

2026 APAC MOOT COURT COMPETITION OFFICIAL PROBLEM

Please note:

- A. The facts in this Moot Court Problem are fictional. The party names, businesses, trademarks and registrations are not intended, and should not be understood, to refer to or reference any individual (living or dead) or any institution, extant or defunct. Any resemblance to any real person, organisation, product or situation is purely coincidental.

The case law below of the Central Dominion High Court at New Central Dominion is imaginary. No inference should be drawn about any actual person, organisation, product, or situation based on any facts or conclusions of law in this matter. This problem is drafted without knowledge of any person's claims with respect to any trademarks or other claims of rights that are the same as or similar to those mentioned herein, and the organisers take no position with respect to any person's ownership of or rights to such trademarks or other claims of rights.

Indoria is a fictional country. Students are free to apply laws from any Asia Pacific country/common law jurisdiction/any other laws that support their arguments.

- B. The present Moot Court Problem involves parties as identified below:

Plaintiff: **Sync Footlabs Pvt. Ltd.**

Defendant: **Innovative Technologies LLP**

Aggrieved by the decision of the Central Dominion High Court ("High Court"), the Defendant preferred the present appeal.

For reference, please note:

Appellant/Defendants – Innovative Technologies LLP

Respondent/Plaintiff – Sync Footlabs Pvt. Ltd

- C. This Appellate Court, like most, will only entertain arguments that fall within the format of "Issues on Appeal," which in this case are:

Issue 1 –Whether the High Court erred in restraining the Defendant from using the mark FOOT ZYNC or any other mark deceptively similar thereto in Indoria.

Issue 2 –Whether the High Court erred in holding that the Defendant's marketing campaign featuring the tagline "*Step in Zync, Stop Syncing*" amounted to disparagement of the Plaintiff's mark.

Issue 3 – Whether the High Court erred in dismissing the Plaintiff’s claims relating to violation of the personality rights of the Plaintiff’s founder and owner, Mr. Sam Richards.

Issue 4 – Whether the High Court erred in denying damages or an accounting of profits to the Plaintiff.


Issue 5- Whether the High Court erred in giving a finding that the copyright application



of the Defendant’s artistic work ‘’ ought not to be allowed.

D. To summarise, the Plaintiff, SYNC FOOTLABS PVT. LTD., sought permanent injunction, restraining the Defendant, INNOVATIVE TECHNOLOGIES LLP, from



using the trademark ‘FOOT ZYNC/  ’ under Class 25, as well as from publishing or disseminating any disparaging advertisements and engaging in acts amounting to violation of the Plaintiff’s personality rights. The Plaintiff further sought damages for the losses allegedly suffered.

For the reasons set forth hereafter, the High Court granted injunctive relief in favour of the Plaintiff on the grounds of trademark infringement, passing off and disparagement in addition to the finding that the copyright application of the Defendant bearing no. IN7654 ought not to be allowed. The High Court however, declined to award damages and rejected the Plaintiff’s claim regarding violation of personality rights.

Hence, the present appeal.

IN THE HIGH COURT OF CENTRAL DOMINION AT NEW CENTRAL DOMINION
(ORDINARY CIVIL JURISDICTION)
SUIT NO. XXX OF 2025

IN THE MATTER OF:

SYNC FOOTLABS PRIVATE LIMITED

...PLAINTIFF

versus

INNOVATIVE TECHNOLOGIES LLP

...DEFENDANT

Sync Footlabs Pvt. Ltd. ('Plaintiff') instituted a suit against Innovative Technologies LLP ('Defendant') for trademark infringement and passing off alleging that the Defendant's use



of their trade mark 'FOOT ZYNC/' ' in relation to their products, i.e. footwear (shoes) which is alleged to be deceptively similar to the Plaintiff's registered trademark "FOOTSYNC", thereby causing a likelihood of confusion. The Plaintiff further alleged disparagement and violation of personality rights through impugned advertisement and sought monetary damages for the losses allegedly suffered. Furthermore, the copyright application by the Defendant was filed without any basis as the Defendant is not the rightful owner of the said creation.

The Defendant denied the Plaintiff's allegations, asserting that their mark FOOT ZYNC was independently coined and that the Plaintiff was not entitled to any damages. It was further contended that the Defendant's marketing campaign featuring the tagline "*Step in Zync, Stop Syncing*" along with the use of an AI-generated image of an athlete was purely for marketing and promotional means.

Both parties contested each other's claims, and the matter was placed before the High Court of Central Dominion at New Central Dominion for adjudication. Upon consideration of the pleadings and submissions, the High Court held that the Defendant had in fact, infringed the

Plaintiff's registered trademark FOOTSYNC and further upheld the Plaintiff's claim of disparagement. Further, the court held that the Defendant's copyright application ought not to be registered since the Defendant is not the author of the artistic work. However, the High Court also found that the Plaintiff had failed to establish any violation of personality rights and demonstrate any actual damages.

Accordingly, while affirming the findings of infringement, passing off and disparagement, as well as upholding the finding on the Defendant's copyright application, the High Court declined to hold that there was any violation of Plaintiff's personality rights and denied the award of damages to the Plaintiff. The relief was confined to permanent injunction and restraining the Defendant from further use of the impugned mark and disparaging promotional material.

FINDINGS OF FACT

THE PARTIES

1. Plaintiff, Sync Footlabs Pvt. Ltd. is a startup based in the country of Indoria, with a principal place of business at 601 Main Street, New Central Dominion, Central Dominion- 110478, Indoria.
2. Defendant, Innovative Technologies LLP is a partnership founded in the country of Lionbay, with the principal place of business at 2678, Main Avenue 35895, Lionbay.

PLAINTIFF: SYNC FOOTLABS PVT. LTD.

3. Sync Footlabs Pvt. Ltd. (Plaintiff) is a footwear technology startup incorporated in 2020 and based in the city of New Central Dominion, which is the capital of Central Dominion, a state in the country of Indoria. The company was founded and is owned by Mr. Sam Richards, an entrepreneur driven by his passion for sports and technology. The origins of the Plaintiff's business trace back to 2018, when Mr. Richards, a formal marathon runner, was engaged in research on wearable fitness technology. During this period, he noticed that while popular, devices like smartwatches and fitness bands were unable to capture key details such as walking patterns, how pressure is distributed on the feet, and overall running efficiency. For athletes and fitness enthusiasts, including Mr. Richards himself, this shortcoming meant that performance monitoring often remained incomplete or inaccurate. Recognizing this gap in the Indorian market, Mr. Richards started developing the idea of

smart footwear i.e. shoes fitted with advanced sensors that could track performance and instantly sync the data with a mobile app. This vision of synchronization between human movement and digital technology became the foundation of what later evolved into the Plaintiff company, Sync Footlabs. *[An image of Mr. Sam Richards-founder of Plaintiff company is attached herewith as Exhibit A.]*

4. On 20th January 2020, Mr. Richards transformed his vision into a venture by formally incorporating Sync Footlabs Pvt. Ltd. in New Central Dominion. By March 2020, he had assembled a small team of engineers, AI specialists, and fitness consultants, laying the foundation for a technology driven footwear startup. From the very outset, Mr. Richards was intentional in building the brand’s identity around the word “SYNC”. For him, SYNC was not just limited to the technological integration between footwear and mobile applications but also conveyed the broader philosophy of connection between the human body and digital insights. It symbolized the connection of athletes with their performance data, consumers with their lifestyle goals, and technology with everyday movement. In June 2020, the company finalized its brand name being the flagship product “FOOTSYNC,” and the companion mobile application “SYNC.” This deliberate and consistent use of the term SYNC across all touchpoints ensured early brand recognition and a unified consumer identity.
5. Being aware of the importance of protecting the brand’s identity from the outset, Mr. Richards secured the registration of the trademark FOOTSYNC in January 2022 under the Indoria Trademarks Act. This registration provided the Plaintiff with legal exclusivity and recognition, safeguarding its distinctive brand identity in the Indorian market. The details of Sync Footlabs Pvt. Ltd.’s trademark registration are:

Basis	Details
Mark:	FOOTSYNC (Word Mark)
Proprietor:	Sync Footlabs Pvt. Ltd
Class/Goods:	Class 25: Footwear
Registration No.:	IN1234567

Status:	Registered
Application Filing Date:	20 th June, 2021
Registration Date:	25 th January, 2022
Filing Basis:	Indoria Trade Mark Act
User Claim:	Proposed to be used

6. On 28th March 2022, Plaintiff's company reached a milestone with the official launch of its flagship innovation 'FOOTSYNC' shoes along with its real time tracking app 'SYNC'. Marketed as AI-powered smart shoes, FOOTSYNC represented a fusion of sports science and advanced technology. The shoes were embedded with micro-sensors capable of recording stride length, patterns, and foot pressure distribution in real time. They were further equipped with fatigue detection algorithms, and posture alignment trackers, offering users an unprecedented level of precision in performance analysis. Unlike conventional fitness devices that only tracked basic steps or heart rate, FOOTSYNC was designed to give a holistic picture of an athlete's performance data, making it particularly valuable for professional runners and gym enthusiasts.

7. The Plaintiff's innovation did not stop at their flagship product, i.e. FOOTSYNC. The shoes were also able to integrate and connect with the company's proprietary mobile application, named 'SYNC', available on both Android and iOS platforms. The app served as a comprehensive fitness ecosystem through Bluetooth 5.0 connectivity which enabled the footwear to automatically sync data to the user's smartphone, providing instant access to a real-time performance dashboard. Users could not only monitor their daily activity and history but also set personalized fitness goals, such as distance milestones or routines. In addition, SYNC app also provided AI-driven community feature to connect users to fitness groups and marathons, creating a social ecosystem around the brand. Its additional features included providing coaching insights with adaptive tips on recovery, hydration reminders, and even suggestions, resulting in transforming the application from a mere tracking tool into a personalized fitness app.

8. The Plaintiff officially launched FOOTSYNC shoes on 28th March 2022 at an event held at a renowned fitness hub ‘ABC STUDIO’ in New Central Dominion. The event was attended by fitness influencers, professional athletes, and tech journalists, which featured live demonstrations highlighting the plaintiff’s product, its AI-powered features and seamless integration with the SYNC mobile app. The Plaintiff started selling their shoes using a hybrid launch strategy that combined both physical and digital channels. Online channels included major e-commerce platforms such as Camaron, Clickmart, Halio along with the company’s official website www.syncfootlabs.com. The website served both as a storefront and an information hub, enabling users to purchase FOOTSYNC shoes directly along with a customer support portal for troubleshooting, app connectivity or any other product related issues.
9. On the offline front, the company partnered with high-end sports stores, fitness centers, and gyms across major key cities in Indoria being New Central Dominion, Gateway City, and Techvalley. These outlets featured interactive demo zones where potential customers could physically try the FOOTSYNC shoes, sync them with a mobile device, and experience real-time data feedback through the SYNC app. The Plaintiff made sure that trained retail staff assisted users with the app setup, explained AI-driven insights, and highlighted the product’s unique features. To lure customers further, Plaintiff introduced promotional offers, including six months of complimentary premium access to the SYNC app and participation in fitness challenges, thereby building brand engagement and loyalty. This hybrid distribution strategy ensured that FOOTSYNC reached consumers through both convenient online platforms and immersive offline experiences, enabling users to directly interact with the product, appreciate its technological edge, and associate with the brand’s core theme of syncing technology with movement.
10. Following the successful launch of the FOOTSYNC shoes in March 2022, Plaintiff planned to launch extensive advertising and marketing campaigns across Indoria to expand their brand reach and engagements. This marketing campaign came into effect in August 2022, primarily focusing on taking advantage of the power of digital media through social media apps like Speedsgram, TellyTube, and Kickbox. The Plaintiff partnered with Indorian athletes, fitness influencers, and lifestyle bloggers, who showcased the practical benefits of their proprietary product i.e. FOOTSYNC shoes through TellyTube shorts, Speedsreels and

videos using the marketing hashtag *#StayInSync: MoveBeyond*. This campaign aided in generating organic engagement and fostering a strong online community for the brand.

11. In addition to social media marketing campaigns, Sync Footlabs Pvt. Ltd. also connected with offline audiences by participating in Annual Marathon City Runs (September-November 2023) held across Indoria, including in the cities of New Central Dominion, Gateway City, and Techvalley. The brand set up demo stations where participants could try the FOOTSYNC shoes, sync them with the app to track their performance and engage in fitness challenges. In addition to this, the attendees were also offered discounts further strengthening brand visibility, consumer engagement, and credibility among athletes and fitness enthusiasts.
12. These marketing campaigns by the Plaintiff yielded significant results. By June 2024, FOOTSYNC had amassed over 250,000 Speedsgram followers, 100,000 TellyTube subscribers, and 150,000 Kickbox engagements, while the SYNC app recorded 500,000 downloads and 300,000 monthly active users. The combination of influencer and celebrity marketing, targeted social media campaigns, and live event participations created widespread brand recognition establishing 'SYNC' as synonymous with the Plaintiff's innovative product: FOOTSYNC shoes and fitness ecosystem.
13. By December 2024, Sync Footlabs Pvt. Ltd. had firmly established itself as one of Indoria's most promising fitness-technology startups. For athletes and fitness enthusiasts across the country, the Plaintiff's product FOOTSYNC meant aligning performance with goals, and ambition with innovation. Within just a few years of operation, the Plaintiff had not only created a distinctive identity in the market but also significant brand goodwill.

DEFENDANT: INNOVATIVE TECHNOLOGIES LLP

14. On 10th December 2017, a team of engineers and entrepreneurs, namely- Zion Collins, Yelena Frost, Nathan Brooks, and Clara Swift founded Innovative Technologies LLP, based in the country of Lionbay. With their expertise in developing AI driven wearable technology, the Defendant's founding team set out on a mission to develop innovative devices that combined smart functionality prioritizing health and comfort. Their motive was

to enhance daily well-being and performance for a wide range of consumers by creating a product that addressed the lack of comfort in existing market offerings.


15. After several years of intensive prototyping, testing, and research, the Defendant's founding team in September 2020 started to develop a product that spoke their brand story and philosophy of aiming at a comfortable lifestyle, being-a smart shoe powered by advanced AI-driven foot analytics. These shoes were aimed to be designed in a manner to continuously monitor the user's weight and pressure distribution on the soles. The product was being developed with an embedded AI system in the insole that would automatically adjust its cushioning and arch support, ensuring that the pressure is evenly distributed across the footbed, reducing strain on muscles and joints. This adaptive mechanism would not only enhance comfort during prolonged walking or standing but also help to improve overall posture and running efficiency. The product catered to a wide range of consumers being health-conscious individuals, fitness enthusiasts, and casual walkers. By integrating smart sensors with responsive cushioning, the shoes were aimed to create a seamless connection between the user's biomechanics and personalised comfort, making each step more natural and efficient.
16. The Defendant decided to manufacture their product in Lionbay taking leverage of the country's advanced engineering facilities and skilled workforce. Their Research and Development lab was dedicated to product development where the engineers tested the smart sensors used in the shoes and refined AI-driven foot analytics algorithms ensuring accurate calibration for dynamic cushioning. The shoes were designed in a unit equipped with precision molding machines, sensor assembly stations along with rigorous quality control checks ensuring that their product met high standards of performance, and adaptability.
17. Upon completion of establishing the designing and manufacturing setup, the founders decided to name the product 'FOOT ZYNC' to reflect both the product and the team behind it, with 'ZYNC' derived from the first letters of the founders' names- Zion, Yelena, Nathan,

and Clara. They also created a distinctive device mark, ‘



’, to serve as

the product's label and establish a recognizable brand identity in the marketplace. As a result, the Defendant filed for a trademark application for the FOOT ZYNC mark, in the month of July 2021 which was subsequently registered in December 2021. The details of the defendant's trademark registration in Lionbay are provided in the table below:

Basis	Details
Mark:	FOOT ZYNC (Device Mark)
Device:	
Proprietor:	Innovative Technologies LLP
Class/Goods:	Class 25: Footwear, Clothing and Headgear
Registration No.:	LION9876
Status:	Registered
Application Filing Date:	10 th July, 2021
Registration Date:	5 th December, 2021
Filing Basis:	Trade Mark Act of Lionbay
User Claim:	Proposed to be used

18. After securing trademark registration and establishing a proper manufacturing and chain of distribution network, the Defendant launched its product in the country of Lionbay on 01st May 2022 through a hybrid distribution model. The Defendant's shoes marketed under the brand name FOOT ZYNC, were made available for purchase through their official website, www.innovativetechnologies/footzync.com, as well as through premium sports and health retail outlets, including Zalmart and Posco.

19. Following the launch of FOOT ZYNC in the country of Lionbay in May 2022, the Defendant experienced organic growth driven by strong demand from health-conscious consumers and fitness enthusiasts. Sales started to steadily increase through both online channels and selective premium retail stores, reflecting the market’s positive reception of the AI-powered adaptive footwear. This growth established the Defendant as an innovator in wearable smart footwear within the country of Lionbay reinforcing the brand’s reputation for combining comfort, technology, and performance.
20. While the Defendant had established a strong presence and growing sales in the country of Lionbay, the founders identified the Indorian market as an opportunity for even greater financial growth due to its rapidly expanding urban population, rising health and fitness awareness, high smartphone penetration, and thriving e-commerce ecosystem. Additionally, the absence of competitors offering AI-powered self-adaptive comfortable footwear allowed them to enter as a first mover and target urban millennials and Gen-Z consumers seeking ergonomic, technology-driven footwear. Based on these insights the defendants strategically planned to enter the Indorian market in mid-2024, targeting major states in Indoria with Central Dominion acting as a key market due to its status as the trend capital in the country.
21. Before officially launching in Indoria, the Defendant’s applied for a device trademark for FOOT ZYNC in June 2024, which was registered on 15th February 2025. The application was filed on a ‘proposed to be used’ basis, though the Defendant’s disclosed that the mark was already registered and is in use in the country of Lionbay. This step was taken to secure legal protection for the brand and ensure exclusivity in the Indorian market while planning their distribution and marketing strategy. The details of the trademark application of the Defendant are provided in the table below:

Basis	Details
Mark:	FOOT ZYNC (Device Mark)

Device:	
Owner:	Innovative Technologies LLP
Class/Goods:	Class 25: Footwear, Clothing and Headgear
Registration No.:	IN7654321
Status:	Registered
Application Filing Date:	01 st June, 2024
Registration Date:	15 th February, 2025
Filing Basis:	Indoria Trade Mark Act
User Claim:	Proposed to be used (Disclosed that the mark is registered and in use in the country of Lionbay)

22. Following the trademark application for FOOT ZYNC in June 2024, the Defendant on 5th August 2024, formally launched in the Indorian market targeting major states like Central Dominion while adopting a multi-channel distribution approach to reach both tech-savvy urban consumers and fitness enthusiasts. The Defendant launched its product via leading e-commerce platforms such as Camaron and Clickmart, which offered detailed product descriptions. To complement online sales, the Defendant partnered with premium sports stores, select health-focused retail outlets, and fitness centers.
23. Further, to generate awareness and build market traction, the Defendant planned to launch a targeted two phased marketing and advertising campaign across social media platforms such as Speedsgram, TellyTube, and Kickbox. The first phase of this campaign was launched in October 2024 wherein, it featured lifestyle bloggers demonstrating the AI-self-

adjusting features of FOOT ZYNC, including real-time cushioning and pressure adaptation. The Defendant introduced its official tagline: “*Step Smarter, Step Zync*”, to encourage user-generated content and social sharing. This phase of the campaign was directed towards establishing the Defendant’s brand identity within Indoria and enhancing its presence through active social media engagement with the target audience.

24. As a result, by January 2025, FOOT ZYNC garnered over 20,000 Speedsgram followers, 30,000 TellyTube subscribers, and 25,000 Kickbox engagements within 3 months of the first phase of the marketing campaign. Additionally, the Defendant also started focusing on more offline participation in retail demo zones to help build consumer trust, awareness and providing consumers with a hands-on experience of its AI-driven adaptive footwear. These combined digital and offline efforts were positioning FOOT ZYNC as a recognized entrant in Indoria’s smart footwear segment, creating a foundation for further expansion and brand loyalty.

25. As a part of the second phase of their marketing strategy, the Defendant came up with an



innovative campaign which involved rolling out of the digital poster . They also filed for a copyright application for this artistic work on 30th January 2025. The said application was for an AI-generated image of an athlete wearing their FOOT ZYNC shoes along with an accompanying tagline created by the Defendant to be used for their marketing campaign on introduction of a line of new colors and designs for their shoes. The said application is currently pending Registration before the Copyright office in Indoria. The details of the said application are as follows:

Basis	Details
Work	Step in Zync, Stop Syncing (Artistic Work)



Owner:	Innovative Technologies LLP
Diary No.:	IN7654
Status:	Pending
Application Filing Date:	30 th January, 2025
Filing Basis:	Indoria Copyrights Act

26. On 20th September 2025, the Defendant launched their second phase of the marketing campaign to launch their shoes with new colors and designs. This second phase of marketing campaign featured the AI-generated image of an athlete wearing their FOOT ZYNC shoes. The campaign featured the tagline: “***Step in Zync, Stop Syncing***” to highlight FOOT ZYNC as a modern and innovative option in the smart footwear market. The campaign was widely circulated across social media platforms, fitness blogs, and online communities, to reach a broad audience of consumers, to promote the launch of their products in new colors and designs. This phase of the marketing campaign was aimed to replicate the success they had achieved in Lionbay by establishing FOOT ZYNC as a premium, AI-driven footwear brand in the country of Indoria as well. [The *marketing campaign launched by the Defendant featuring the AI generated image of an athlete wearing FOOT ZYNC shoes along with the tagline is attached here as **Exhibit B.***]

27. As a result of the widespread circulation of the Defendant’s marketing campaign, some consumers began to perceive Plaintiff’s FOOTSYNC as a less modern option, while associating Defendant’s FOOT ZYNC products with innovation, performance, and lifestyle aspiration. This messaging, combined with the visibility of the AI generated image of an

athlete in the advertisement campaign enhanced FOOT ZYNC's brand recognition and contributed to market traction, while creating a scenario where consumers could confuse the two products or compare them directly, affecting overall brand perception in the smart footwear segment.

PROCEDURAL HISTORY

28. On 30th September 2025, the Plaintiff, Sync Footlabs Pvt. Ltd. filed a trademark infringement, passing off and disparagement suit against the Defendant, Innovative Technologies LLP in the High Court of Central Dominion at New Central Dominion. The suit alleged that the Defendant's use of the mark FOOT ZYNC in relation to shoes, coupled with a marketing campaign featuring an AI-generated image of an athlete alongside the tagline "*Step in Zync, Stop Syncing*", created a likelihood of confusion among consumers and adversely impacted the goodwill and reputation of the Plaintiff's registered FOOTSYNC brand. The Plaintiff further contended that the AI-generated image used in the second phase of the Defendant's campaign bore a striking resemblance to the Plaintiff's founder, Mr. Sam Richards, a former marathon runner and the public face of the FOOTSYNC brand. It was alleged that such use violated his personality rights by creating a misleading association and exploiting his identity without consent. Furthermore, the Plaintiff contended that the Defendant's copyright application for the marketing campaign is invalid as Defendant is not the rightful owner of such AI generated advertisement. Accordingly, the Plaintiff sought an injunctive relief to prevent the use of the infringing mark, as well as monetary compensation for damages derived by the Defendant's sales of the alleged infringing products.
29. During the adjudication of proceedings before the High Court of Central Dominion at New Central Dominion, the issues were framed as follows:
1. Whether the trademarks FOOTSYNC and FOOT ZYNC are deceptively similar as such that they are likely to cause consumer confusion in the smart footwear market?
 2. Whether the Defendant's marketing campaign including the tagline "*Step in Zync, Stop Syncing*", constitutes as a disparaging advertisement as to the Plaintiff's brand?
 3. Whether the Defendant's use of an AI-generated image of an athlete resembles Plaintiff's founder Mr. Sam Richards, and if so, does it infringe his personality rights?

4. Whether the Plaintiff is entitled to damages and accounts of profits?



5. Whether the Defendant's copyright application for the artistic work ' used in its second phase of advertisement campaign valid, and whether the Defendant could be considered the rightful proprietor of such advertisement?

CONCLUSIONS OF LAW

30. JURISDICTION AND VENUE

The present suit was instituted by Sync Footlabs Pvt. Ltd. (Plaintiff) against Innovative Technologies LLP (Defendant) before the High Court of Central Dominion at New Central Dominion on 30th September 2025, seeking reliefs for trademark infringement, passing off, disparagement, and violation of Plaintiff's personality rights.

The High Court of Central Dominion has been held to be the appropriate forum, since the Defendant was selling its goods within the territory of New Central Dominion, wherein the Plaintiff also maintains its principal place of business. Accordingly, the High Court has exercised jurisdiction under the Indoria Trade Marks Act, which vests Indorian courts with the authority to adjudicate disputes of the present nature.

31. INFRINGEMENT, PASSING OFF AND LIKELIHOOD OF CONFUSION

The concept of likelihood of confusion is central to assessing claims of trademark infringement and passing off under the Indoria Trade Marks Act.

Section 2(1)(h) of the Indoria Trademarks Act defines "deceptively similar" as (insofar as it is relevant to this claim):

"A mark shall be deemed to be deceptively similar to another mark if it so nearly resembles that other mark as to be likely to deceive or cause confusion"

Further, Section 28 of the Indoria Trade Marks Act reads as under: -

"28. Rights conferred by registration. —

(1) Subject to the other provisions of this Act, the registration of a trade mark shall, if valid, give to the registered proprietor of the trade mark the exclusive right to the use of the trade mark in relation to the goods or services in respect of which the trade mark is registered and to obtain relief in respect of infringement of the trade mark in the manner provided by this Act.

(2) The exclusive right to the use of a trade mark given under sub-section (1) shall be subject to any conditions and limitations to which the registration is subject.

(3) Where two or more persons are registered proprietors of trade marks, which are identical with or nearly resemble each other, the exclusive right to the use of any of those trade marks shall not (except so far as their respective rights are subject to any conditions or limitations entered on the register) be deemed to have been acquired by any one of those persons as against any other of those persons merely by registration of the trade marks but each of those persons has otherwise the same rights as against other persons not being registered users using by way of permitted use as he would have if he were the sole registered proprietor.”

Section 29 of the India Trade Marks Act

“ 29. Infringement of registered trademarks.—

(1) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which is identical with, or deceptively similar to, the trade mark in relation to goods or services in respect of which the trade mark is registered and in such manner as to render the use of the mark likely to be taken as being used as a trade mark.

(2) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which because of—

(a) its identity with the registered trade mark and the similarity of the goods or services covered by such registered trade mark; or

(b) its similarity to the registered trade mark and the identity or similarity of the goods or services covered by such registered trade mark; or

(c) its identity with the registered trade mark and the identity of the goods or services covered by such registered trade mark is likely to cause confusion on the part of the public, or which is likely to have an association with the registered trade mark.

(3) In any case falling under clause (c) of sub-section (2), the court shall presume that it is likely to cause confusion on the part of the public.

(4) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which—

(a) is identical with or similar to the registered trade mark; and

(b) is used in relation to goods or services which are not similar to those for which the trade mark is registered; and

(c) the registered trade mark has a reputation in India and the use of the mark without due cause takes unfair advantage of or is detrimental to, the distinctive character or repute of the registered trade mark.

(5) A registered trade mark is infringed by a person if he uses such registered trade mark, as his trade name or part of his trade name, or name of his business concern or part of the name, of his business concern dealing in goods or services in respect of which the trade mark is registered.

(6) For the purposes of this section, a person uses a registered mark, if, in particular, he—

(a) affixes it to goods or the packaging thereof.

(b) offers or exposes goods for sale, puts them on the market, or stocks them for those purposes under the registered trade mark, or offers or supplies services under the registered trade mark.

(c) imports or exports goods under the mark; or

(d) uses the registered trade mark on business papers or in advertising.

(7) A registered trade mark is infringed by a person who applies such registered trade mark to a material intended to be used for labeling or packaging goods, as a business paper, or for advertising goods or services, provided such person, when he applied the mark, knew or

had reason to believe that the application of the mark was not duly authorised by the proprietor or a licensee.

(8) A registered trade mark is infringed by any advertising of that trade mark if such advertising—

(a) takes unfair advantage of and is contrary to honest practices in industrial or commercial matters; or

(b) is detrimental to its distinctive character; or (c) is against the reputation of the trade mark.

(9) Where the distinctive elements of a registered trade mark consist of or include words, the trade mark may be infringed by the spoken use of those words as well as by their visual representation and reference in this section to the use of a mark shall be construed accordingly.”

Section 30 of the Indoria Trade Marks Act

“30. Limits on effect of registered trade mark. -

(1) Nothing in section 29 shall be construed as preventing the use of a registered trade mark by any person for the purposes of identifying goods or services as those of the proprietor provided the use—

(a) is in accordance with honest practices in industrial or commercial matters, and

(b) is not such as to take unfair advantage of or be detrimental to the distinctive character or repute of the trade mark.

(2) A registered trade mark is not infringed where-

(a) the use in relation to goods or services indicates the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services or other characteristics of goods or services.

(b) a trade mark is registered subject to any conditions or limitations, the use of the trade mark in any manner in relation to goods to be sold or otherwise traded in, in any place, or in relation to goods to be exported to any market or in relation to services for use or available for acceptance in any place or country outside Indoria or in any other

circumstances, to which, having regard to those conditions or limitations, the registration does not extend;

(c) the use by a person of a trade mark-

(i) in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark if, as to those goods or a bulk of which they form part, the registered proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently removed or obliterated it, or has at any time expressly or impliedly consented to the use of the trade mark; or

(ii) in relation to services to which the proprietor of such mark or of a registered user conforming to the permitted use has applied the mark, where the purpose and effect of the use of the mark is to indicate, in accordance with the fact, that those services have been performed by the proprietor or a registered user of the mark.

(d) the use of a trade mark by a person in relation to goods adapted to form part of, or to be accessory to, other goods or services in relation to which the trade mark has been used without infringement of the right given by registration under this Act or might for the time being be so used, if the use of the trade mark is reasonably necessary in order to indicate that the goods or services are so adapted, and neither the purpose nor the effect of the use of the trade mark is to indicate, otherwise than in accordance with the fact, a connection in the course of trade between any person and the goods or services, as the case may be;

(e) the use of a registered trade mark, one of two or more trademarks registered under this Act which are identical or nearly resemble each other, in exercise of the right to the use of that trade mark given by registration under this Act.

(3) Where the goods bearing a registered trade mark are lawfully acquired by a person, the sale of the goods in the market or otherwise dealing in those goods by that person or by a person claiming under or through him is not infringement of a trade mark by reason only of—

(a) the registered trade mark having been assigned by the registered proprietor to some other person, after the acquisition of those goods; or

(b) the goods having been put on the market under the registered trade mark by the proprietor or with his consent.

(4) Sub-section (3) shall not apply where there exist legitimate reasons for the proprietor to oppose further dealings in the goods in particular, where the condition of the goods, has been changed or impaired after they have been put on the market.”

Section 124 of the Indoria Trade Marks Act reads as under:-

“124. Stay of proceedings where the validity of registration of the trade mark is questioned, etc.-

(1) Where in any suit for infringement of a trade mark

(a) the defendant pleads that registration of the plaintiff's trade mark is invalid; or

(b) the defendant raises a defense under clause (e) of subsection (2) of section 30, and the plaintiff pleads the invalidity of registration of the defendant's trade mark, the court trying the suit (hereinafter referred to as the court), shall,—

(i) if any proceedings for rectification of the register in relation to the plaintiff's or defendant's trade mark are pending before the Registrar or the Appellate Board, stay the suit pending the final disposal of such proceedings.

(ii) if no such proceedings are pending and the court is satisfied that the plea regarding the invalidity of the registration of the plaintiff's or defendant's trade mark is prima facie tenable, raise an issue regarding the same and adjourn the case for a period of three months from the date of the framing of the issue in order to enable the party concerned to apply to the Appellate Board for rectification of the register.

If the party concerned proves to the court that he has made any such application as is referred to in clause (b) (ii) of sub-section (1) within the time specified therein or within such extended time as the court may for sufficient cause allow, the trial of the suit shall stay until the final disposal of the rectification proceedings.

(3) If no such application as aforesaid has been made within the time so specified or within such extended time as the court may allow, the issue as to the validity of the registration of

the trade mark concerned shall be deemed to have been abandoned and the court shall proceed with the suit in regard to the other issues in the case.

(4) The final order made in any rectification proceedings referred to in sub-section (1) or sub-section (2) shall be binding upon the parties and the court shall dispose of the suit conformably to such order in so far as it relates to the issue as to the validity of the registration of the trade mark.

(5) The stay of a suit for the infringement of a trade mark under this section shall not preclude the court from making any interlocutory order (including any order granting an injunction directing account to be kept, appointing a receiver or attaching any property), during the period of the stay of the suit.”

PASSING OFF

Passing off is a common law remedy, that seeks to protect the goodwill and reputation attached to goods or services from being misrepresented by another party, thereby preventing deception and ensuring fair competition. The foundation of the doctrine lies in the principle that ‘no person could mislead consumers into believing that their goods or services are associated with those of another.’

An action of passing off requires proof of three essential elements, commonly referred to as the ‘classic trinity’, that are: (i) goodwill of the first party, (ii) misrepresentation by the other party, and (iii) Damages to the first party’s goodwill or business by the actions of the other party.

32. High Court’s Finding on Infringement, Passing Off, Likelihood of Confusion while recognizing the Plaintiff’s prior use:

Upon considering the relevant factors, the High Court is of the view that the Defendant’s mark FOOT ZYNC is likely to cause confusion with the Plaintiff’s registered trademark FOOTSYNC, thereby amounting to trademark infringement and passing off under the Indoria Trade Marks Act. This court observes that the combination of visual, phonetic, and conceptual similarities between the marks, coupled with the parties’ overlapping markets and promotional strategies are sufficient to establish the likelihood of consumer confusion and consequent reputational harm.

Furthermore, the High Court recognises that the Plaintiff's adoption and use of the mark FOOT ZYNC precedes that of the Defendant, thereby establishing the Plaintiff's prior rights in the mark FOOTSYNC.

33. DISPARAGEMENT

While not every comparison amounts to actionable disparagement, the High Court examines whether the *average consumer is likely to form negative associations* with the Plaintiff's product as a result. Additionally, the High Court considers not only whether the advertisement disparages the Plaintiff's product, but also the intention behind the advertisement, its overall manner of presentation, and its underlying theme.

34. High Court's Finding on Disparagement:

The High Court holds that the advertisement featuring the suggestive tagline "*Step in Zync, Stop Syncing*," has the potential to create negative consumer perceptions, meeting the threshold for disparaging advertisements. The second phase of marketing campaign by the Defendant has thus contributed to impacting the Plaintiff's reputation and goodwill in a negative manner.

35. PERSONALITY RIGHTS

The concept of personality right encompasses the right of a person to control the unauthorized use of their personality attributes such as name, image, voice, likeness, etc. Consequently, courts have held that unauthorized commercial exploitation/violation of a well-known personality's identity constitutes a valid ground for passing-off claims, as it unfairly capitalizes on established goodwill and may mislead the public regarding endorsement or connection because:

- Such use may result in dilution of the uniqueness of the personality or their associated marks.
- It can create a false impression of endorsement, licensing, or association with the defendant's goods or services.

36. High Court's analysis on violation of Personality Rights:

The High Court of Central Dominion rejects Plaintiff's claim of personality rights violation, and holds that the Defendant's AI-generated campaign image does not resemble Mr. Sam Richards. As the marketing campaign features no likeness or association with the Plaintiff's founder, the foundational requirements for a personality rights violation claim are absent. Therefore, the High Court finds no likelihood of consumer confusion and holds that the Defendant has not commercially exploited the Plaintiff's founder's identity or goodwill in relation to the aspect of Personality Rights.

37. DAMAGES

Under the Indoria Trade Marks Act, remedies for trademark infringement and passing off may include injunctive relief, accounts of profits, damages, and other equitable relief. Courts assess damages based on factors such as:

- i. Actual loss suffered by the Plaintiff
- ii. Profits earned by the Defendant due to the infringement.
- iii. Extent of reputational or goodwill harm

38. High Court's analysis on awarding Damages to the Plaintiff

The High Court declines to award monetary damages to the Plaintiff noting the absence of actual losses or evidence of profits earned by the Defendant in Indoria. The High Court, however, considers that the grant of injunctive relief is justified, and restrains the Defendant from further use of the infringing mark in Indoria.

39. High Court's analysis on whether the Defendant is the rightful proprietor of the copyright



application for the work ‘

The High Court finds against the Defendant with respect to the application of the AI-generated marketing campaign as copyright registration and observes that the Defendant

cannot claim proprietorship over the impugned creation. Since the Defendant is not the true owner or author of the said work, the application ought not to be registered.

WHEREFORE, this Court hereby finds that:



- A. The Defendant is restrained from using their mark FOOT ZYNC / or any mark deceptively similar to the Plaintiff's mark FOOTSYNC in Indoria.
- B. The Defendant's marketing campaign featuring the tagline "*Step in Zync, Stop Syncing*" has the potential to affect the reputation and goodwill of the Plaintiff's mark in Indoria. Accordingly, the Defendant is restrained from using any promotional material, tagline, or marketing strategy that disparages or suggests the inferiority of the Plaintiff's FOOTSYNC mark.
- C. The Plaintiff's claims relating to violation of personality rights are dismissed as there is no evidence that the Defendant used any image or likeness of Plaintiff's founder, Mr. Sam Richards in any manner.



- D. Defendant's copyright application for the artistic work ' ought not to be allowed.
- E. The Plaintiff is not entitled to monetary damages or accounts of profits in Indoria, as there is no evidence of actual loss or profits earned by the Defendant within the territory of Indoria.

SO ORDERED.

EXHIBIT A-

Image of Mr. Sam Richards (founder and owner of the Plaintiff company)



EXHIBIT B

Marketing campaign launched by the Defendant on 20th September 2025

