



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

% Judgment delivered on: 24/11/2025

+ **CS(COMM) 353/2024**

TESLA INC.Plaintiff

Versus

**TESLA POWER INDIA PRIVATE LIMITED
& ORS**

.....Defendants

Advocates who appeared in this case

For the Plaintiff : Mr. Chander M. Lall, Senior Advocate with Mr. Raghav Malik, Ms. Nancy Roy, Ms. Prakriti Varshney, Mr. Lalit Alley, Ms. Annanya & Mr. Prashant, Advocates.

For the Defendants : Mr. J. Sai Deepak, Senior Advocate with Mr. Mohit Goel, Mr. Sidhant Goel, Mr. Abhishek Kotnala, Mr. Kartikeya Tandon & Mr. Avinash Sharma, Advocates.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

I.A. 9755/2024 (U/O XXXIX Rules 1 and 2 of the CPC)

1. The Plaintiff has filed the present Suit for permanent injunction restraining the Defendants from using the Marks 'TESLA POWER' /



‘TESLA POWER USA’, ‘TESLA POWER USA’ and ‘TESLA POWER USA’ (“**Impugned Trade Marks**”) and / or any other deceptively similar marks including the domain names www.teslapowerusa.com, www.Teslapowersusa.in, www.Teslapowerusa.ae and www.Teslahealthylife.com (“**Impugned Domain Names**”).

2. *Vide* Order dated 02.05.2024, the statement of Defendant No. 3 made on behalf of the Defendants that the Defendants have no intention to manufacture Electronic Vehicles (“EVs”) at all and will not market other entities’ EVs as well under the Impugned Marks and the Trade Name ‘TESLA POWER USA’ and or any other brand deceptively similar or use the word ‘TESLA’ was taken on record and the Defendants were directed to be bound by the said statement.

3. *Vide* Order dated 30.05.2024, the learned Senior Counsel for the Plaintiff submitted that the Defendants were not abiding by the undertaking given by the Defendant No. 3, however, the learned Senior Counsel submitted on instructions that the Defendants were abiding by the undertaking and handed over documents stating that they had written to all their vendors and partners to remove the marks pursuant to having given the undertaking.

4. *Vide* Order dated 04.09.2025, after conclusion of arguments by the Parties, the judgment was reserved.

SUBMISSIONS ON BEHALF OF THE PLAINTIFF

5. The learned Senior Counsel for the Plaintiff made the following submissions:

5.1. The Plaintiff is an award winning, publicly traded, multinational company engaged in designing, developing, manufacturing and



selling high performance fully electric vehicles, battery products, solar roofs, energy generation and storage systems including lithium-ion batteries, energy storage and solar panels among other related innovative products and services. The Plaintiff is the world's only vertically integrated and sustainable energy company, offering end-to-end clean energy products. The Plaintiff is the leading innovator in electric vehicle technology, continuing to innovate and create vehicles and vehicle features that improves safety, performance, and functionality with a goal of achieving zero-emissions. The Plaintiff has garnered an immense amount of international reputation and the TESLA vehicles are at the forefront of technology and sustainable transportation.

- 5.2. The Plaintiff's vehicles are sold exclusively through 'TESLA' owned stores and galleries throughout the world. In addition to its showrooms and service centres, the Plaintiff has placed over 6000 supercharger stations throughout the world amounting to over 55,000 supercharger units for charging the 'TESLA' vehicles.
- 5.3. The Plaintiff owns and uses well known trademarks including but not limited to the Trade Mark 'TESLA' which also forms part of trading name. The Plaintiff's Trade Mark 'TESLA' is also represented and used in a distinctive and iconic manner '**TESLA**', which is exclusively associated with the Plaintiff. The Plaintiff has also adopted and been using distinctive 'TESLA'  signature logo '' ("T Logo") which represents a cross-section of an electric motor in the form of a highly stylized letter 'T' ("Plaintiff's Trade Marks").



5.4. The Plaintiff adopted Trade Mark 'TESLA' in 2003 and is in use in commerce since July, 2006. 'T' logo was adopted in the year 2006 and has been in extensive use since then.

5.5. The Plaintiff has applied and / or has obtained registrations in major jurisdictions around the world including India. The details of the Plaintiff's Trade Marks registered in India are as under:

Name	Registration No.	Date/ Use Claim	Class
TESLA	IRDI-3318405	January 7, 2016 Proposed to be used	39
TESLA	2689306	February 28, 2014 Proposed to be used	12, 36, 37
TESLA	IRDI-3615907	December 21, 2016 Proposed to be used	42
TESLA	IRDI-2881361	December 9, 2013 Proposed to be used	12, 25, 36, 37
TESLA	3702931	December 14, 2017 Proposed to be used	42
TESLA	3029514	August 11, 2015 Proposed to be used	36, 37, 42
TESLA	3702936	December 14, 2017 Proposed to be used	37



	IRDI-3332559	used August 11, 2015 Proposed to be used	9, 37, 42
	IRDI-2760695	June 5, 2014 Proposed to be used	12, 25, 36, 37

5.6. The Plaintiff has submitted that the aforesaid registrations are valid and subsisting and in view of Section 31 of the Trade Marks Act, 1999 (“Act”), the registration of the Plaintiff’s Trade Marks is *prima facie* evidence of its validity. As per Section 28 of the Act, the Plaintiff has exclusive rights to use the Plaintiff’s Trade Marks in respect of services for which it is registered and claim relief for infringement thereof.

5.7. Over the years, the Plaintiff has derived significant revenues from the products sold and services provided under the Plaintiff’s Trade Marks. The total revenue for the years 2008-2023 from the sale of the products and providing the services from the use of the Trade Mark ‘TESLA’ is as under:

Year	Total Revenue (In US\$) (approx.)
2008	15 million
2009	112 million
2010	117 million
2011	204 million
2012	413 million
2013	2 billion
2014	3.2 billion
2015	4 billion



2016	7 billion
2017	11.8 billion
2018	21.5 billion
2019	24.6 billion
2020	31.5 billion
2021	53.8 billion
2022	81.46 billion
2023	98.6 billion

5.8. Additionally, the Plaintiff has also spent significant resources on marketing, advertising and promotion of the Plaintiff's Trade Marks and the Plaintiff's products having been widely covered by international media, social media and has gained significant recognition by virtue thereof. The same is widely available and accessible to consumers around the world including India.

5.9. The Plaintiff is also the owner of the website www.tesla.com, which provides detailed information on the Plaintiff and its various products and services under the brand 'TESLA'. The Plaintiff has been honoured with many awards and recognitions and the Plaintiff's Trade Marks have become well-known Trade Marks in the automobile industry. The Plaintiff's Trade Marks have become immensely popular in the Indian sub-continent and 'TESLA' brand vehicles have been purchased by various Indian citizens. The accessibility of the Plaintiff's websites is from anywhere in the world including India. The statistics of the access by the users of the Indian sub-continent of the Plaintiff's websites is as under:

Year	Number of times visited
2016	52970
2017	1043574



2018	1105348
2019	1494346
2020	1915906
2021	4470738
2022	2403706
2023	1972816
2024 (YTD)	379595

5.10. The Plaintiff's Trade Marks have attained very high goodwill and reputation internationally, including in India. The Plaintiff's products have been discussed and covered in a number of articles and reports published by Indian media houses. The Plaintiff is entitled to the protection of the Plaintiff's Trade Marks as the Plaintiff has been extensively and continuously using the same since 2003, the same have been advertised and promoted extensively through the Plaintiff's website and on social media platforms. Hence, the Plaintiff's Trade Marks have attained the status of being well-known within the meaning of the Act and are liable to be protected as such.

5.11. The Defendants are engaged in the acts of infringement and passing off of the Plaintiff's Trade Marks. The Defendants are offering goods and services under the Impugned Trade Marks that encompass the Plaintiff's Trade Marks in their entirety and as most dominant element. The addition of the descriptive phrase "POWER USA" or "POWER INDIA" in the Impugned Trade Marks is descriptive and does not distinguish the Defendants' Impugned Trade Marks from the Plaintiff's Trade Marks. The Impugned Trade Marks are used for the goods which are identical to the goods

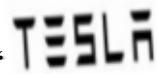


in respect of which the Plaintiff's Trade Marks are used and registered worldwide including in India. The Defendants are also using the Impugned Trade Marks on the websites containing Impugned Domain Names and also on social media pages.

5.12. The Defendants have filed Applications for registration of the



Impugned Trade Marks, 'TESLA POWER' and 'TESLA POWER USA', bearing Nos. 4855017 and 4855802 respectively in Class 9, which



are pending. When the Plaintiff's Trade Mark "TESLA" bearing no. 3702930 was cited in February, 2021 against the Application



for TESLA POWER USA "TESLA POWER USA" bearing 4855802, Defendant No. 3 stated that two "*marks deal with separate consumer base in separate markets, and therefore there is no likelihood of confusion*". It was further stated by Defendant No. 3



that the Impugned Trade Mark "TESLA POWER USA" is "*completely unique and different from any existing trademark in the same class and all the goods in a class is not 'cognate' or 'allied'*." The above stand taken by the Defendants makes it clear that the Defendants were aware about the Plaintiff's Trade Mark since February, 2021.

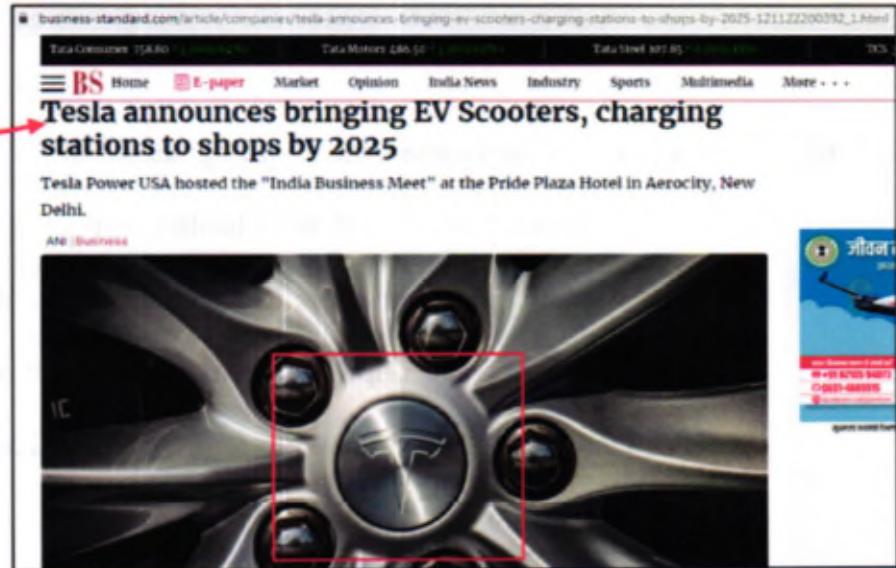
5.13. Despite the knowledge of the Plaintiff's Trade Marks, the Defendants commenced the use of the Impugned Trade Marks in



connection with the goods identical to those of the Plaintiff.

5.14. Defendant No. 2 has also filed an Application for registration of the Impugned Trade Mark ‘TESLA POWER USA’ in the United States of America, bearing No. 90862333 in Class 09 covering goods namely “*lead Acid Batteries Lithium Ion Batteries Vehicle Chargers Solar UPS Industrial UPS*”, which was issued an Office Action refusing registration based on, *inter alia*, a likelihood of confusion with the Plaintiff’s ‘TESLA’ mark and a likelihood of creating a false connection with the Plaintiff.

5.15. The use of the Impugned Trade Marks have resulted in an actual confusion in the minds of the public as when the Defendants announced to enter in the Evs business category in news report published ‘Business Standard’ in December, 2021 referred to the Defendants as ‘TESLA’ and also published photograph of ‘T’ Logo in the News Article referring to the Defendants. The screenshot of the said News Article dated 22.12.2021 showing the misuse of the Plaintiff’s Trade Marks and the confusion created because of such use is as under:



5.16. Below the said article, the article relating to the Plaintiff's and its goods / services appeared in "ALSO READ" section below the said article, thereby increasing the likelihood of confusion and association between the Plaintiff and the Defendants.

5.17. Accordingly, the Plaintiff addressed a Cease and Desist Notice ("C&D Notice") dated 18.04.2022 asking the Defendants to, *inter alia*, immediately cease and desist from using the Impugned Trade Marks and further withdraw its Applications for registrations of the Impugned Trade Marks both in India and the United States of America as well as any other mark which encompasses any of the Plaintiff's earlier and well-known marks or any confusingly similar iterations thereof.

5.18. In response to C&D Notice, Defendant No. 1 sent a holding response on 02.05.2022 and a detailed response on 09.05.2022 on behalf of Defendant Nos. 1 and 3 wherein the said Defendants denied the contentions of the C&D Notice and refused to comply with the requisitions contained in C&D Notice.



5.19. In the reply to C&D Notice, the Defendants alleged that the Impugned Trade Marks were adopted as an acronym of the business model based on “**THE ENERGY STORAGE on Leased ASSETS**”. However, the Defendants’ websites nor the reply filed by Defendant No. 3 before the Trade Mark Registry does not mention that the Impugned Trade Marks were adopted as acronym of “**THE ENERGY STORAGE on Leased ASSETS**”.

5.20. The words USA and India used in the Impugned Trade Marks are only used with respect to the countries in which the companies / firms are found and / or operated and that the dominant portion of the Impugned Trade Marks is ‘TESLA’. In any event, the term ‘POWER’ is descriptive to the goods and services of the Defendants and is incapable of distinguishing the Impugned Trade Marks from the Plaintiff’s Trade Marks. The Application for registration bearing No. 4855017 filed by Defendant No. 3 for the Impugned Trade Mark ‘TESLA POWER’ does not contain the word USA.

5.21. Even after sending C&D Notice, the actual confusion between the Plaintiff’s Trade Marks and the Impugned Trade Marks of the Defendants continued as:

I. The Plaintiff received a Notice from the Government of India relating to inaction on part of the Defendants under mistaken belief that such an inaction was on part of the Plaintiff in e-newspaper publication “Zee News India” in a report referring to the Defendants used Plaintiff’s Trade Marks in the said article, the Defendants have been referred as “Tesla” and



“Tesla India” which is a short form of Plaintiff’s Indian subsidiary “Tesla India Motors and Energy Private Limited” and a hyperlink directed to articles pertaining to the Plaintiff.

- II. An article in ‘Economic Times’ stated that “Tesla Power USA” and not “TESLA INDIA” placed orders for inverters, says Noida start-up”. The said article, the Defendants were referred to as “Tesla India”, which in turn led to confusion amongst the public as to the company which placed the order with the start-up.
- III. The employees of the Plaintiff’s Indian subsidiary “Tesla India Motors and Energy Private Limited” were approached for setting up charging stations mentioned in Defendants’ press release on setting up of EV Charging Stations.”

5.22. Accordingly, the Plaintiff sent a response letter to Defendant Nos. 1 and 3’s reply to C&D Notice refuting the Defendants’ averments and bringing instances of actual confusion and giving the Defendants another chance to comply with the requisitions on the C&D Notice.

5.23. In response to the said communication, Defendant Nos. 1 and 3 *vide* letter dated 13.08.2022, reiterated the contentions made in the letter dated 09.05.2022 and further stated that:

- i. Defendant Nos. 1 and 3 are allegedly investing in advertising and marketing efforts; Defendant Nos. 1 and 3 alleged that their markets are restricted to Asia, Middle East and African continents and presently did not have a client base in the USA;



ii. Defendant Nos. 1 and 3 alleged that the entity in USA having the domain name www.teslapowerusa.com was non-functional. Defendant Nos. 1 and 3 stated that the Impugned Trade Marks are descriptive in nature of the services offered by taking a contrary stand and despite having filed Applications for registration of the Impugned Trade Marks.

iii. Defendants shirked the responsibility about the instances of the actual confusion stating that the same was owing to third parties and stated that the same were rectified subsequently; and

iv. Lastly, Defendant Nos. 1 and 3 indicated possibility of exploring settlement.

5.24. In response to the said communication, the Plaintiff *vide* email dated 29.08.2022 sent a Holding Response and *vide* detailed letter dated 26.09.2022, the Plaintiff informed Defendant Nos. 1 and 3 that the Plaintiff was receptive to the offer of amicable settlement and in the meanwhile, Cease and Desist from using the Impugned Trade Marks and withdrawing the Applications for registration.

5.25. *Vide* letter dated 06.10.2022, Defendant Nos. 1 and 3 informed the Plaintiff that they were no longer willing to settle the dispute on the terms communicated by the Plaintiff *vide* letter dated 26.09.2022 and proposed the counter terms.

5.26. The Plaintiff *vide* letter dated 02.12.2022, informed Defendant Nos. 1 and 3 that the Plaintiff was not agreeable to the counter proposal and reiterated that the Defendants shall cease to use the Impugned Trade Marks and withdraw the pending Trade Mark



Applications and the Plaintiff has no objection if the Defendants were to use the mark “TESOLA” in connection with only lead acid batteries for both residential and commercial purposes.

5.27. In response, the Counsel for Defendant Nos. 1 and 3 *vide* email dated 19.12.2022 stated that since his client is travelling, they will send a response within fifteen days as the Plaintiff did not receive any response, the Plaintiff followed up on 04.01.2023, 25.01.2023, 30.01.2023, 13.02.2023 and 02.03.2023 seeking a response. Whilst the Plaintiff was waiting for Defendants’ response, the Defendants published a full-page advertisement in March, 2023 in ‘Times of India’ which is reproduced as under:



5.28. The above advertisement mentioned about Defendants’ launch of “a new range of electric 2 wheelers” using “American



Technology”. Further, the advertisement claimed that Defendants have “*PAN India sales & Service Network*”.

- 5.29. It became clear from the above that the Defendants never intended to amicably resolve the dispute with the Plaintiff. The Defendants being in an identical business were well aware of the Plaintiff and its goods under the Plaintiff’s Trade Marks and the Defendants failed to conduct comprehensive and necessary market searches and Trade Marks searches prior to the adoption of the Impugned Trade Marks.
- 5.30. The Defendants have lavishly adopted the Impugned Trade Marks which encompasses the Plaintiff’s Trade Mark in its entirety and are using the same to draw illicit benefits of the Plaintiff’s fame and reputation. Accordingly, the Defendants’ use of the Impugned Trade Marks is likely to create confusion amongst the consumers as to the source of the goods / services provided and indeed is causing confusion. Since, the Plaintiff has not authorized the Defendants to use the Impugned Trade Marks, there is no plausible explanation for adoption of the Impugned Trade Marks by the Defendants.
- 5.31. When the present Suit was listed for the first time on 02.05.2024, Defendant No. 3 appeared in person stated that Defendant No. 4 entity did not exist anymore since the original business started in 2020 under Defendant No. 4 and later shifted to the Indian entity. The Defendants also gave an undertaking before this Court to not use their Impugned Trade Marks in relation to EVs. Despite the undertaking given before this Court, Defendants continued to sell



the electric scooter bearing the Impugned Trade Marks from Defendants' authorised dealers on 21.05.2024.

- 5.32. On 07.03.2025, the Defendants continued to advertise EVs on their website despite the undertaking given before this Court.
- 5.33. Even after filing the Suit on 24.03.2025, the Defendants published an article stating that “We aim to become the number one brand in energy storage by 2025,” Tesla Power India Private Limited talks about its plans.
- 5.34. The Defendants have also applied to claim registration over the Impugned Trade Marks ‘TESLA POWER’ and ‘TESLA USA’ formative marks, and therefore, it is estopped in claiming that ‘TESLA’ is common to trade. A party cannot approbate and reprobate as has been held in the decisions in *Automatic Electric Limited v. R. K. Dhawan*, 1999 SCC OnLine Del 27, *Mohd. Shakir vs. Gopal Traders and Anr.*, 2024 SCC Online Del 2571, *Anchor Health and Beauty Care Pvt. Ltd. vs. Procter Gamble Manufacturing (Tianjin) Co. Ltd.*, 2014 SCC Online Del 2968 and *PEPS Industries Private Ltd. vs. Kurlon Ltd.*, 2022 SCC Online Del 3275.
- 5.35. The Defendants have not placed on record any actual evidence to show that ‘TESLA’ is common to trade prior to the adoption by the Plaintiff. The Plaintiff is not expected to sue every small infringer. Further, use by third-party is not a valid defence for infringement of Trade Marks as has been held in the case of *Pankaj Goel v. Dabur India Ltd.* 2008 SCC OnLine Del 1744, *Corn Products Refining Co v. Shangrila Food Products Ltd.*



MANU/SC/0115/1959 and *National Bell Co. and Gupta Industrial Corporation v. Metal Goods Mfg. Co. (P) Ltd. And Ors.* MANU/SC/0369/1970.

- 5.36. The Plaintiff has enormous goodwill worldwide and has trans-border reputation extending to India. The principle of trans-border reputation has been reiterated by the Supreme Court in *Toyota Jidosha Kabushiki Kaisha v. Prius Auto Industries Ltd.*, (2018) 2 SCC 1 and *N.R. Dongre v. Whirlpool Corp.*, (1996) 5 SCC 714. The Plaintiff having substantial goodwill and one of the highest valued companies in the world. The Plaintiff's chief executive officer ("CEO"), Mr. Elon Musk, is the richest man in the world and it is incomprehensible that the Defendants were unaware of the Plaintiff and the Plaintiff's Trade Marks.
- 5.37. In view of the above, the Plaintiff has been able to make out a *prima facie* case for grant of interim injunction. The balance of convenience is also in favour of the Plaintiff and against the Defendants who have clearly adopted an identical mark for identical as well as allied and cognate goods as those of the Plaintiff with *mala fide* intentions of riding upon the goodwill and reputation of the Plaintiff.
- 5.38. The Plaintiff is suffering grave and irreparable injury every day on account of the misuse of the Plaintiff's intellectual properties by the Defendants which is apparent from the various complaints / criminal complaints / consumer complaints from third-parties against the Defendants owing to the fraud committed by them.



5.39. Accordingly, the Plaintiff is entitled to interim relief as prayed for in the present Application.

SUBMISSIONS ON BEHALF OF THE DEFENDANTS:

6. The learned Senior Counsel for the Defendants submitted that:
 - 6.1. The Impugned Trade Marks are used by the Defendants for products falling in Class 09 such as lead acid batteries for two-wheelers, four wheelers, trucks, inverters, UPS, water purifiers/filters etc and for services for battery rejuvenation. The Impugned Trade Marks have been used honestly and with *bona fide* intent since 2020 and the domain name www.teslapowerusa.in was registered in April, 2021.
 - 6.2. On the other hand, the Plaintiff's business is of manufacturing and selling fully electric vehicles, solar roofs, lithium-ion battery energy storage and solar panels. Accordingly, there are no similarities between the products and services offered by the Plaintiff and the Defendants, let alone any similarity between the trade channels.
 - 6.3. Defendant No. 1, like many others, was inspired by the works of the famous Serbian American scientist Mr. Nikola Tesla, who was an inventor, electrical engineer, mechanical engineer, and futurist known for his contributions to the design of the modern alternating current electricity supply system.
 - 6.4. Accordingly, the Defendants adopted its Mark 'TESLA' with added matter to the same thereby adopting and coining 'TESLA POWER USA' and TESLA POWER in the year 2020.
 - 6.5. Mr. Nikola Tesla's work was instrumental in the development of



many modern technologies including life extension of lead-acid batteries which is the unique selling point of Defendant No. 1 as well. No person / entity has any exclusive rights over the name 'TESLA' which is the family name of the famous scientist Mr. Nikola Tesla.

- 6.6. Since adoption of the Impugned Trade Marks, the Defendants have used them continuously and extensively in India and have wide network of more than 500 distributors and 5000 dealers in India, employing more than 1000 people, either directly or indirectly, and having substantial sales of more than 360 crores for FY 2020 till 31.03.2024 and have spent about ₹15 crores on advertising and marketing in India.
- 6.7. The Defendants have a Registered Copyright Certificate for '' along with NOC as a device in an artistic manner under copyright bearing Certificate Number A-145625/2023 dated 09.01.2023 and NOC from the Trade Mark Registry. Defendant No. 1 also applied for Trade Mark registration for the Defendants' Mark under Trade Mark Application number 4855017 for 'TESLA POWER' in Class 09 (for batteries). This Trade Mark Application was filed on 09.02.2021.
- 6.8. The Plaintiff admittedly has not commenced using their 'TESLA' Marks for selling their products in India on the date of filing of the Suit, despite alleged use of the 'TESLA' Marks since the year 2003. In any case, the Plaintiff has admitted that they don't sell any products under their 'TESLA' Marks in India or abroad, which are sold by the Defendants under the Defendants Marks. In fact, the



Plaint itself disclosed alleged imports of their cars by select few individuals from abroad to India, without giving any more details. The recent media publication demonstrate that they have only recently made endeavours to use the ‘TESLA’ Marks in India.

6.9. Further, the Plaintiff is not the registered proprietor of the word mark ‘TESLA’ in Class 09. Other purported registrations for the device mark **TESLA** in Class 09 and for the T Logo  in Class 09 were filed by the Plaintiff on “*proposed to be used*” basis and for “Solar energy equipment, namely, photo-voltaic solar modules in the shape of panels or roofing tiles for converting electromagnetic radiation into electrical energy: equipment for use in connection with collecting and converting solar energy into electricity, namely, inverters” which are different from those of the Defendants.

6.10. Therefore, this is not a case where the Defendants were motivated by the Plaintiff’s use of the ‘TESLA’ Marks, when the Defendants adopted the word ‘TESLA’ in the year 2020 for selling their products.

6.11. Prior to the filing of the Commercial Suit, the Defendants’ commenced marketing and sale of electric-scooters under the third-party brand ‘e-ashwa’, through the franchise stores operated by the franchisees of the Defendants and also planned on launching electric charging stations. However, on 02.05.2024, Defendant No.3 voluntarily and in the *bona fide* attempt to resolve the disputes with the Plaintiff, gave an undertaking before this Court that the Defendants have no intention to manufacture EVs at all and will



not market other entities' EVs under the Defendants' Marks. Defendant No. 3 has also filed a compliance affidavit dated 29.05.2024 providing details of the e-scooters sold by the Defendants, as well as the current stocks that were available with them as on the date of the undertaking. The Defendants have been complying with the undertaking till date. In fact, the Commercial Suit can even be decreed in terms of this undertaking.

- 6.12. The Plaintiff has no rights in the word 'TESLA', being the surname of Mr. Nikola Tesla. The Plaintiff's founder Mr. Elon Musk has in interviews admitted to the Plaintiff adopting the mark 'TESLA' being inspired by the works of Mr. Nikola Tesla. Thus, admittedly, the Plaintiff has not coined the mark 'TESLA' for its business activities and is not distinctive of their goods and services.
- 6.13. The Plaintiff was initially founded by Martin Eberhard and Marc Tarpenning in the year 2003. Mr. Elon Musk took over the Plaintiff company in 2008. The previous owners of the Plaintiff company have also said in interviews that the word 'TESLA' was adopted by them as a trade name inspired by the legacy of Mr. Nikola Tesla.
- 6.14. The Plaintiff is not the first adopter, user or registered proprietor of the mark TESLA in India or worldwide. The mark 'TESLA' has been used and registered for over 75 years by several parties prior to the Plaintiff. On an illustrative basis, there is a third-party trade mark registration no. 140191 dated 26.08.1949 for 'TESLA' (device) and a trade mark registration no. 689081 dated 04.12.1995 for the 'TESLA' (device) with user claim of 04.12.1973. Similarly, on an illustrative basis, there is a third-party trade mark registration



no. 73595296 dated 25.04.1986 for 'TESLA' (word) in the United States of America.

- 6.15. Further, several entities around the world, including in India, have adopted, commenced use and registered the mark 'TESLA', even after the alleged claim of first use of the 'TESLA' Mark by the Plaintiff. Further, the Defendants are prior user of the mark 'TESLA' for lead acid batteries falling in Class 09.
- 6.16. In addition to the aforesaid, a third party, namely, Nvidia Corporation, who is a registered proprietor for the mark 'TESLA' (word) in the United States of America has also got the mark 'TESLA' (word) registered in India bearing registration no. 1680147 in Class 09, through the same counsels, as that of the Plaintiff.
- 6.17. Thus, the Plaintiff cannot claim any exclusive proprietary rights over the mark 'TESLA'. The Plaintiff has not coined the mark 'TESLA' and is also a subsequent adopter and user of the mark 'TESLA', having co-existed with several other parties and marks worldwide, including in India. Existence of a number of Tesla themed marks, creates a 'crowded market' and affects the distinctive character of the Marks and reduced the risk of confusion. In other words, in a crowded market it is harder for one mark to stand out. Thus, there is no likelihood of confusion or association. In this regard, reference may be made to the following case laws:
 - ***Royal County of Berkshire Polo Club Ltd v. Lifestyle Equities CV and Others*, 2023 SCC OnLine Del 5347**
 - ***Rhizome Distilleries P. Ltd. & Ors. V. Pernod Ricard SA***



***France & Ors.,* 2009 XAD (Delhi) 305**

- ***Skyline Education Institute (India) P. Ltd. V. SL Vaswani & Anr.,* (2010) 2 SCC 142**
- ***Neon Labotories Ltd. v. Medical Technologies Ltd. & Ors.,* MIPR 2015 (3) 1070**
- ***Vans Inc. Usa v. Fcb Garment Tex India (P) Limited and Another,* 2024 SCC Online Del 8424**
- ***Man Mohan Sharma v. Manjit Singh,* MIPR 2017 (1) 0239**

- 6.18. The Defendants commenced use of the Defendants Marks in India in the year 2020 and are the prior user of its Marks in India. Due to extensive and continuous use, the Defendants have garnered a turnover of more than ₹360 crores from activities out of India. For this, the Defendants have filed several documents and other material, including revenue and advertising expenses figures and WhoIS Data for domain name registration.
- 6.19. On the contrary, it is not the Plaintiff's case in the Plaintiff or any other pleading that it has used the 'TESLA' Marks in India, except for relying on a few third-party media releases and a handful of imports of their goods. The entire case of the Plaintiff rests on the fact that they have allegedly used the 'TESLA' Marks abroad, because of which the 'TESLA' Marks have acquired secondary meaning even in India.
- 6.20. The Plaintiff has also failed to give any specific data of internet hits to its website from India *per se*. The data filed is for the entire sub-continent which consists of eight countries. The Plaintiff has not given details of business turnover from the Indian market, nor have they given any account of promotional expenses incurred towards marketing endeavours directed towards the Indian market. Thus,



the Plaintiff's pleadings and the data do not reveal any use of the Plaintiff's Trade Marks in India. The Plaintiff has also not filed any material to show that their alleged reputation outside India, has travelled to India.

6.21. For this reason, it must be held that the Plaintiff's Trade Marks have not acquired any secondary meaning in India and that the Plaintiff has not shown that their alleged reputation outside India, has travelled to India. In this regard, reference may be made to the following case laws:

- ***Toyota Jidosha Kabushiki Kaisha*** (supra)
- ***Company v. Harish Footwear & Anr***, 2017 SCC OnLine Del 8122
- ***Trustees of Princeton University v. Vagdevi Educational Society & Ors.***, (2023) 4 HCC (Del) 770
- ***Century 21 Real Estate LLC v. Century 21 Main Realty Pvt. Ltd. & Ors.***, MIPR 2010 (2) 0043

6.22. In any case, the Plaintiff must prove that its marks have acquired secondary meaning in trial. In this regard, reference may be made to the following case laws:

- ***Marico Ltd. v. Agro Tech Foods Ltd***, (2010) 169 DLT 325
- ***BigTree Entertainment Pvt. Ltd. v. D. Sharma and Anr.***, [257] 2019 DLT 77.
- ***Phonepe Private Limited v. EZY Services and Another***, 2021 SCC OnLine Del 2635
- ***Delhivery Private Limited v. Treasure Vase Ventures Pvt. Ltd.***, CS(COMM) 217 of 2020.

6.23. The Plaintiff is guilty of concealing its stand taken in their responses filed by them to first examination reports issued by the trade mark registry during examination of the Plaintiff's Trade



Mark applications for the TESLA Marks. The trade mark registry cited third-party Trade Marks as “*earlier marks*” under Section 11 of the Act, containing the words ‘TESLA’.

- 6.24. In these responses, the Plaintiff has asked the Trade Mark registrar to accept its Trade Mark Applications, despite their being Trade Marks containing the Mark ‘TESLA’ already on the register. Thus, the Plaintiff has conceded co-existence with the cited marks containing the word ‘TESLA’.
- 6.25. Further, the Plaintiff has distinguished its ‘TESLA’ (device) mark with that of the cited mark containing the word ‘TESLA’ on the ground that the mark when compared as a whole is dissimilar to the Plaintiff’s Trade Marks and that the goods and services offered therein are also different.
- 6.26. The Plaintiff across all its responses to first examination reports issued in its trade mark applications has distinguished citations of conflicting marks on the basis of different goods and services or style / design of writing the Mark ‘TESLA’. The Plaintiff has not, in any of its replies, sought acceptance of its trade mark applications on the ground that the Plaintiff is the exclusive proprietor of the mark ‘Tesla’.
- 6.27. In view of these responses, the Plaintiff is not entitled to any equitable relief on account of concealing these responses, but this also constitutes approbate and reprobate and abuse of process. In this regard, reference may be made to the following case laws:
 - ***S.K. Sachdeva v. Shri Educate Ltd***, 2016 (65) PTC 614
 - ***Raman Kwatra and Anr. v. M/s KEI Industries Ltd.***



2023/DHC/000083

- ***Vasundhra Jewellers Pvt. Ltd. v. Kirat Vinodhai Jadvani and Anr.***, 2022/DHC/004255
- ***Poly Medicure Ltd. v. Polybond India Pvt. Ltd.***, CS (COMM) 1292/2016
- ***OM Logistics Ltd. v. SH Mahendra Pandey***, CS (COMM) 447/2021
- ***PhonePe Private Limited v. Resilient Innovations Private Limited***, 2023 SCC OnLine Bom 764

6.28. The Defendants Marks are used for sale of specific kind of lead acid batteries for vehicles such as two wheelers, four wheelers and inverters, which fall in Class 09. The Defendants also sells other goods such as inverters, lubricants, industrial and domestic UPS and water purifiers/filters. All these goods are also totally different from the goods sold by the Plaintiff around the world, except for India where they have no use for any goods. Even the consumers and trade channels are not the same.

6.29. The Defendants' application for registration of the Defendants' Mark in Class 09 with Registration No. 4855017. The specification of goods of these applications only claims registration for "batteries". On the contrary, the Plaintiff's registration for its device marks in Class 09 claims different goods to those of the Defendant and the Plaintiff has consciously chosen to restrict its claims.

Plaintiff's goods in Class 09 under its registration no. 3332559 for the mark “  CS(COMM) 353/2024
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<p><i>“Solar energy equipment, namely, photo-voltaic solar modules in the shape of panels or roofing tiles for converting electromagnetic radiation into electrical energy: equipment for use in connection with collecting and converting solar energy into electricity, namely, inverters”</i></p>	<p><i>“Batteries”</i></p>
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6.30. In fact, all other registrations of the Plaintiff would also show that none of them are for goods or services which are offered by the Defendants.

6.31. In any case, it is settled law that a party cannot claim monopoly over all goods falling in a particular Class by virtue of registration which claims specific goods. Reliance was placed on the following cases:

- *Vishnudas Trading as Vishnudas Kishendas v. Vazir Sultan Tobacco Co. Ltd., Hyderabad and Anr.*, (1997) SCC 201
- *Nandhini Deluxe v. Karnataka Cooperative Society Milk Producers Federation Ltd.*, (2018) 9 SCC 183
- *Mittal Electronics v. Sujata Home Appliances (P) Ltd. and Ors.*, 2020/DHC/2728

6.32. In view of the aforesaid, the Plaintiff has not shown any *prima facie* case in its favour for infringement of trade marks or passing off.

6.33. Further, the Plaintiff has approached the court after considerable delay. The Plaintiff sent a cease and desist notice dated 18.04.2022 to Defendant Nos. 1 to 3. The Defendants through their erstwhile counsels sent a detailed response dated 09.05.2022. Thereafter, the Plaintiff sent a letter dated 02.12.2022 after almost 7 months, reiterating the contents of their cease-and-desist notice. The Defendants by response dated 19.12.2022 again denied all



allegations of the Plaintiff. The Plaintiff has chosen to file an action after a period of more than two years. This delay has meant that the Defendants have substantially grown as a business having a total revenue of ₹360 crores as on the date of filing of the Commercial Suit.

6.34. Hence, neither the balance of convenience is in favour of the Plaintiff nor will any injury be caused to the Plaintiff. This is also for the reason that the Plaintiff has not commenced use of the 'TESLA' Marks in India. In view thereof, there can be no irreparable harm and injury caused to the Plaintiff, while on the contrary Defendants will suffer irreparable loss if an interim injunction is granted in favour of the Plaintiff at this stage. Reliance was placed on following cases:

- *Trustees of Princeton University* (supra)
- *Keller Williams Realty, Inc v. Dingle Buildcons Pvt. Ltd. and Others*, 2020 SCC OnLine Del 539
- *Century 21 Real Estate LLC v. Century 21 Main Realty Pvt. Ltd. & Ors.* MIPR 2010 (2) 0043

REJOINDER SUBMISSIONS ON BEHALF OF THE PLAINTIFF:

7. The learned Senior Counsel for the Plaintiff had made the rejoinder submissions as under:

7.1. The Defendants have deliberately not addressed the registration of word mark 'TESLA' in the name of the Plaintiff in Classes 12 and 37 bearing No. 2689306 since 28.02.2013 for automobiles and structural parts thereof as well as for providing maintenance and repair services for automobiles. The battery is a structural part of an automobile and is covered under this registration. Hence, it is



sufficient to establish a case of infringement. The Plaintiff also has other registrations for stylized TESLA ‘**TESLA**’ in relation to parts and fittings for motor led vehicles including structural automobile parts and powertrain components.

- 7.2. The Defendants have also failed to respond to the argument that the Impugned Trade Marks / Names / Domain Names encompass TESLA in a prominent manner, which is identical to Plaintiff earlier and well-known word Mark ‘TESLA’ for identical goods. Admittedly, the Defendants offer batteries (Lead Acid Batteries) for two wheelers, four wheelers (automotive), UPS and inverter. The Defendants claim to provide batteries on a lease model for energy storage, which is directly hit by the Plaintiff’s registration, *inter alia*, for leasing service for electric battery system, which was also covered in its Trade Mark Application in the USA. The Defendants’ application in Turkey covered automotive batteries. Admittedly, the Defendants were marketing and selling EVs bearing the Impugned Trade Marks, which was advertised on its website as ‘TESLA EV’. The Plaintiff’s registrations cover invertor and batteries and the Plaintiff has shown extensive use of the batteries.
- 7.3. The Plaintiff’s all registrations are much prior to the Defendants alleged adoption and first use of the mark ‘TESLA’. As per Section 31 of the Act, the Plaintiff’s registrations are *prima facie* evidence of validity with no challenge to the said registrations. In view of the same, a clear case of infringement by the Defendants is made out.
- 7.4. The Defendants’ argument that the Plaintiff did not coin the Mark ‘TESLA’ and there are third party registrations of the mark



‘TESLA’ owing to crowded marketplace and ‘TESLA’ being common to trade, the Plaintiff cannot claim monopoly over the same is misconceived. The Defendants submit that the word ‘TESLA’ is inspired by Mr. Nikola Tesla, however, such inspiration does not mitigate the distinctive and well-known character of the Mark ‘TESLA’ as a result of the Plaintiff’s extensive and continuous use worldwide since its adoption in 2003.

7.5. As regards the argument that other third-party entities are using the Mark ‘TESLA’ and the same being common to trade is not available to the Defendants as the Defendants themselves have applied for



the registration of the Mark ‘TESLA POWER’ and ‘’, the Defendants are not allowed to approbate and reprobate. The use of the Mark ‘TESLA’ by third-party entities as cited by the Defendants are either not in use, such entities are liquidated or such use is subsequent to the Plaintiff. Mere presence of third-party entities or marks on the register is not sufficient as third-party use is no defense in an infringement action. The Defendants have failed to show that such alleged third-party use of the Mark ‘TESLA’ is common to trade or is substantial. The Defendants have failed to deal with the judgments cited by the Plaintiff in support of this submission.

7.6. The Defendants have failed to show how the facts of the present case are applicable to any other third-party entity as there is no use of the Mark ‘TESLA’ in relation to automobiles or batteries in India.



7.7. Further, the Defendants' argument that the Plaintiff has no commercial use of the Mark 'TESLA' is patently wrong and contrary to the voluminous documents placed on record. The Plaintiff has shown direct use of the Mark 'TESLA' on goods being physically present in India since 2010, which has also been pleaded in this Suit and sufficient documents are placed to show the Plaintiff's reputation and goodwill in India including the decision of the learned Registrar of Trade Marks holding that the Plaintiff has overwhelming worldwide reputation.

7.8. The Defendants' argument about suppression of the stand taken by the Plaintiff before the Trade Mark Registry is misconceived as none of the cited marks containing the mark 'TESLA' in the examination reports are used for batteries or electric vehicles in India. The Defendants have failed to show even a single third party using the Mark 'TESLA' in relation to automobiles and batteries. The Defendants' reliance on registration of Mark 'TESLA' in Class 09 by NVIDIA Corporation bearing No. 1680147 dated 24.04.2008 is not relevant as the said registration is for computer hardware, integrated circuits, semiconductors, computer chip sets, microprocessor, computer software, etc. None of the said goods are in conflict with the Plaintiff's goods and services. In any event, the application for the said registration was filed subsequent to the Plaintiff's adoption of the mark 'TESLA' in 2003. The Plaintiff's stand before the Trade Mark Registry would be relevant only if the Defendants' mark was cited and a contrary stand was taken by the Plaintiff, which is not the case. In *Under Armour, INC v. Aditya*



Birla Fashion & Retail Ltd., 2023 SCC OnLine Del 2269, it was held that:

"41. Clearly, the reply to the FER, even as per the decision in Raman Kwatra31, 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. It is only in that circumstance that the plaintiff's response, to the defendant's mark having been set up against it, would be a circumstance which the Court would take into consideration as relevant while assessing the plaintiff's right to assert its mark. If the defendant's mark is cited against the proposed mark of the plaintiff in the FER as a similar mark under Section 11(1)(b), then, unquestionably, the stand adopted by the plaintiff while responding to the FER would be relevant, as it could not adopt a contrary stand, opposing the very same mark of the defendant, in the infringement suit. Any such contrary stand would amount to approbate and reprobate. 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. 42. It cannot be said that, even if the plaintiff did not refer to the replies to the FERs raised by way of objection to the plaintiff's application seeking registration, the plaintiff was guilty of suppression."

7.9. The Defendants have themselves taken contrary stands, which the Defendants have failed to refer. Defendant No. 3, while seeking registration of the word Mark 'TESLA POWER' bearing No. 4855017 in Class 09. The Defendants in response to the cited mark of 'TESLA' registered by NVIDIA Corporation submitted that the Mark 'TESLA POWER' was highly distinctive and easily distinguishable from the cited mark. Various conflicting marks were cited in the application filed by Defendant No. 3 seeking



registration of the Device Mark ' ', bearing No. 4855802 in Class 09 and the Plaintiff also filed a rectification against the



registration of the Device Mark, '  ' and the Defendant has concealed this fact and the Trade Marks Registry has refused to



register the Device Mark, '  ' citing that the Device Mark applied for is phonetically and structurally similar to earlier Trade Mark 'TESLA' filed on 26.08.1949 in Class 09.

- 7.10. As soon as the Plaintiff became aware of the infringing activities of the Defendants in April, 2022, the Plaintiff immediately issued a C&D Notice on 18.04.2022 and the correspondence between the Parties went from April, 2022 until 02.03.2023. After that the Defendants started expanding the use of the Impugned Trade Marks and issued full page advertisements in national newspapers in March, 2023 and the Plaintiff learned that the Defendants started advertising electric scooters on their websites in January, 2024.
- 7.11. It is trite law that delay in filing cases of infringement and passing off of trade marks is not a ground for refusal of interim injunction. In the judgments of *Midas Hygiene Industries (P) Ltd. and Another v. Sudhir Bhatia and Others*, 2004 SCC OnLine SC 106 and *Hindustan Pencils Pvt. Lts. V. India Stationery Products*, 1989 SCC OnLine Del 34, it was held that delay in filing a suit is not a ground to deny injunction, when the adoption is in itself dishonest.



7.12. Defendant No. 1 has wrongly obtained a copyright registration for



the Impugned Trade Mark ‘TESLA POWERUST’, bearing No. A-145625/2023. The Search Certificate issued by the Trade Marks Registry has wrongly stated that the artistic work applied for is not conflicting with any other mark, which has been registered or applied for under the Act as per the computer records of the office.

7.13. In the Reply to the injunction application, Defendant No. 1 claimed that Defendant No. 4 envisioned establishing a business model based on “the energy storage on leased assets” the short form of which is TESLA and that is how the Defendants came up with the Impugned Trade Marks. However, in the Reply filed by Defendant No. 3, he claimed that he had coined the Impugned Trade Marks.

7.14. The Impugned Trade Marks and the Impugned Domain Names encompass TESLA in a prominent manner and, therefore, the Impugned Trade Marks are identical to the Plaintiff’s Trade Mark ‘TESLA’. Both the Plaintiff and the Defendants deal in identical goods and services and the Plaintiff has been able to establish several instances where the use of the Impugned Trade Marks has led to confusion in the minds of the public. Further, the Impugned Domain Names falsely show that the Defendants deal in a wide variety of goods and services, however, admittedly, the Defendants offer for sale batteries for two wheelers, four wheelers, UPS and inverters. The Plaintiff has obtained registrations which cover inverters and batteries and the Plaintiff has shown extensive use of the Plaintiff’s Trade Marks with respect to batteries.



- 7.15. The addition of descriptive words, such as 'POWER' and 'USA' to 'TESLA' in the Impugned Trade Marks when 'TESLA' is the dominant part of the Impugned Trade Marks, does not help the case of the Defendants. The Impugned Trade Marks subsumes the Plaintiff's Trade Marks in their entirety. The term POWER is descriptive to the goods and services of the Defendants and is incapable of distinguishing the Impugned Trade Marks from the Plaintiff's Trade Marks.
- 7.16. Although the Defendants have never operated nor do they have a client base in the USA, the Defendants use the Trade Name 'TESLA POWER USA', which is deceptive and with an intention to mislead the customers into believing that the technology that the Defendants are using originated in the USA. The Defendants have also sought registration of the Impugned Trade Marks in the USA, Turkey and Hungary, which have been rejected on the basis of the Plaintiff's Trade Marks.
- 7.17. After filing of the present Suit, the Plaintiff came across a consumer complaint and a related FIR against the Defendants, which states that Defendant No. 2 contacted the complainant in November, 2022 purporting to be the Plaintiff's subsidiary. Believing this, the complainant transferred approximately ₹9,20,000/- to the Defendants. Further, the Defendants have not been able to refute the instances of actual confusion caused in the minds of the media or the complaints received by the Plaintiff, which were actually against the Defendants.



7.18. While the Defendants claim that they only intend to use the Impugned Trade Marks with respect to Lead Acid Batteries, the manner in which the Defendants have expanded their use of the Impugned Trade Marks is critical. The first use of the Impugned Trade Marks was with respect to Lead Acid Batteries only and even in the stand taken before the Trade Marks Registry in response to the examination report, the Defendants stated that they would only use the Impugned Trade Marks with respect to Lead Acid Batteries, however, the Defendants started advertising EVs under the Impugned Trade Marks in national newspapers in March, 2023. Further, the Defendants also advertised EVs on the Impugned Domain Names and despite the undertaking given before this Court on 02.05.2024 stating that the Defendants will not use the Impugned Trade Marks with respect to EVs, they have continued to do so.

SUR-REJOINDER SUBMISSIONS ON BEHALF OF THE DEFENDANTS:

8. The learned Senior Counsel for the Defendants had made the sur-rejoinder submissions as under:

8.1. The Plaintiff has not dealt with the documents placed on record by the Defendants evidencing the extensive use of the Mark 'TESLA' and other formative 'TESLA' marks by various third-party entities around the world including in India. There are approximately 700 trade mark applications filed before the World Intellectual Property Organization for the Word and Device Mark of 'TESLA'. The Plaintiff is not the prior user, adopter or registrant of the Plaintiff's



Trade Marks. On the contrary, the first user of the Mark 'TESLA' dates back to 1949. The name 'TESLA' is being used as a Trade Name in over 70 countries around the world and around 13 entities are using the Mark 'TESLA' are registered with the Securities Exchange Commission, USA. In light of the extensive use of the Mark 'TESLA' by various third-party entities, the Plaintiff cannot claim that the Mark TESLA is exclusively associated with the Plaintiff.

- 8.2. The Plaintiff does not have a registration for the Word Mark TESLA in Class 09 and has only received registration for the Device Mark '**TESLA**' in Class 09 and as per Section 17 of the Act, the registration of the Device Mark does not confer upon the Plaintiff the exclusive right to use the Mark 'TESLA'.
- 8.3. No single person or entity has exclusive rights over the Mark 'TESLA' which is the family name of the famous scientist Nikola Tesla and the Plaintiff has admitted that the Mark 'TESLA' was adopted after being inspired by Mr. Nikola Tesla.
- 8.4. The Plaintiff has not made a case for grant of equitable relief of an injunction as the Plaintiff ought to have disclosed all material facts before this Court and the Plaintiff has suppressed material facts before this Court such as being inspired by Mr. Nikola Tesla for the adoption of the Plaintiff's Trade Marks. In *S.K. Sachdeva* (supra) it has been held that the reliefs which are at the discretion of the Court shall not be granted to a party who approached with unclean hands and, therefore, the Plaintiff ought to be denied the equitable relief of an interim injunction.



8.5. The Plaintiff has relied upon a single promotion carried out by the Plaintiff in 2010 to establish actual use of the Plaintiff's Trade Marks in India. However, such casual, intermittent and experimental use is insufficient to show adoption of the Plaintiff's Trade Marks for specific article or goods and cannot be relied upon to establish user claim. In the judgments of *Trustees of Princeton University* (supra) and *Toyota Jidosha Kabushiki Kaisha* (supra), it was held that third-party articles cannot be considered to establish user claim. The Plaintiff has falsely stated that the Plaintiff has been using the Plaintiff's Trade Marks in India whereas the Applications filed by the Plaintiff for registration of the Plaintiff's Trade Marks were filed on a proposed to be used basis and admittedly, the Plaintiff has commenced business in India only in February, 2025.

8.6. It is an admitted fact that the Plaintiff was aware about the Defendants' existence in the year 2022 but has only filed the present Suit in 2024 only after the Defendants entered into the EV space and the Plaintiff admittedly did not file the present Suit as long as the Defendants were only dealing with Lead Acid Batteries. The Defendants have given the undertaking that they will only use the Impugned Trade Marks with respect to Lead Acid Batteries before this Court on 02.05.2025 and 08.09.2025 and the Defendants as per the undertakings have not entered into the EV space and, therefore, the claim of the Plaintiff that the Defendants have taken contrary stands before the Trade Marks Registry, is not substantiated.



- 8.7. The Plaintiff has falsely claimed that the registration of the Device Mark ‘**TESLA**’ in Class 12 covers structural automobile parts and, therefore, the Defendants dealing in batteries shall be restrained as batteries are considered to be structural automobile parts under Class 12. Batteries do not constitute structural part of an automobile and, therefore, are not covered under structural automobile parts covered under Class 12. Further, the Plaintiff has falsely claimed that the Plaintiff’s registration for the Plaintiff’s Trade Marks in Class 09 covers invertors, which are identical to the Defendants’ Lead Acid Batteries. Upon a perusal of the Plaintiff’s Application in Class 09, it is apparent that the Plaintiff has applied for equipment which can transform solar energy into electrical energy including solar invertors and therefore there is no relationship between the Plaintiff’s product under Class 09 and the Defendant’s goods and services.
- 8.8. The Plaintiff has falsely claimed that the Mark ‘TESLA’ is not common to trade and the Defendants have provided an exhaustive list of third parties using the Word and Device Mark. This Court in *Vikrant Chemico Industries v. Gopal Engineering*, 2025:DHC:757 held that the existence of third-party Trade Mark Applications and Registration in various Classes is sufficient evidence to establish that the Mark is common to trade.
- 8.9. The submission of the Plaintiff that the Defendants have not justified the use of the words ‘USA’ and ‘American Technology’ is not correct. The Defendants have clearly answered that the Defendants started their business in the USA with an American



Partner and further the Defendants' battery rejuvenation technology is imported from the USA. Thus, the Defendants used the terms 'USA' and 'American Technology' to pay homage to the place where the Defendants owe their livelihood. The Plaintiff has further falsely claimed that the claim of Defendant No. 3 that the Impugned Trade Marks were adopted after being inspired by Mr. Nikola Tesla is an afterthought whereas Defendant No. 3 has always been vocal about being inspired by Mr. Nikola Tesla.

- 8.10. A comparison of the Plaintiff's Trade Marks and the Impugned Trade Marks clearly show that the competing Marks are visually, structurally and phonetically dissimilar. Further, electric battery system is completely different from Lead Acid Batteries and have completely distinct trade channels and customers.
- 8.11. The Plaintiff has relied upon the FIRs and consumer complaints against the Defendants, however, those complaints filed against the Defendants were contractual disputes and have been subsequently closed by the competent authorities, whereas there are multiple complaints against the Plaintiff even in their home country i.e., the USA showcasing that the Plaintiff does not have a good reputation even in their home country.

ANALYSIS AND CONCLUSION:

Introduction:

9. A Trade Mark indicates the source of the goods or services, in respect of which it is used. A Trade Mark is an indicator of origin, distinguishing the goods and services of a party from those of its competitors. Thus, a Trade



Mark is said to possess a distinctive character, when it serves to identify and distinguish the goods or services of a party from those of others.

Infringement of Plaintiff's Trade Marks:

10. The Plaintiff is one of the biggest manufacturers of EVs. The Defendants are producing batteries for Electrical two-wheeler and electric four-wheeler among other batteries. The Plaintiff is also dealing in batteries and battery technologies with various implications.

11. The Plaintiff is the registered proprietor of the Plaintiff's Trade Marks with the earliest registration for the Mark 'TESLA' in India in the year 2013. The Plaintiff has been using the Mark 'TESLA' continuously since the year 2003 with respect to EVs and Batteries. The Plaintiff has obtained registration for the word Mark 'TESLA' in Classes 12 and 37 for automobiles and structural parts thereof as well as for providing maintenance and repair services for automobiles.

12. The registration of the Device Mark '**TESLA**' by the Plaintiff in Class 12 covers structural automobile parts. The Plaintiff's registration for the Plaintiff's Trade Marks in Class 09 covers Invertors. The Defendants are using the Impugned Trade Marks for products falling in Class 09, such as Lead Acid Batteries for two-wheelers, four wheelers, trucks, Inverters, UPS, water purifiers/ filters etc. and for services for battery rejuvenation. The Defendants have argued that the Plaintiff is not the registered proprietor of the word mark 'TESLA' in Class 09. The registrations for the device mark

TESLA and for the T Logo  in Class 09 were filed by the Plaintiff on "*proposed to be used*" basis for "Solar energy equipment, namely, photo-voltaic solar modules in the shape of panels or roofing tiles for converting electromagnetic radiation into electrical energy: equipment for use in



connection with collecting and converting solar energy into electricity, namely, "inverters", which are different from those of the Defendants, Having successfully obtained registrations for the Plaintiff's Trade Marks, the Plaintiff is entitled to protection being the registered proprietor thereof.

13. As the Plaintiff's Trade Marks are validly subsisting on the Register of Trade Marks, the Defendant cannot contend that the Plaintiff does not have the right to protect the proprietary rights in the Plaintiff's Trade Marks. As Batteries are structural automobile parts for EVs under Class 12, the Defendants' Products of Lead Acid Batteries for two-wheelers, four wheelers, trucks, Inverters are UPS are allied and cognate goods as the Battery is even a more essential part of EVs as compared to petrol or diesel cars. In modern EVs, the battery pack is increasingly considered a structural automobile part. As the Plaintiff's registration for the Plaintiff's Trade Marks in Class 09 covers Inverters, Defendants' use of the Impugned Trade Marks for Inverters is clearly an infringement.

14. Hence, Defendants submissions that the Plaintiff has admittedly not sold any products under their 'TESLA' Marks in India or abroad that are similar to the products sold by the Defendants under the Impugned Trade Marks is not relevant. Accordingly, the Defendants have infringed the Plaintiff's Trade Marks.

Goodwill and Reputation:

15. The Plaintiff has demonstrated the goodwill and reputation acquired by the Plaintiff's Trade Marks. The Plaintiff has earned significant revenue of \$98.6 billion for the year 2023 by selling the Plaintiff's goods and services under the Plaintiff's Trade Marks. The Plaintiff is promoting the Plaintiff's Trade Marks through the Plaintiff's website, which is accessible in India and



generates huge traffic. The Plaintiff's goods and services under the Plaintiff's Trade Marks have received coverage from leading national newspapers in India and the popularity of the CEO of the Plaintiff also cannot be doubted. There is evidence to show the goodwill of the Plaintiff.

16. It is implausible that the Defendants were not aware of the Plaintiff and the Plaintiff's Marks considering the overwhelming goodwill of the Plaintiff. Accordingly, the use of the Impugned Trade Marks, is *prima facie* dishonest and appears to be an attempt to ride on the goodwill and reputation of the Plaintiff's Trade Marks.

17. In any event, when the Plaintiff's Trade Mark “” bearing no. 3702930 was cited in February 2021 against the Application for TESLA

 POWER USA “” bearing 4855802. In response, Defendant No. 3 stated that “*two marks deal with separate consumer base in separate markets, and therefore there is no likelihood of confusion*”. It was further stated by

 Defendant No. 3 that the Impugned Trade Mark “” TESLA POWER USA is “*completely unique and different from any existing trademark in the same class and all the goods in a class is not ‘cognate’ or ‘allied’.*” This makes it clear that that the Defendants were aware about the Plaintiff's Trade Mark since February 2021.

18. Further, despite the Defendants having no client base in the USA, have dishonestly adopted 'TESLA POWER USA', which is deceptive and appears to be with an intention to mislead the customers into believing that the technology that the Defendants are using originated in the USA and that the



Defendants are connected with the Plaintiff, which is based in the USA. The Defendants' applications for registration of the Impugned Trade Marks in the USA, Turkey and Hungary have been rejected on the basis of the Plaintiff's Trade Marks, which clearly shows that the Defendants have dishonestly adopted the Impugned Trade Marks to ride on the goodwill and reputation of the Plaintiff in India.

Likelihood of Confusion:

19. The likelihood of confusion amongst the minds of the consumers is very high given the allied and cognate nature of goods. Use of the Impugned Trade Marks by the Defendants are likely to cause confusion that the Defendants are connected with the Plaintiff as the Mark 'TESLA' is identical.

20. It is trite law that mere likelihood of confusion is enough to establish a case of infringement of Trade Marks and actual confusion is not required to be demonstrated. However, the Plaintiff has even been able to show the instances of actual confusion caused in the minds of not only ordinary consumers, but even reputed media houses have published news believing that the Defendants were in fact related to the Plaintiff.

21. Further, the test of confusion is to be seen from the perspective of an average person with imperfect recollection getting confused and in view of the Plaintiff's Trade Marks and the Impugned Trade Marks being almost identical, any ordinary person would get confused and would not be able to distinguish between the Plaintiff's Trade Marks and the Impugned Trade Marks. Addition of descriptive terms like 'USA' and 'POWER' are not enough to distinguish the goods and services of the Defendants from those of the Plaintiff. A consumer of average intelligence and imperfect recollection would be unable to distinguish between the competing products. The



substantial similarity in the competing Trade Marks coupled with the confined branding space, significantly increases the risk of confusion in the minds of the public.

22. This Court in *Under Armour Inc v. Anish Agarwal*, 2025 SCC OnLine Del 3784, held that the initial interest confusion test proceeds on the principle that confusion in the minds of consumers may arise at the preliminary stage, prior to the actual purchase being completed. At the point of finalising the transaction, the consumer may no longer be in doubt as to the true origin of the goods or services. Nonetheless, even such transient confusion at the initial stage is sufficient to meet the requirement of deceptive similarity under Section 29 of the Act.

23. The infringer's objective may be served merely by diverting the consumer's initial attention. The consumer may, thereafter, consciously opt for the infringer's product on account of its own characteristics, with complete knowledge that it is unconnected with the registered Trade Mark. The Defendants' use of the Impugned Trade Marks appears to be with intent of causing confusion in the mind of the customers to increase the revenue of the Defendants by deceptively similar to the Plaintiff's Trade Marks.

Passing Off:

24. The Plaintiff has made a *prima facie* case of passing off as they have shown substantial goodwill for the goods and services under the Plaintiff's Trade Marks through the revenue earned by the Plaintiff and the coverage received by the Plaintiff in various newspapers and magazines across the globe and in India. As the Plaintiff has been able to demonstrate actual instances of confusion, the Plaintiff is likely to suffer loss of reputation, if the



goods and services of the Defendants are allowed to pass off as those of the Plaintiff.

Delay in filing Suit:

25. The Defendants have argued that admittedly, the Plaintiff was aware about the Defendants' existence since the year 2022, but has only filed the present Suit in 2024 only after the Defendants entered into the EV space and the Plaintiff did not have any objection to the Defendants dealing with Lead Acid Batteries.

26. The learned Counsel for the Plaintiff has relied upon *Midas Hygiene* (*supra*) and *Hindustan Pencils* (*supra*) to submit that delay in filing a suit is not a ground to deny injunction, when the adoption is in itself dishonest. In cases of infringement of Trade Mark an injunction must follow and merely delay, if any, in seeking the remedy of injunction cannot be a ground to deny injunction to the Plaintiff.

27. Hence, delay in filing the Suit cannot be a ground to deny the interim injunction.

Contradictory Reasons for adoption of Impugned Trade Marks by Defendants:

28. The Defendants have taken contrary stands with respect to reason for adoption of the Impugned Trade Marks. Defendant No. 3 claims to have been inspired by Mr. Nikola Tesla as the reason behind the adoption of the Impugned Trade Marks. Whereas the Defendants in the Reply to the C&D notice stated that the reason behind adoption of the Impugned Trade Marks was that the Mark 'TESLA' is the acronym of the business model based on "THE ENERGY STORAGE on Leased ASSETS". The adoption of the



Impugned Trade Marks appears to be dishonest with an intention to ride on the goodwill of the Plaintiff given its reputation and goodwill.

29. Hence, the justification given by the Defendants for adopting the Impugned Trade Marks does not inspire confidence and *prima facie*, the adoption appears to be dishonest with intent to benefit from the goodwill and reputation of the Plaintiff's Trade Marks.

Generic and Common to Trade:

30. It is contended on behalf of the Defendants that 'TESLA' is a generic word and common to trade and is inspired by Mr. Nikola Tesla and no person can be allowed to monopolise the surname of Mr. Nikola Tesla. This submission is contrary to the stand taken by the Defendants in the Trade Mark Applications filed by the Defendants. The Defendants themselves have applied for registrations of the Marks bearing the word 'TESLA'.

31. The use of the Mark 'TESLA' being common to trade is not available to the Defendants as the Defendants themselves have applied for the registration of the Impugned Trade Marks. The Defendants are not allowed to approbate and reprobate and take contrary stands as held in *Automatic Electric Limited* (supra), *Mohd. Shakir* (supra), *Anchor Health and Beauty* (supra) and *PEPS Industries* (supra).

32. Having sought registration over the Impugned Trade Marks, the Defendants cannot claim that the Mark 'TESLA' is common to trade. The decisions in *Royal County of Berkshire Polo Club* (supra), *Rhizome Distilleries* (supra), *Skyline Education Institute (India)* (supra), *Neon Labotories Ltd.* (supra) and *Vans Inc. Usa* (supra) relied upon by the Defendants are distinguishable on facts as the Plaintiff's Trade Marks have amassed considerable goodwill and are neither descriptive, nor generic. The



Mark 'TESLA' with respect to EVs and battery segment is linked exclusively with the Plaintiff and is not common to trade.

Third-party Use:

33. The Defendants have argued that a third party, namely, Nvidia Corporation is also a registered proprietor for the mark 'TESLA' (word) in the United States of America has also got the mark 'TESLA' (word) registered in India bearing registration no. 1680147 in Class 09, through the same counsels, as that of the Plaintiff. Thus, the Plaintiff cannot claim any exclusive proprietary rights over the mark 'TESLA' as the Plaintiff has neither coined the mark 'TESLA' nor is a prior adopter and user of the mark 'TESLA'. The Plaintiff has co-existed with several other parties and marks worldwide, including in India. Existence of a number of Tesla themed marks, creates a 'crowded market' and affects the distinctive character of the Marks and reduced the risk of confusion.

34. The above argument of the Defendant is misconceived as none of the cited marks containing the Mark 'TESLA' are used for batteries or EVs in India. The Defendants have failed to show how the facts of the present case are applicable to any other third-party entity as there is no use of the Mark 'TESLA' in relation to automobiles or batteries in India. The Defendants' reliance on registration of Mark 'TESLA' in Class 9 by NVIDIA Corporation bearing No. 1680147 dated 24.04.2008 is not relevant as the said registration is for computer hardware, integrated circuits, semiconductors, computer chip sets, microprocessor, computer software, etc. None of the said goods are in conflict with the Plaintiff's goods and services and the application for the said registration was filed subsequent to the Plaintiff's adoption of the mark 'TESLA' in 2003.



35. In any event, the Plaintiff is not expected to sue every small infringer and use of Marks, deceptively similar to the Plaintiff's Marks, by third-parties is not a valid defence against infringement of Trade Marks as has been held by this Court in *Pankaj Goel (supra)*, *Corn Products Refining (supra)* and *National Bell Co. (supra)*.

Prominent Feature Test:

36. The prominent feature of the Impugned Trade Marks is 'TESLA', which is identical to the Mark 'TESLA' being used by the Plaintiff since 2003. Applying the dominant feature test to the present case, the dominant feature of the Impugned Trade Marks 'TESLA POWER' and 'TESLA POWER USA' is clearly the prefix 'TESLA', as the suffix in each Mark 'POWER' and 'USA' are descriptive terms.

37. The dominant feature of the Plaintiff's Trade Marks and the Impugned Trade Marks, i.e. 'TESLA', is identical. Applying the dominant feature test, a *prima facie* case of infringement is made out.

Non-Use of Plaintiff's Trade Marks:

38. The Defendants submitted that the Plaintiff has not used the 'TESLA' Marks in India, except a few third-party media releases and a handful of imports of their goods. However, there is merit in the Plaintiff's case that the Plaintiff has used the 'TESLA' Marks abroad, because of which the 'TESLA' Marks have acquired secondary meaning even in India.

39. The Plaintiff has overwhelming goodwill in the Plaintiff's Trade Marks and the reputation of the Plaintiff has travelled to India as well. Trans-border reputation of the Plaintiff must be considered as well. As held by the Supreme Court in *Toyota Jidosha Kabushiki Kaisha (supra)* a Trade Mark registered outside India can have a reputation and be protected in India even if the goods



and services are not sold there. The decisions of *Toyota Jidosha Kabushiki Kaisha* (*supra*), *Columbia Sportswear Company* (*supra*), *Trustees of Princeton University* (*supra*) and *Century 21 Real Estate LLC* (*supra*) do not help the case of the Defendants as the Plaintiff has been able to establish trans-border reputation and goodwill obtained by the Plaintiff's Trade Marks in India.

40. The Plaintiff has demonstrated material to show that their reputation outside India, has travelled to India. The Plaintiff has been able to demonstrate actual use of the Plaintiff's Trade Marks in India since 2010 and not just experimental and intermittent use of the Plaintiff's Trade Marks, and, therefore, the decisions of *Trustees of Princeton University* (*supra*) and *Toyota Jidosha Kabushiki Kaisha* (*supra*) does not help the case of the Defendants. The Plaintiff is entitled to protection based on actual use of the Plaintiff's Trade Marks in India coupled with the enormous trans-border reputation of the Plaintiff and the products under the Plaintiff's Trade Marks having acquired secondary meaning in India.

41. Accordingly, the Defendants' submission that the Plaintiff admittedly has not commenced using their 'TESLA' Marks for selling their products in India on the date of filing of the Suit and only recently made endeavours to use the 'TESLA' Marks in India is without any merit.

Conclusion:

42. Having considered the submissions advanced by the learned Counsel for the Parties, the pleadings and the documents on record, a strong *prima facie* case has been made out on behalf of the Plaintiff for grant of an interim injunction.



43. The Plaintiff has established its prior user as well as goodwill and reputation, on the basis of the documents on record. Injunction is a relief in equity, and in view of the aforesaid discussion, the same is in favour of the Plaintiff and against the Defendants. Further, the balance of convenience also lies in favour of the Plaintiff and against the Defendants and grave prejudice is likely to be caused to the Plaintiff if interim injunction as prayed for is not granted in favour of the Plaintiff and against the Defendants.

44. This is a case of triple identity where the Plaintiff's Trade Marks and the Impugned Trade Marks are identical, the product category is identical and the trade channel as also the consumer base is identical. The identity in the Impugned Trade Marks is so close to the Plaintiff's Trade Marks that they are indistinguishable.

45. Accordingly, the present Application is allowed and it is directed that the statement made by Defendant No. 3 on behalf of the Defendants on 02.05.2024 that the Defendants have no intention to manufacture EVs at all and will not market other entities' EVs as well under the Impugned Trade

Marks, 'TESLA POWER' / 'TESLA POWER USA', ' and ' 

46. The above statement shall also apply to using, soliciting, providing services, advertising in any manner, including on the internet and e-commerce



2025:DHC:10367



platform, directly or indirectly, selling or dealing in Lead Acid Batteries for all kind of Automobiles, Inverters and UPS.

47. With the aforesaid directions, the present Application stands disposed of.

CS(COMM) 353/2024

48. List before the Joint Registrar (Judicial) on 15.01.2026 for competition of pleadings, Admission / Denial of documents and marking of Exhibits.

TEJAS KARIA, J

NOVEMBER 24, 2025
'AK'