY OF THE REGISTER 31
VI. CONCLUSION 33

I.A. 42682/2024 (under Order XXXIX Rules 1 and 2 read with Section 151 of CPC)

VERDICTUM.IN

This application seeks a stay of the effect and operation of Copyright Registration No. A-154060/2024 of the claimed artistic work titled "TIKTOK", registered in favour of respondent no. 1 ("impugned registration"), and of the corresponding search certificate bearing TMR-CC No. 119624 issued by the Registrar of Trade Marks ("impugned NOC"), till the disposal of the present petition. Main petition is filed under Section 50 of the Copyright Act, 1957 ("Act"), seeking expunction of the impugned registration from the Register of Copyrights and revocation of the impugned NOC.

I. FACTS

2. The case set up in the petition, in brief, is that the petitioner is a company incorporated in the Cayman Islands and forms part of the ByteDance group. The short video sharing mobile application of the group was launched in China in September 2016 under the name "Douyin", and internationally under the name TikTok in September 2017 ("TikTok application"). According to the petitioner, the TikTok application was launched in India in 2017, and the artwork of its mark was first published on 31.05.2017. As per the data relied upon by the petitioner, India accounted for 44% of the worldwide installs of the TikTok application in September 2019. The petitioner has also referred to the campaigns run by it in India during 2018 and 2019, such as #HappyDiwali, #EduTok and #Cleanindia.

3. The marks TikTok, TIK TOK and TIKTOK were adopted by ByteDance Ltd., the predecessor-in-interest of the petitioner. They were assigned to the petitioner, along with the goodwill of the business and the

VERDICTUM.IN

right to sue for past, present and future infringements, by a deed of assignment dated 27.07.2023. The petitioner has placed on record a large number of registrations and applications in India for the said marks and their variants, across classes. Some of these are as under:

Trade Mark	**Registration/Application No.**	**Class**	**Date of Application**	**Status**
TIK TOK (word)	3660932	9	23.10.2017	Registered
TIKTOK (word)	4270731	38	21.08.2019	Registered
TikTok (word)	4347403	42	14.11.2019	Registered
TIKTOK (word)	4430004	7	04.02.2020	Pending

4. Respondent no. 1 carries on business under the trade name Ralco International at Ludhiana, Punjab. He is engaged in the manufacture and sale of industrial and domestic sewing machines, bag closer machines, overlock machines, their parts, stands and servo motors. On 26.12.2019, he applied for registration of the word mark TIKTOK in Class 7 for the said goods, under application No. 4390454, claiming use since 03.04.2018. ByteDance Ltd. opposed the said application on 13.03.2020 *vide* Opposition No. 1036158. The opposition is pending, and the application continues to bear the status "Opposed".

5. The petitioner claims to have come to know in 2024 that respondent no. 1 had obtained the impugned registration. As per the extract of the Register of Copyrights filed by respondent no. 2, the application of respondent no. 1 was received on 09.05.2024 under Diary No. 15039/2024-CO/A, and the work was registered on 13.06.2024. Respondent no. 1 is recorded therein as the author, publisher and owner of the work ("impugned

VERDICTUM.IN

work"), and its year of first publication is stated to be 2019. The application was supported by the NOC dated 03.05.2024, issued for the purposes of Section 45(1) of the Act. The NOC certifies that no trade mark, except the applicant's own, has been registered or applied for registration under the Trade Marks Act, 1999 ("TM Act"), as per the computer record of the Trade Marks Registry.

6. The rival marks and the impugned work may be noticed as under:

	Petitioner	**Respondent no. 1**
Mark/Work	TikTok, TIK TOK and TIKTOK (word marks); TikTok with the device of a stylised musical note	A rectangular label with a black background and a red and green border, bearing the words "The Brand" above the word TIKTOK, written twice in large red stylised letters on the left; the words TIK TOK in Urdu script on the right; circular seals; the words "TAILOR SUPER", "SUPER DELUXE" and "ORIGINAL"; and the name "RALCO INTERNATIONAL (INDIA)"
Registration	Word mark TIK TOK registered since 23.10.2017 in Class 9, besides several other registrations	Copyright Registration No. A-154060/2024 dated 13.06.2024; trade mark application No. 4390454 in Class 7, opposed
Claimed adoption	Launched in India in 2017; artwork first published on 31.05.2017	Use claimed since 03.04.2018; work stated to be first published in 2019

VERDICTUM.IN

	Petitioner	Respondent no. 1
Goods/Services	Application software, live video streaming and social networking services, amongst others	Sewing machines, overlock machines, bag closer machines and their parts

II. SUBMISSIONS ON BEHALF OF THE PETITIONER

7. Mr. Ajay Amitabh Suman, learned counsel appearing on behalf of the petitioner submits that the petitioner is the prior adopter and registered proprietor of the inherently distinctive mark TikTok. The essential feature of the impugned work is the word TIKTOK, which belongs to the petitioner. The impugned work is, therefore, not an original work of respondent no. 1. Reliance is placed on ***Glaxo Orthopedic U.K. Ltd. v. Samrat Pharma***,[1]***Heinz Italia v. Dabur India Ltd.***,[2]***Cunniah& Co. v. Balraj & Co.***,[3]***Camlin Pvt. Ltd. v. National Pencil Industries***,[4]***Hindustan Lever Ltd. v. Nirma Pvt. Ltd.***,[5]***Hindustan Pencils Ltd. v. Alpana Cottage Industries Ltd.***,[6]***The Daily Calendar Supplying Bureau v. The United Concern***[7] and ***Manju Singal v. Deepak Kumar***.[8]

8. It is submitted that the adoption by respondent no. 1 is dishonest. He claims use only from 03.04.2018, when the TikTok application was immensely popular in India, and has offered no explanation for choosing the

[1] AIR 1984 Del 265
[2] (2007) 6 SCC 1
[3] AIR 1961 Mad 111
[4] 2001 SCC OnLine Del 1083
[5] AIR 1992 Bom 195
[6] 2001 (21) PTC 504 (CB)
[7] AIR 1967 Mad 381
[8] 2023 SCC OnLine Del 5503

VERDICTUM.IN

word TIKTOK for sewing machines. Though the petitioner's predecessor had opposed his trade mark application in March 2020, he applied for the impugned registration in 2024 without giving notice to the petitioner, as mandated by Rule 70(9) of the Copyright Rules, 2013 ("Rules"), and has admitted so in his reply. Reliance is placed on ***New Bharat Overseas v. Bhagwati Lacto Vegetarian Exports Pvt. Ltd.***[9] It is further submitted that the proviso to Section 45(1) of the Act is not confined to any class of goods or services, and the impugned NOC was wrongly issued despite the petitioner's registrations being on record. Reliance is placed on***Hugo Boss Trademark Management GmbH and Co. KG v. Sandeep Arora***[10] and ***Kunal Mondal v. Union of India***.[11]

9. As regards the blocking of the TikTok application in India, it is submitted that the petitioner continues to be the registered proprietor of its marks, and the goodwill attached thereto subsists. Reliance is placed on ***R.R. OomerbhoyPvt. Ltd. v. Court Receiver, High Court, Bombay***,[12] wherein it was held that mere cessation of business does not destroy the goodwill or the property in the trade mark. It is also submitted that the replies to the examination reports related to the marks of third parties, and not to that of respondent no. 1. Respondent no. 1, having himself applied for registration of TIKTOK, cannot contend that the mark is common to the trade, and the existence of third-party marks is no defence. Reliance is placed on ***Under***

[9] Order dated 08.09.2025 in C.O.(COMM.IPD-CR) 843/2022
[10] 2023 SCC OnLine Del 7956
[11] 2024 SCC OnLine Del 2239
[12] 2003 (5) Mh.L.J. 372

VERDICTUM.IN

Armour Inc. v. Aditya Birla Fashion & Retail Ltd.[13] and ***Indian Hotels Co. Ltd. v. Jiva Institute of Vedic Science & Culture***.[14]

III. SUBMISSIONS ON BEHALF OF RESPONDENT NO. 1

10. *Per contra*, Mr. Rahul Rajput, learned counsel appearing on behalf of respondent no. 1 submits that the petitioner has not approached this Court with clean hands. The TikTok application was banned in India by the Government of India in June 2020, in exercise of the powers under Section 69A of the Information Technology Act, 2000 ("IT Act"), on the grounds of national security and public interest, and the ban continues to operate. The petitioner has suppressed this fact, and has falsely claimed continuous use of the mark in India up to the present time. Reliance is placed on ***K.D. Sharma v. Steel Authority of India Ltd.***[15] and ***S.P. Chengalvaraya Naidu v. Jagannath***.[16]

11. It is contended that the petitioner is not a "person aggrieved" under Section 50 of the Act. It is not using the mark in India, and has not even stated that it intends to do so if the ban is lifted. The High Court of Bombay, in ***TikTok Ltd. v. Registrar of Trade Marks, Mumbai***,[17] has upheld the refusal to include the mark TikTok in the list of well-known trade marks, on account of the ban. Reliance is placed on ***Khoday Distilleries Ltd. v. State of Karnataka***[18] to contend that there is no right to carry on a business which stands prohibited in public interest. It is further submitted that the deed of

[13] 2023 SCC OnLine Del 2269
[14] 2008 SCC OnLine Del 1758
[15] (2008) 12 SCC 481
[16] (1994) 1 SCC 1
[17] 2025 SCC OnLine Bom 2323
[18] (1995) 1 SCC 574

VERDICTUM.IN

assignment dated 27.07.2023 does not assign any copyright to the petitioner, as required by Section 19 of the Act.

12. It is submitted that the mark TIK TOK had been registered or applied for by several persons prior to the petitioner, including one Sunny Mirchandani in Class 34 in 2006, and the petitioner can claim no originality or exclusivity in the mark. The petitioner has itself, in reply to various examination reports, taken the stand that its goods and services are distinct from those of the cited TIK TOK marks, and cannot now allege similarity with the work of respondent no. 1, whose goods are entirely different. Reliance is placed on ***Raman Kwatra v. KEI Industries Ltd.***[19]

13. It is also contended that the rival works differ in design, colour scheme and overall presentation. Respondent no. 1 is the original creator of the impugned work, which he adopted honestly. No notice was required to be given to the petitioner under the Rules, and the registration was granted after following the prescribed procedure, including the issuance of a search certificate under the proviso to Section 45(1) of the Act. Reliance is placed on ***Mohd. Shakir v. Gopal Traders***.[20] It is also contended that the petition suffers from delay.

IV. SUBMISSIONS ON BEHALF OF RESPONDENT NOS. 2 AND 3

14. Ms. Nidhi Raman, learned CGSC appearing on behalf of respondent nos. 2 and 3 submits that the petitioner's mark is used for a social media video application, whereas respondent no. 1 uses his mark for sewing machines and their parts. There is, therefore, no likelihood of confusion, and

[19] 2023 SCC OnLine Del 38
[20] 2024 SCC OnLine Del 2571

VERDICTUM.IN

the impugned NOC was validly issued. It is further submitted that Rule 70(9) of the Rules casts the burden on the applicant to give notice of his application to every person who claims any interest in the subject matter of the copyright, or disputes the rights of the applicant to it. The application of respondent no. 1 was published on the official website for thirty days, no objection was received, and the registration was granted on 13.06.2024 on the basis of the particulars furnished by the applicant. It is stated that respondent nos. 2 and 3 shall abide by the directions that may be passed by this Court.

V. ANALYSIS

15. The present case has an unusual feature. On the one hand, the TikTok application has been blocked in India by the Government of India, and the petitioner cannot offer it in India. On the other hand, respondent no. 1, who has no claim to the mark TikTok, has obtained a copyright registration in an artistic work whose most prominent feature is that very mark. The application has to be decided keeping both these aspects in view.

A. THE TEST FOR GRANT OF INTERIM INJUNCTION

16. An interim injunction under Order XXXIX Rules 1 and 2 of the CPC is an equitable and discretionary relief. The party seeking it must show that it has a *prima facie* case, that the balance of convenience is in its favour, and that it would suffer irreparable injury if the injunction is refused. The three conditions are cumulative, and each has to be satisfied. The Supreme Court

VERDICTUM.IN

in ***Kashi Math Samsthan and Anr. v. Shrimad Sudhindra Thirtha Swamy and Anr.***[21] held as under:

> "*16. It is well settled that in order to obtain an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a prima facie case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But it is equally well settled that when a party fails to prove prima facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove prima facie case to go for trial, it is not open to the Court to grant injunction in his favour even if, he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury if no injunction order is granted. ...*"

17. The converse is equally true. A *prima facie* case, however strong, does not by itself entitle a party to an injunction. The Supreme Court in ***Best Sellers Retail (India) (P) Ltd. v. Aditya Birla Nuvo Ltd and Ors.***[22] held as under:

> "*29. Yet, the settled principle of law is that even where prima facie case is in favour of the plaintiff, the Court will refuse temporary injunction if the injury suffered by the plaintiff on account of refusal of temporary injunction was not irreparable.*
> *30. In Dalpat Kumar & Anr. v. Prahlad Singh & Ors. [(1992) 1 SCC 719] this Court held:*
>
> > *"5. ...Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-interference by the Court would result in "irreparable injury" to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely, one that cannot be adequately compensated by way of damages. ...'* "

[21] (2010) 1 SCC 689
[22] (2012) 6 SCC 792

VERDICTUM.IN

18. Thus, if any one of the three conditions is not satisfied, an interim injunction cannot be granted. Further, since the relief is equitable, the Court must also be satisfied that the party seeking it has approached the Court with clean hands. Our Court in ***ANZ Grindlays Bank Plc v. The Commissioner, MCD& Ors.***,[23] speaking through R.C. Lahoti, J. (as his Lordship then was), held as under:

> "*(29) In these cases too, just as in any other case, the court has to find whether the plaintiffs have a prima facie case, whether the balance of convenience lies in their favor; and whether they would suffer irreparable injury if they were not protected by an ad interim injunction. Apart from these the conduct of the two sets of plaintiffs shall also have to be scrutinised; the law being well settled that the jurisdiction to grant an injunction being in the realm of equity the court would not grant an injunction merely because it is lawful to do so; the court shall have to keep in view the principles of fair play, justice, equity and good conscience and find out if any one of the parties has been guilty of violating the rules of game.*"

19. In a petition under Section 50 of the Act, the interim relief is in aid of the final relief of rectification. The *prima facie* case to be examined is, therefore, whether the petitioner is a person aggrieved, and whether the impugned entry has been wrongly made in, or is wrongly remaining on, the Register of Copyrights. Interim relief of this nature is not unknown to such proceedings. As noticed by our Court in para 4 of ***Manju Singal*** (supra), the erstwhile Intellectual Property Appellate Board had, while issuing notice on the petition therein, stayed the operation of the impugned registration.

B. LOCUS OF THE PETITIONER

B.1 *Whether the petitioner is a person aggrieved*

[23] 1995 (34) DRJ 492

VERDICTUM.IN

20. The expression "person aggrieved" has not been defined in the Section 50of the Act. A Division Bench of our Court in ***Shri Ganga Vishnu Raheja v. Shri Swami Satyanand Dharmarth Trust***[24] has held that the meaning given to the said expression under the trade mark law may be looked into, and has noticed that it includes a person against whom an infringement action is taken or threatened. Relying on the said decision, our Court in ***Hugo Boss*** (supra) held as under:

> "*23. The 'person aggrieved' is a person, who has a real and tangible interest in the work or in the mark. In the context of the present case, the Petitioner is clearly a person aggrieved owing to its common law rights and statutory rights in the mark BOSS. ...*"

21. The petitioner holds registrations for the word marks TIK TOK and TIKTOK since 2017 and 2019 respectively, besides several other registrations. Respondent no. 1, in reply to para 20 of the petition, which sets out these registrations, has stated the same to be a matter of record. The petitioner's predecessor has been opposing the trade mark application of respondent no. 1 for the very same mark since 13.03.2020. The impugned registration records respondent no. 1 as the author and owner of an artistic work which has the petitioner's mark as its most prominent feature, and under Section 48 of the Act, the Register is *prima facie* evidence of the particulars entered therein. The petitioner, therefore, has a real and tangible interest in having the entry removed.

22. The contention that the deed of assignment dated 27.07.2023 does not assign any copyright, as required by Section 19 of the Act, is of no avail to respondent no. 1. The petitioner does not claim to be the owner of the

[24] 2005 SCC OnLine Del 651

VERDICTUM.IN

copyright in the impugned work. Its grievance is that respondent no. 1 has obtained a copyright registration in a work whose essential feature is the petitioner's registered mark. The deed of assignment conveys the trade marks, along with the goodwill and the right to sue for infringements and the standing of the petitioner rests on those rights. This Court is, therefore, of the *prima facie* view that the petitioner is a person aggrieved by the impugned registration.

B.2 *Whether the blocking of the TikTok application takes away the locus of the petitioner*

23. The blocking directions were issued under Section 69A of the IT Act, which empowers the Central Government to direct any agency of the Government or intermediary to block for access by the public any information generated, transmitted, received, stored or hosted in any computer resource. The press release dated 29.06.2020, filed by respondent no. 1 himself, records that 59 applications, including TikTok, were blocked in view of the concerns relating to the sovereignty and integrity of India, defence of India, security of the State and public order. The directions operate upon the access to the TikTok application in India. They do not purport to cancel the registrations of the petitioner under the TM Act, or to divest it of its proprietorship in the marks, or to make the marks available for appropriation by others.

24. The decision of the High Court of Bombay in ***TikTok Ltd.*** (supra), relied upon by respondent no. 1, concerned the refusal of the Registrar of Trade Marks to include the mark TikTok in the list of well-known trade marks under Rule 124 of the Trade Marks Rules, 2017. The High Court held

VERDICTUM.IN

that the ban was a relevant fact under Section 11(6) of the TM Act for determining whether the mark deserved that elevated status. At the same time, it noticed the statutory protection which the registered mark continues to enjoy, in the following terms:

> *"24. It is obvious that due to the ban imposed by the Government of India, the aforesaid application bearing the trade mark TikTok cannot be used in India. ... since the said mark is already a registered trade mark in India, it does enjoy all statutory protection available under the Trade Marks Act. Inclusion in the list of well known marks obviously gives added protection to a mark, ..."*

25. The scheme of the TM Act also shows that the non-use of a registered mark on account of a legal restriction does not, by itself, result in its loss. Section 47(3) of the TM Act reads as under:

> *"(3) An applicant shall not be entitled to rely for the purpose of clause (b) of sub-section (1) or for the purposes of sub-section (2) on any non-use of a trade mark which is shown to have been due to special circumstances in the trade, which includes restrictions on the use of the trade mark in India imposed by any law or regulation and not to any intention to abandon or not to use the trade mark in relation to the goods or services to which the application relates."*

26. The Supreme Court in ***Hardie Trading Ltd. v. Addisons Paint & Chemicals Ltd.***,[25] while dealing with the corresponding provision under the Trade and Merchandise Marks Act, 1958, held that the restrictions on the import of paints into India constituted special circumstances in the trade, which excused the non-use of the registered marks of a foreign proprietor. It was further held that an intention to abandon is a necessary component of non-user. There is nothing on record to suggest any intention on the part of the petitioner to abandon its marks. Its predecessor has been prosecuting the opposition against the application of respondent no. 1 since 2020, the marks

[25] (2003) 11 SCC 92

VERDICTUM.IN

were assigned to the petitioner along with the goodwill in 2023, and the petitioner has pursued its claims before the High Court of Bombay and before this Court.

27. The goodwill which the mark acquired in India also does not disappear merely because the TikTok application is presently not accessible in India. A Division Bench of the High Court of Bombay in ***R.R. Oomerbhoy*** (supra) held as under:

> *"32. ... The proprietary right, title and interest of the partnership firm in its trade marks is an intrinsic part of the goodwill. The essential foundation of an action for passing off is the protection of goodwill, the goodwill of the business that may be destroyed or prejudiced by a misrepresentation on the part of a competitor that the goods which he sells are those of the other. ... The mere cessation of the business does not destroy the goodwill of the firm or for that matter, the property in the trade mark which is an integral component of the goodwill of the business."*

28. Our Court in ***Alfred Dunhill Ltd. v. Kartar Singh Makkar***[26] repelled the contention that the goodwill of the plaintiff's mark therein stood extinguished on account of the restrictions on the import of foreign goods into India, and held, in para 18, that "*the goodwill or image or reputation of goods and marks does not depend upon its availability in a particular country*".

29. In view of the above, this Court is of the *prima facie* view that the blocking of the TikTok application does not take away the *locus* of the petitioner to seek the rectification of the Register. Whether the blocking has a bearing on the grant of interim relief is, however, a different question, which is considered hereinafter.

[26] 1999 SCC OnLine Del 167

VERDICTUM.IN

C. PRIMA FACIE CASE

C.1 *Whether the adoption of the impugned work by respondent no. 1 is dishonest*

30. The colour scheme and get-up of the label of respondent no. 1 are different from those used by the petitioner. However, the most prominent feature of the label is the word TIKTOK, written twice in large stylised letters, with the words "The Brand" above it. The same expression is also written in Urdu script on the label. The word is phonetically and visually identical to the petitioner's registered word marks. Respondent no. 1 claims use since 03.04.2018 and the publication of the work in 2019. By then, the petitioner's predecessor had already applied for the word mark TIK TOK, which stands registered with effect from 23.10.2017, and the TikTok application had been available in India since 2017. In September 2019, India accounted for 44% of the worldwide installs of the TikTok application. Respondent no. 1 has not offered any explanation for choosing the word TIKTOK for sewing machines, except to state that he never saw the goods and services of the petitioner in the market. Considering the popularity of the TikTok application in India during the said period, this explanation does not inspire confidence. Nor has respondent no. 1 placed on record any material, such as invoices or sales figures, to substantiate the use claimed by him.

31. The difference in the goods of the parties does not detract from this conclusion. A Division Bench of our Court in ***Tata SIA Airlines Ltd. v. Vistara Home Appliances Pvt. Ltd.***[27] held as under:

[27] 2023 SCC OnLine Del 3343

VERDICTUM.IN

> *"22. ... It is a settled principle in trademark law that 'adoption' takes precedence over 'usage' and any subsequent usage after wrongful adoption of a mark cannot/ought not be given any credence. ...*
> *23. Non-adoption and non-usage of the impugned mark VISTARA in the same Class and for the same goods as that of the appellant are of no essence to the present proceedings as Class discrimination and/or Class distinction are of no consequence when the adoption of the mark by a party like the respondent no. 1 is itself deceitful and tainted under suspicious circumstances and without any palpable reasons. What is required to be valued more is the intention of the adopter, particularly when it is the case of a subsequent adopter like the respondent no. 1, de hors the same mark in a different Class. ..."*

32. Our Court in ***Hugo Boss*** (supra), while dealing with an artistic work whose essential feature was the mark of the petitioner therein, held as under:

> *"31. ... Moreover, Respondent No. 1 cannot claim any rights in the mark 'BOSS' and thus, cannot own a copyright registration in an artistic work, the essential feature of which is the mark BOSS. ..."*

33. The reliance placed by respondent no. 1 on the registrations and applications of third parties for TIK TOK marks, and on the entries in the brand database of the World Intellectual Property Organization, is misplaced. These relate to unrelated goods and services, such as chewing tobacco, pesticides and business consultancy, and are in favour of persons who are not before this Court and through whom respondent no. 1 does not claim. In para 21(vi) and (xi) of ***Mohd. Shakir*** (supra), on which respondent no. 1 relies, our Court declined to permit a party to take the crutches of the registrations of a third party not before the Court. That principle cuts against respondent no. 1 himself. The filing of a rectification petition by the petitioner against one such registration also does not amount to a recognition of the rights of that proprietor. It indicates the very opposite. Further, respondent no. 1 has himself applied for the registration of TIKTOK as a

VERDICTUM.IN

trade mark. A Division Bench of our Court in ***Indian Hotels*** (supra) held as under:

> *"39. ... We do not think so, the appellant has itself applied for registration of the Jiva as a trade mark and cannot, therefore, argue that the mark is descriptive. ...*
> *40. It was also contended by Mr. Rohtagi that since other parties were also making use of the trade mark Jiva the plaintiff was not entitled to the injunction prayed for. The decision of this Court in Info Edge (India) Pvt. Ltd. v. Shailesh Gupta, (2002) 24 PTC 355 (Del.) provides a complete answer to that submission. The court was in that case also dealing with a similar argument against the issue of an injunction which was repelled, holding that the use of the trade mark by some other party against whom the plaintiffs have not proceeded immediately for seeking an injunction would not dis-entitle him from seeking an injunction against another party who was similarly committing a violation."*

34. The objection based on the replies of the petitioner's predecessor to the examination reports is also not sustainable. In reply to the examination report in respect of application No. 3853841 in Class 35, the petitioner's predecessor stated that its business was significantly distinct from that of the proprietor of the cited mark TIKTOK, which covered professional business consultancy. The other replies are of a similar nature, and none of the cited marks belonged to respondent no. 1. In para 43 of ***Raman Kwatra*** (supra), the Division Bench held that a party which obtains a registration by asserting that its mark is dissimilar to a cited mark is not entitled to an interim injunction "against the proprietor of the cited mark". Our Court in ***Under Armour*** (supra) explained the said decision as under:

> *"41. Clearly, the reply to the FER, even as per the decision in Raman Kwatra, would be a relevant document only where the FER set up the defendant's mark as one of the cited marks against the mark asserted by the plaintiff. ... The principle has no application where the defendant's mark, as in the present case, was never put up as a similar mark in the FER, while objecting to the application of the plaintiff for registration of the UNDER ARMOUR mark."*

VERDICTUM.IN

35. To the same effect is para 28 of ***Tata SIA Airlines*** (supra), wherein a statement made before the Registry with respect to the mark of a third party was held to be of no avail, as it "*was neither in a proceeding pertaining to the parties involved herein nor was it made in context of the impugned mark VISTARA*".

36. It is also relevant that the adoption by respondent no. 1, on his own showing, took place in 2018 or 2019. The honesty of an adoption is to be judged with reference to the date on which it was made. At that time, there was no restriction on the TikTok application, which was then being widely used in India. The subsequent blocking of the TikTok application in June 2020 cannot, with retrospective effect, lend legitimacy to an adoption made earlier.

37. The dishonesty in the adoption is also reflected in the manner in which the impugned registration was obtained. The proviso to Section 45(1) of the Act reads as under:

> *"Provided that in respect of an artistic work which is used or is capable of being used in relation to any goods or services, the application shall include a statement to that effect and shall be accompanied by a certificate from the Registrar of Trade Marks referred to in section 3 of the Trade Marks Act, 1999 (47 of 1999), to the effect that no trade mark identical with or deceptively similar to such artistic work has been registered under that Act in the name of, or that no application has been made under that Act for such registration by, any person other than the applicant."*

38. The proviso does not confine the search to the class or the description of goods or services in relation to which the applicant uses the work. The question under the proviso is not whether the goods of the parties are similar, but whether a trade mark identical with or deceptively similar to the

VERDICTUM.IN

artistic work stands registered, or applied for, by any other person. The submission of respondent nos. 2 and 3, that the impugned NOC was validly issued since the goods of the parties are different, therefore, does not commend itself to this Court. The object of the proviso has been explained by our Court in ***Hugo Boss*** (supra) as under:

> *"16. Vide judgement dated 20th April, 2018, this Court in Marico Ltd. vs. Jagit Kaur, 2018 SCC Del 8488 had observed that though Trade Marks and Copyrights operate under different statutes, since rights in an original artistic work could overlap with label marks registrable under the Trade Marks Act, 1999, the legislature in its wisdom added a proviso to Section 45 in the Copyright Act. Clearly, this proviso has been inserted into the Act to prevent unscrupulous persons from copying label marks with the intention of passing off and taking shelter under a false claim of ownership of Copyright in an artistic work. Unquestionably, this proviso would be applicable in this case as well."*

39. The impugned NOC dated 03.05.2024 certifies that no trade mark, except the applicant's own, had been registered or applied for registration. *Prima facie*, the certificate is irreconcilable with the record of the Trade Marks Registry itself. On that date, the petitioner's word marks TIK TOK and TIKTOK stood registered. More significantly, the Registry's own record showed that the application of respondent no. 1 for TIKTOK in Class 7 had been opposed by ByteDance Ltd. since 13.03.2020. A similar situation arose in ***Hugo Boss*** (supra), where our Court held as under:

> *"28. Registration of copyright can be granted only in respect of original works. It is inexplicable how the Trade Marks Registry issued a clear search report in respect of the impugned work, when clearly in respect of the Respondent's trade mark application, the Petitioner's marks were cited as conflicting. The search report itself is rid with inaccuracies and contrary to the Register of Trade Marks. If any person or entity mis-describes the work as an original work, when it is actually not and it is also a substantial imitation of a registered Trade Mark and label, such registration would be a registration wrongly remaining on the Register of Copyrights. ..."*

VERDICTUM.IN

40. In para 21(ix) of ***Mohd. Shakir*** (supra), our Court noticed that a search certificate had been issued before the registration was granted. The challenge in that case, however, was founded on the rights of a third party which was not before the Court. In the present case, the petitioner's own registrations, and the opposition filed by its predecessor against the very application of respondent no. 1, were on the record of the Trade Marks Registry when the impugned NOC was issued. The mere issuance of a certificate cannot sustain a registration where the certificate itself does not reflect the record.

41. Coming to Rule 70(9) of the Rules, the same reads as under:

> *"(9) The person applying for registration shall give notice of his application to every person who claims or has any interest in the subject-matter of the copyright or disputes the rights of the applicant to it."*

42. The obligation under Rule 70(9) is cast upon the applicant, as has also been rightly submitted by respondent nos. 2 and 3. It is the means by which a person who disputes the applicant's right to the work is enabled to object within the period of thirty days contemplated under Rule 70(10). A general publication on the website of the Copyright Office cannot be a substitute for the notice which the applicant is bound to give to a person who, to his knowledge, disputes his rights. In the present case, respondent no. 1 knew that the petitioner's predecessor had been disputing his right to the mark TIKTOK since 2020, and the opposition was pending when he applied for the impugned registration on 09.05.2024. In reply to ground J of the petition, respondent no. 1 has stated that "It is correct that no notice was issued to the petitioner either by the Respondent No.1 or by the Registrar of Copyrights,

VERDICTUM.IN

prior to grant of impugned registration", while adding that no such notice was required under the Rules.

43. A similar question arose in ***New Bharat Overseas*** (supra), where the respondent therein had obtained a copyright registration without notice to the petitioner therein, despite a long-standing dispute between the parties. Our Court held as under:

> *"8. In light of the statutory mandate under Rule 70(9) of the 2013 Rules, it is evident that any person having a claim or interest in the subject matter of copyright is entitled to notice before registration. ...*
>
> ***
>
> *10. The Court is not persuaded by Respondent No.1's contention that the Petitioner does not qualify as a "claimant" or "interested person" under the Rules. The Rules clearly mandate that any person seeking copyright registration must give notice to all individuals who may have a claim or interest in the subject matter. In the present case, Respondent No.1 was fully aware that the Petitioner was disputing its claim over the artistic work/copyright, as evidenced by the FIRs and prior proceedings. The failure to issue notice to the Petitioner, who was indisputably contesting Respondent No.1's rights, therefore amounts to a direct violation of the statutory provisions. Such non-compliance renders the registration of the impugned copyright procedurally invalid."*

44. In the said case, the registration was revoked for want of notice under Rule 70(9), even though the Registrar of Copyrights had contended that no objection was received within thirty days. Our Court has likewise set aside copyright registrations granted without such notice in ***Anil Kumar Gera v. Ramesh Chander***[28] and ***Saurabh Rawlley v. Pawan Garg***.[29] The pendency of an opposition by the petitioner's predecessor to the trade mark application of respondent no. 1, for the very mark which forms the essential feature of the impugned work, places the petitioner squarely within the class of

[28] Judgment dated 02.05.2024 in C.O.(COMM.IPD-CR) 750/2022
[29] Order dated 13.03.2026 in C.O.(COMM.IPD-CR) 1/2025

VERDICTUM.IN

persons who dispute the rights of the applicant to the work. By applying for the impugned registration without notice to the petitioner, respondent no. 1 kept out of the process the one person who was known to him to be disputing his claim.

45. As regards the plea of delay, the impugned registration was granted on 13.06.2024, and the present petition was filed on 16.10.2024. There is, thus, no delay on the part of the petitioner.

46. In view of the above, this Court is of the *prima facie* view that the adoption of the impugned work by respondent no. 1 is dishonest, and that the impugned entry has been wrongly made, and is wrongly remaining on the Register of Copyrights.

C.2 *Whether the petitioner can use its mark in India*

47. The answer to this question has to be against the petitioner. The blocking directions issued under Section 69A of the IT Act continue to operate. Before the High Court of Bombay, as recorded in para 22 of ***TikTok Ltd.*** (supra), it "was admitted on behalf of the petitioner that the ban still operates", and in para 24 thereof, it was held that the application bearing the mark TikTok "cannot be used in India". The petitioner has not placed on record any material to show any use of its mark in India after June 2020, whether in relation to the TikTok application or otherwise.

48. The protection under Section 47(3) of the TM Act, noticed above, only saves a registered mark from removal on the ground of non-use. It does not permit the registered proprietor to use the mark in a manner contrary to a direction lawfully issued under another statute. Respondent no. 1 has relied

VERDICTUM.IN

upon ***Khoday Distilleries*** (supra) to contend that there is no right to carry on a business which is prohibited in public interest. The principle binds the petitioner in so far as the use of its mark for the TikTok application in India is concerned. It cannot, however, be extended to hold that the petitioner's registrations stand effaced, or that its mark is open to appropriation by others, for the reasons already recorded. Thus, so long as the blocking directions operate, the petitioner cannot use its mark in India for the TikTok application, and it has not claimed any other use.

C.3 *Whether respondent no. 1 can use the mark*

49. The answer to this question also has to be in the negative. The inability of the petitioner to use its mark in India, on account of the blocking directions, does not make the mark available to others. The petitioner continues to be its registered proprietor. As held in ***Hardie Trading*** (supra), non-use on account of a legal restriction does not amount to abandonment. Respondent no. 1 has no registration for TIKTOK under the TM Act, and his application stands opposed. His only statutory claim is the impugned registration, which, as held above, is *prima facie* wrongly made. As held in para 22 of ***Tata SIA Airlines*** (supra), any subsequent usage after a wrongful adoption cannot be given any credence.

50. Respondent no. 1 cannot be permitted to take advantage of a restriction which was imposed on the petitioner in the interest of the sovereignty and integrity of India. The blocking directions were issued to prevent access to the TikTok application in India. They were not issued to enable a third person, who has adopted the mark dishonestly, to claim it as his own. *Prima facie*, therefore, respondent no. 1 cannot claim any right to

VERDICTUM.IN

use the mark TIKTOK, or to hold himself out as the author and owner of an artistic work built around it.

51. To sum up, the petitioner has made out a *prima facie* case that the impugned entry has been wrongly made and is liable to be rectified. At the same time, the petitioner itself cannot use its mark in India. As held in ***Best Sellers*** (supra), a *prima facie* case by itself is not sufficient for the grant of an injunction.

D. BALANCE OF CONVENIENCE AND IRREPARABLE INJURY

52. The balance of convenience requires this Court to weigh the comparative hardship which would be caused to the parties by the grant or refusal of the injunction. The petitioner is not offering the TikTok application, or any other goods or services under its mark, in India, and it cannot do so as long as the blocking directions operate. The injunction sought would, therefore, neither protect any business of the petitioner in India nor enable it to enjoy its mark in India in the interim. The refusal of the injunction would not put the petitioner in a position worse than the one it already occupies by reason of the blocking directions. The balance of convenience is, therefore, not in favour of the petitioner.

53. For the same reason, the petitioner has failed to show that it would suffer irreparable injury if the injunction is refused. Registration is not a pre-condition for the subsistence of copyright, and under Section 48 of the Act, the entry in the Register is only *prima facie* evidence of the particulars entered therein. The petitioner has not pointed out any loss of business,

VERDICTUM.IN

customers or goodwill in India which the impugned registration has caused, or is likely to cause, during the pendency of the petition. The second and third conditions for the grant of an interim injunction are, thus, not satisfied. In view of the decision in ***Best Sellers*** (supra), this by itself is sufficient to decline the interim injunction to the petitioner.

E. CONDUCT OF THE PETITIONER

54. That brings this Court to the conduct of the petitioner. The present petition was instituted in 2024, more than four years after the TikTok application was blocked in India. The petition does not contain any averment about the blocking. On the contrary, para 3 of the petition states that the petitioner "*has been continuously using the said trademarks/labels since then up to the present time*". Para 15 states that the TikTok application "is *present since its launch itself in 2017*", and para 22 claims proprietorship on account of "*prior adoption and senior continuous user*". Para 21 asserts that the petitioner's marks fulfil all the conditions required for a mark to be a well-known mark under Section 2(1)(zg) of the TM Act.

55. The petition is also silent about the order dated 31.10.2023, by which the Assistant Registrar of Trade Marks had refused to include the mark TikTok in the list of well-known trademarks, the main reason for the refusal being the blocking of the TikTok application. The petitioner had challenged that order before the High Court of Bombay, and, as noticed above, admitted in those proceedings that the ban still operates. The petitioner was, thus, fully aware not only of the blocking, but also of its bearing on the rights claimed by it in its mark in India. The fact was brought on record only by respondent no. 1.

VERDICTUM.IN

56. A party which approaches the Court for an equitable relief is under a duty to disclose all material facts, including those which go against it. The Supreme Court in ***K.D. Sharma*** (supra), relying upon the decision in ***R. v. Kensington Income Tax Commissioners***,[30] observed in para 35 that "*the Court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts*". It was further held as under:

> "*38. The above principles have been accepted in our legal system also. As per settled law, the party who invokes the extraordinary jurisdiction of this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play 'hide and seek' or to 'pick and choose' the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. ... The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because, 'the Court knows law but not facts'.*"

57. The same principle governs an application for interim injunction. In ***ANZ Grindlays*** (supra), our Court held as under:

> *"(87) When a party approaches the court seeking relief of interim injunction more so when the relief sought for is projected as urgent and is accompanied by a prayer for an ex parte relief the Court places implicit reliance on the plaintiff. They are the facts set out by the plaintiff in its pleadings and the documents filed which enable the court forming an opinion whether to exercise or not to exercise jurisdiction in the matter of issuing ad interim injunction (behind the back of the opposite party who is yet to be noticed). The court while reposing confidence in the plaintiff naturally expects him to make a clean breast of all the material and relevant facts which would enable the court forming a correct opinion and exercising judicial discretion at that stage. Mis-statement by itself would be enough to throw out the application. ..."*

[30] (1917) 1 KB 486

VERDICTUM.IN

58. It was further held therein that, in a case of concealment, the Court would examine whether the fact concealed was relevant, it being immaterial whether it would have enabled or disabled the plaintiff in securing the relief, and whether the plaintiff knew or could have known of it. If both the answers are in the affirmative, the plaintiff would be held disentitled.

59. The fact suppressed must, of course, be material. The Supreme Court in ***Arunima Baruah v. Union of India***[31] held as under:

> *"12. It is trite law that so as to enable the Court to refuse to exercise its discretionary jurisdiction suppression must be of material fact. What would be a material fact, suppression whereof would disentitle the appellant to obtain a discretionary relief, would depend upon the facts and circumstances of each case. Material fact would mean material for the purpose of determination of the lis, the logical corollary whereof would be that whether the same was material for grant or denial of the relief. ..."*

60. Judged by these principles, the blocking of the TikTok application was a material fact. It determines whether the petitioner can use its mark in India, where the balance of convenience lies, and whether the petitioner would suffer any injury by the refusal of the injunction. As has been seen above, the answer to each of these questions turns on the blocking. It is a fact which the Court, while considering the grant of interim relief, would need to know at the very threshold. Both the tests laid down in ***ANZ Grindlays*** (supra) are also satisfied, as the fact was relevant and was within the knowledge of the petitioner.

61. It cannot be said, in answer, that the blocking was announced by the Government of India through a press release dated 29.06.2020, and was, therefore, a matter of public knowledge. The Court decides the matter before

[31] (2007) 6 SCC 120

VERDICTUM.IN

it on the pleadings and the documents placed on record by the parties. A press release is not the law, which the Court is supposed to know. Nor is the Court expected to ascertain on its own whether a party before it is subject to an executive direction, and whether that direction continues to operate. The duty to disclose was on the petitioner, which was the party affected by the blocking and which was claiming relief, and the same was not discharged merely because the information could have been gathered from other sources.

62. The nature of the fact suppressed also cannot be lost sight of. The TikTok application was blocked as it was found to be prejudicial to the sovereignty and integrity of India, defence of India, security of the State and public order. A party which invokes the jurisdiction of this Court in relation to the very mark under which such an application was offered was bound to disclose this fact at the outset. Instead, the petition projects a picture of continuous and present use of the mark in India. The statement in para 3 of the petition, read with the omission to disclose the blocking and the order dated 31.10.2023, cannot be treated as an inadvertent overstatement. Non-disclosure of this nature has to be dealt with firmly, as the Court acts on the faith of what is placed before it by the parties.

63. This Court is, therefore, of the view that the petitioner has not approached this Court with clean hands. Its conduct, by itself, disentitles it to the equitable relief of interim injunction. Ordinarily, a finding of this nature would have dispensed with the need to examine the merits. In the present case, the merits have nonetheless been examined, since the petition concerns the correctness of an entry in a public register, and the concern of

VERDICTUM.IN

the Court for the correctness of that register does not depend upon the conduct of the party which brings the entry to its notice. This aspect is considered hereinafter.

F. PURITY OF THE REGISTER

64. The petitioner having failed to make out a case for the grant of an interim injunction, the question that remains is whether respondent no. 1 should, in the meantime, be left free to use the impugned registration. As held above, the adoption of the impugned work by respondent no. 1 is *prima facie* dishonest, the impugned NOC does not reflect the record of the Trade Marks Registry, and the impugned registration was obtained without the notice mandated by Rule 70(9) of the Rules.

65. The Register of Copyrights is a public record. Under Section 47 of the Act, it is open to inspection by any person. Under Section 48, it is *prima facie* evidence of the particulars entered therein, and certified copies of its entries are admissible in evidence in all Courts without further proof. Section 50 empowers this Court to rectify the Register not only on the application of a person aggrieved, but also on the application of the Registrar of Copyrights himself. The legislature has, thus, recognised that the correctness of the Register is a matter of public concern, and not merely of private interest.

66. The Supreme Court in ***Hardie Trading*** (supra) observed that actions for the removal of wrong entries are commenced for the "purity of the register" which it is in public interest to maintain. In para 29 of ***Khoday***

VERDICTUM.IN

Distilleries Ltd. v. Scotch Whisky Association,[32] the Supreme Court reiterated that "Indisputably, the purity of the register is to be maintained". Our Court in ***Opella Healthcare Group v. Vaibhav Vohra***,[33] while dealing with a petition for the rectification of the Register of Copyrights, relied upon the decision of a Division Bench of the High Court of Bombay in ***Ciba Ltd. v. M. Ramalingam***,[34] wherein it was held that "*the primary duty of the Court is towards the public and the maintenance of the purity of the register*".

67. The finding that the petitioner has not come with clean hands disentitles it to the equitable relief which it seeks. That finding, however, does not make the impugned entry any less questionable, nor does it improve the case of respondent no. 1. The conduct of the party which brings a wrong entry to the notice of the Court is a reason to deny that party relief. It is not a reason to allow the wrong entry to be used in the meantime. If respondent no. 1 is left free to use the impugned registration, the Register would lend its authority to a claim which is *prima facie* unfounded.

68. The Supreme Court in ***Manohar Lal Chopra v. Rai Bahadur Rao Raja Seth Hiralal***[35] has held that the Court has the inherent power under Section 151 of the CPC to issue a temporary injunction in circumstances which are not covered by Order XXXIX of the CPC, where the ends of justice so require. This Court, being seized of a petition for the rectification of the Register, is of the view that the ends of justice require that respondent

[32] (2008) 10 SCC 723
[33] 2024 SCC OnLine Del 8214
[34] AIR 1958 Bom 56
[35] AIR 1962 SC 527

VERDICTUM.IN

no. 1 be restrained from using the impugned registration during the pendency of the petition. The restraint is not an injunction in favour of the petitioner. It is not founded upon any entitlement of the petitioner and confers no right upon it. It operates only to ensure that, pending adjudication, the Register is not used to support a claim which is *prima facie* dishonest.

VI. CONCLUSION

69. In view of the above, the petitioner has failed to satisfy the requirements of balance of convenience and irreparable injury, and has not approached this Court with clean hands. The prayer of the petitioner for the grant of an interim injunction is, therefore, declined.

70. However, for the purpose of maintaining the purity of the Register of Copyrights, and in exercise of the powers under Section 151 of the CPC, the following directions are issued, to operate till the final disposal of the present petition:

(i) Respondent no. 1, and all persons acting for and on his behalf, shall not use, assert or rely upon Copyright Registration No. A-154060/2024 dated 13.06.2024 of the artistic work titled "TIKTOK", or the search certificate bearing TMR-CC No. 119624 dated 03.05.2024, in any manner whatsoever. This includes any such use, assertion or reliance on labels, packaging, invoices, websites or online listings, and in any notice, complaint or proceeding before any Court, police or other authority, including the Trade Marks Registry, or before any e-commerce platform. This shall not, however, preclude

VERDICTUM.IN

respondent no. 1 from defending the impugned registration in the present proceedings.

(ii) Respondent no. 1 shall not hold himself out as the author or owner of copyright in the impugned work on the strength of the impugned registration, and shall not assign, license or otherwise create any third-party right in respect thereof.

(iii) Respondent no. 2 shall make a note in the Register of Copyrights and in its online records, within four weeks from today, that the impugned registration is subject to the present petition and to this judgment. Respondent no. 3 shall make a similar note in its records in respect of the impugned NOC.

71. It is clarified that:

(a) The above directions are not an injunction in favour of the petitioner, and nothing in this judgment shall be construed as permitting the petitioner, or any person claiming through it, to make available, operate or offer the TikTok application, or any service under the mark TikTok, in India, contrary to the blocking directions issued under Section 69A of the IT Act. The said directions shall continue to operate on their own terms.

(b) Opposition No. 1036158 against application No. 4390454 shall be decided by the Registrar of Trade Marks on its own merits, uninfluenced by any observation made hereinabove.

(c) The conduct of the petitioner, as noticed hereinabove, shall be borne in mind at the time of the final adjudication of the petition, including on the question of costs.

VERDICTUM.IN

72. The Registry is directed to supply a copy of this judgment to the office of the Controller General of Patents, Designs and Trade Marks at llc-ipo@gov.in, for compliance.

73. The observations made hereinabove are only *prima facie*, for the purpose of deciding the present application, and shall not be construed as an expression on the merits of the case.

74. The application stands disposed of in the above terms.

C.O.(COMM.IPD-CR) 23/2024 & I.A. 42683/2024

List on 15.03.2027.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

NOVEMBER 26, 2026
SA