

**IN THE COURT OF MS. TWINKLE WADHWA: LD. ADDITIONAL DISTRICT  
JUDGE-03:PATIALA HOUSE COURT:NEW DELHI DISTRICT**

**TM No.13592/16**

**Lacoste S.A**

8, Rue de Castiglione-75001  
Paris, France.

**.....Plaintiff**

**Versus**

**1. Puneet Kumar (Compromised)**

Manager of M/s. Fashion Zone  
Shop NO.BK-04, Sector-18,  
Noida-201301 (Uttar Pradesh)

**2. Kulbhushan Goel**

Son of Brij Lal Gupta  
Proprietor of M/s. Export Hut  
B-14, Sector-18, Noida-201301.

**....Defendants**

**Date of Institution : 10.08.2015**

**Date of Final Arguments : 10.04.2018**

**Date of Decision : 24.04.2018**

**JUDGMENT**

**The Case-**

1. The suit has been filed by the plaintiff Company seeking permanent injunction restraining infringement, passing off, delivery up, rendition of accounts etc. against the defendants.

**Appearance-**

2. I have heard arguments of **Id. counsel for the plaintiff Shri S K Bansal** and I have perused the case file.

**Plaintiff's Case-**

3. The case of the plaintiff is that it is engaged in the business of manufacture, distribution and sale of a wide range of clothing, footwear, perfume, leather goods, watches, eyewear and other allied/related products. The plaintiff has been adopted the trademark/label **LACOSTE and LACOSTE WITH THE CROCODILE LOGO** as a trade mark and also as an essential part of its trade name in relation to its said goods and business. The plaintiff over a period of time has been using its said trademark in various stylized/artistic formats/labels which have been created and are being created over a period of time namely **LACOSTE and LACOSTE WITH THE CROCODILE LOGO**. The plaintiff has also provided details of its trademarks including class. It is averred that plaintiff also holds copyright in the art work involved in the plaintiff's trademarks/labels.

4. The allegation of the plaintiff is that the defendant(s) is engaged in selling, manufacturing, marketing, purveying, supplying, soliciting trade of readymade garments, apparels and other allied/related products (referred to as the impugned goods/business). He has adopted and started using trademarks of the plaintiff and have given false trade description to their impugned goods. The defendant(s) has also copied the artistic features involved in the plaintiff's trademark. It is alleged that the defendant(s) is using all kinds of false description on their impugned goods to wrongly convey to the public and customers that the

impugned goods are coming from the source and origin of the plaintiff. These goods and business are also same/similar/allied/cognate to that of the plaintiff. The resemblance between the rival trademarks are so close that it can hardly occur except by deliberate intimation. Such activities of the defendant(s) have resulted in huge losses both in business and reputation of the plaintiff and it cannot be compensated in terms of money.

5. The plaintiff has also presses for his application under Order 26 Rule 9 read with Section 151 CPC for appointment of Local Commissioner for preserving and protecting infringing evidence as per Section 135(2) (b) of the Trade Mark Act, 1999. Accordingly, the LC was appointed vide orders dated 11.08.2015.

6. It is also argued that plaintiff had to get LC appointed and hence cost of litigation be also awarded.

7. The present suit has already been settled with defendant no.1 in Mediation Centre, New Delhi District on 04.04.2006. Defendant no.2 has put his appearance but no written statement filed on his behalf and his defence was struck off on 25.11.2016.

8. On completion of pleadings, following points of consideration were identified on 28.01.2016-

**ISSUES-**

- 1. Whether the plaintiff is entitled to decree for permanent injunction restraining defendants, their agents, representatives, stockists etc. for using, selling, soliciting etc. of impugned goods containing Trade Mark 'LACOSTE and LACOSTE WITH THE CROCODILE LOGO' ?OPP.**

2. Whether plaintiff is entitled to decree of injunction restraining the defendants and their subjects from dealing with or disposing of the merchandise containing Trade Mark 'LACOSTE and LACOSTE WITH THE CROCODILE LOGO' ? OPP.
3. Whether plaintiff is entitled to decree of delivery up of impugned goods containing Trade Mark'LACOSTE and LACOSTE WITH THE CROCODILE LOGO'? OPP.
4. Whether plaintiff is entitled to Rendition of accounts and damages on account of profits made by the defendant by sale of goods containing Trade Mark 'LACOSTE and LACOSTE WITH THE CROCODILE LOGO'? OPP.

5. Relief.

9. To prove its case, plaintiff examined Ms. Meena Bansal as PW-1 and exhibited the following documents-

S.No.	No. of Exhibits	Details of the documents
1	Ex. PW1/1(colly)	Representation of Trademark/ Label of plaintiff
2	Ex.PW1/2(colly)	Representation of defendant's trademark
3	Ex.PW1/3(colly)	List of plaintiff's trademark
4	Ex.PW1/4(colly)	Downloads from the plaintiff's website
5	Ex.PW1/5	Documents showing the address of the plaintiff's business
6	Ex.PW1/6(colly)	Documents showing the history of the plaintiff
7	Ex.PW1/7	Stamped power of attorney

10. I have heard the arguments of plaintiff and gone through the record.
11. On the basis of above, plaintiff has proved that they are registered users of the trademark '**LACOSTE and LACOSTE WITH THE CROCODILE LOGO**' and the trademark has acquired distinct features and they are regularly doing trade of goods under the said trade name along with label/device. It is further proved by plaintiff that while the Local Commissioner inspected the premises of defendant, products were found with deceptively similar trade name and trade dress as that of plaintiff.
12. Further report of LC is duly exhibited on record. Further I have gone through the photographs also filed by LC in order to show that the goods seized were carrying logo and mark of the plaintiff company. The report of LC stands unchallenged by the Court.
13. In view of above, where the testimony of the plaintiff is uncontroverted and unchallenged and facts are proved on record as defendant failed to appear, plaintiff has been able to prove its case against the defendant.

**Issue No.1-Whether the plaintiff is entitled to decree for permanent injunction restraining defendants, their agents, representatives, stockists etc. for using, selling, soliciting etc. of impugned goods containing Trade Mark 'LACOSTE and LACOSTE WITH THE CROCODILE LOGO' ?OPP.**

14. In view of above observation, plaintiff is entitled to decree of permanent injunction restraining defendants, their agents, representatives, stockists etc. from using, selling, soliciting etc. of impugned goods containing Trade Mark 'LACOSTE and LACOSTE WITH THE CROCODILE LOGO' .

**Issue No.2-Whether plaintiff is entitled to decree of injunction restraining the defendants and their subjects from dealing with or disposing of the merchandise containing Trade Mark 'LACOSTE and LACOSTE WITH THE CROCODILE LOGO' ? OPP.**

15. In view of above, plaintiff is entitled to decree of injunction restraining the defendants and their subjects from dealing with or disposing of the merchandise containing Trade Mark 'LACOSTE and LACOSTE WITH THE CROCODILE LOGO'.

**Issue No.3-Whether plaintiff is entitled to decree of delivery up of impugned goods containing Trade Mark'LACOSTE and LACOSTE WITH THE CROCODILE LOGO'? OPP.**

16. In view of above, plaintiff is entitled to decree of delivery up of impugned goods containing Trade Mark'LACOSTE and LACOSTE WITH THE CROCODILE LOGO'.

**Issue No.4-Whether plaintiff is entitled to Rendition of accounts and damages on account of profits made by the defendant by sale of goods containing Trade Mark 'LACOSTE and LACOSTE WITH THE CROCODILE LOGO'? OPP.**

17. In view of the above as plaintiff has not lead any positive evidence about damages and rendition of accounts, they are hereby awarded damages of Rs.1 lac from the defendant.

**Relief-**

18. In view of the above, the present suit is decreed in favour of the plaintiff and against the defendant No.2. Plaintiff is entitled to decree for permanent injunction restraining defendants, their agents, representatives, stockists etc. for

using, selling, soliciting etc. of impugned goods containing Trade Mark 'LACOSTE and LACOSTE WITH THE CROCODILE LOGO'. Plaintiff is also awarded Rs.1 lac from defendant no.2 towards damages.

Decree sheet be prepared accordingly.

**File be consigned to record room.**

**Announced in an open Court.**

**On 24th day of April, 2018**

**(Twinkle Wadhwa)  
ADJ-03/PHC/New Delhi  
24.04.2018**