

IN THE HIGH COURT AT CALCUTTA  
(Intellectual Property Rights Division)  
ORIGINAL SIDE

BEFORE:

The Hon'ble Justice Ravi Krishan Kapur

IA NO. GA-COM/1/2026  
IP-COM/3/2026

RECKITT BENCKISER (INDIA) PRIVATE LIMITED  
VS  
GODREJ CONSUMER PRODUCTS LIMITED

For the petitioner : Mr. Sudipto Sarkar, Senior Advocate  
Mr. S. N. Nookherjee, Senior Advocate  
Mr. Ratnanko Banerji, Senior Advocate  
Mr. Sanjay Ginodia, Advocate  
Mr. Jawahar Lal, Advocate  
Mr. Nancy Roy, Advocate  
Mr. Shwetank Ginodia, Advocate  
Ms. Mini Agarwal, Advocate  
Mr. Naman Choudhury, Advocate  
Mr. Sirin Firdous, Advocate

For the respondent : Mr. Ranjan Bachawat, Senior Advocate  
Mr. Soumya Roychowdhury, Advocate  
Mr. Shounak Mitra, Advocate  
Ms. Vaibhavi Pandey, Advocate  
Ms. Akshita Bohra, Advocate  
Ms. Samina Khanum, Advocate  
Ms. Ojasvi Gupta, Advocate

Heard on : 24.02.2026, 25.02.2026

Judgment on : 25.02.2026

**Ravi Krishan Kapur, J.:**

1. The petitioner is a globally renowned multinational company and is engaged in the manufacture, packaging, sale and distribution of various health and hygiene products under different brands i.e., DETTOL, HARPIC, VEET, LIZOL, DISPRIN, DUREX, MORTEIN.

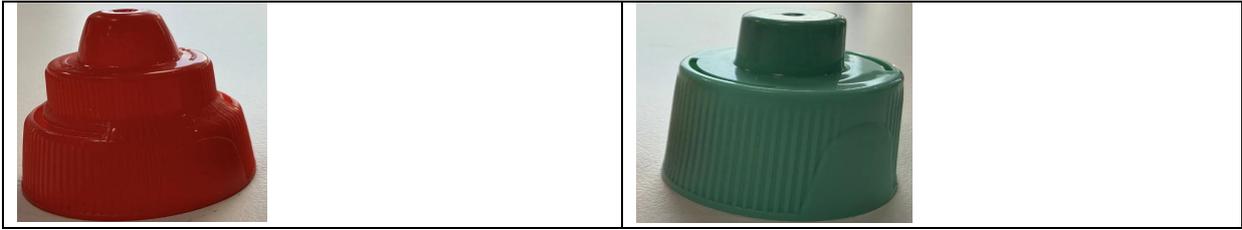
2. This suit has been filed in respect of the registered trademark “HARPIC” including the “HARPIC” bottle shape and cap. The petitioner complains of infringement under the Trademarks Act, 1999 (the Act) and passing off.
3. The petitioner through its affiliate, has been selling “HARPIC” since 1920. In or about 1979, the petitioner obtained registration for the word mark “HARPIC” in India in Class 3. Thereafter, in 1984, the petitioner launched its product “HARPIC” in India and commenced using the HARPIC bottle shape and trade dress. In 2002, the petitioner obtained a design registration bearing no. 191291 for “HARPIC” toilet cleaner bottle. Admittedly, the statutory protection granted to the petitioner under the Designs Act, 2000 has expired. However, the petitioner continues to enjoy registrations under the Act. At this ad interim stage, it is submitted on behalf of the petitioner that they are not pressing for any relief on account of passing off and only limit their case to infringement under the Act.
4. The grievance of the petitioner pertains to the impugned product “Godrej Spic” being sold in the same category of goods i.e., toilet cleaners. It is contended that the impugned product is being sold in a bottle which is confusingly similar and infringes upon the petitioner’s registered mark for its product HARPIC bottle.
5. On behalf of the petitioner, it is submitted that on a conjoint reading of sections 2(1)(m), 2(q) and 2(z)(b) of the Act even though protection under the Designs Act has expired, the petitioner can claim protection in view of the registration granted under the Act. The respondent being a new entrant is deemed to have been aware of the petitioner’s product. The respondent has deliberately and slavishly copied the petitioner’s trade dress, bottle shape as well as the cap which constitutes infringement of the petitioner’s

registered mark. In such circumstances, the petitioner prays for interim reliefs restraining the respondent from selling their products in a shape which is deceptively similar and strikingly identical as that of the petitioner's product. In support of such contentions, reliance is placed on the decisions in *Gorbadschow Wodka KG vs. John Distilleries 2011(4) M.H.L.J. 842*; *Mohanlal vs. Sona Paint & Hardware 2013 SCC OnLine Del 1980* and *Super Smelters Limited and Ors. vs SRMB Srijan Private Limited 2019 SCC OnLine Cal 4888*.

6. On behalf of the respondent, it is submitted that any statutory protection which the petitioner enjoyed insofar as the design of the HARPIC bottle is concerned, has expired. There is no protection in favour of the bottle or the cap of the petitioner's product "HARPIC". There is also no application for registration for the shape of the bottle which is pending before any authority. The registration under the Act is not in respect of the shape of the bottle. The only protection is of the device and this cannot be extended to the protection which the petitioner now seeks insofar as shape of the bottle is concerned. Admittedly, the very same shape of the impugned bottle is commonly and widely used in the industry and has now become generic. In any event, under section 17 of the Act, a party can only claim exclusivity in respect of the entire mark and not in respect of any part of the whole of the trademark so registered. In support of such contentions, the respondent relies on *Pernod Ricard India Private Limited & Anr. vs. Karanveer Singh Chhabra (2025) SCC OnLine SC 1701* and *Shree Ganesh Besan Mill & Ors. vs. Ganesh Grains Limited & Anr. (2021) SCC OnLine Cal 3068*.

7. For convenience, a comparison of the two products is set out below:

Petitioner's product	Respondent's Impugned product
	
	
	
	
	



8. On a plain reading of the Act, it is possible to obtain registration of a *shape* of a product. Trademark protection whether based on name, colour combination, trade dress, or *structural features* centers on ability to distinguish the commercial origin of goods and services in the minds of the consumers.
9. It is true that the object of the Designs Act 2000 is that monopoly is for a limited period and the public can freely use the shape of the article after the expiry of the statutory period. Nevertheless, the cancellation of the design monopoly *per se* does not necessarily mean that there can be no trade mark monopoly on the registered mark or recognition of a mark or its distinct indicia in a passing off action. [*Super Smelters Limited & Ors vs. Srmb Srijan Private Limited 2009 SCC OnLine 4888, Mohanlal vs. Sona Paint & Hardware 2013 SCC OnLine Del 1980*].
10. At this stage, the crux of the case of the petitioner depends on the registration which the petitioner is enjoying under the Act. The petitioner has relied on diverse registration certificates granted under the Act. A list whereof are fully enumerated both in the plaint and in the petition. In particular, the petitioner relies on a registration *vis-a-vis* TM application Number 3491010 which was applied for both for the HARPIC bottle and the Cap. The registration granted by the authorities as annexed to the application, discloses a six-sided view of the product of the petitioner. For

convenience, the annexure to the certificate of the said registration which has been granted to the petitioner is set out below;



11. On a joint reading of Section 2(1)(m) read with 2(z)(b) of the Act, registration is permissible even in respect of the *shape* of a bottle or its cap. This is clear from the registration certificate which depicts the bottle from various angles and hence it is difficult to accept at this stage that the trademark protection does not extend to the shape of the bottle. Once the petitioner has shown a valid registration certificate, it is automatically entitled to protection under the Act (section 28 of the Act). To this extent registration is *prima facie* evidence of validity (sections 31 of the Act). The question of invalidity of the registration when raised at the appropriate stage in this suit or by filing an application for rectification would be dealt with on its own merits.
12. The right which the petitioner seeks to enforce both in respect of the bottle *shape* for its product HARPIC has also been recognized in *Reckitt Benckiser India Private Limited vs Ravi Kumar & Ors. Bearing CS (COMM) No. 542/2021 dated October 28, 2021*, *Reckitt Benckiser India Private Limited vs Sharad Jagat Pal Shrivastav bearing CS (COMM) No. 552/2021, dated October 29, 2021*, *Reckitt Benckiser (India) Pvt. Ltd. vs Mr. Alok Jain & Anr. bearing CS (COMM) 508/2020, dated November 19, 2020*, *Reckitt & Colman (Overseas) Hygiene Home Limited & Ors. Vs Mr. Abhishek Pundir trading as Jay Shree Enterprises bearing CS (COMM) No. 314/2025, dated April 7, 2025*, *Reckitt & Colman (Overseas) Hygiene Home Limited & Ors. Vs. Ashok Kumar(s)/ John*

*Doe(s) & Ors. Bearing CS(COMM) No. 327/2024 dated 24.04.2024*. In fact, in *Hindustan Unilever v. Reckitt Benckiser (INDIA) Private Limited*. (OS No. 157 of 2021 dated 13 April 2023), the Hon'ble Division Bench while affirming the view of the Single Judge had clearly held that *prima facie* the petitioner is the registered proprietor of the trade mark in respect of the **shape** of the HARPIC bottle.

13. The shapes of the two bottles are virtually identical and strikingly similar. On a cumulative effect of the detailed resemblances of the two products, there appears to be every likelihood of confusion and deception in the mind of the average consumer. (*Gorbadschow Wodka KG vs. John Distilleries 2011 (4) M.H.L.J. 842*).

14. The decision to adopt the impugned trade dress or shape by the respondent was intentional and deliberate. The respondent chose a course of action being fully aware of its consequences and has taken a calculated risk. In such circumstances, there is no question of any balance of convenience or irreparable injury in their favour. Once the Court is satisfied that the registered trademark of the petitioner has been infringed an injunction must follow as a normal cause regardless of the consequences. (*Allergan Inc. vs. Milment Oftho Industries and Ors. AIR 1998 Cal 261 and N. R. Dongre vs. Whirlpool Corporation AIR 1995 Del 300*).

15. In such view of the matter, the petitioner has been able to make out a strong *prima facie* case on merits, the balance of convenience and irreparable loss lies in favour of orders being passed in their favour. Accordingly, there shall be an ad interim order in terms of prayers a(i) and a(ii) of the Notice of Motion till 23 March 2026. This order is limited only to the prayer for infringement. The parties are directed to exchange affidavits. Let Affidavit-in-

Opposition be filed within a week from date. Reply thereto, if any, be filed one week thereafter. List this matter as 'Specially Fixed Matter' on 16 March, 2026.

(RAVI KRISHAN KAPUR, J.)

**Later:**

After pronouncement of this order Mr. Ranjan Bachawat, Senior Advocate, appearing on behalf of the respondent prays for stay of operation of this order. The prayer for stay is considered and rejected.

(RAVI KRISHAN KAPUR, J.)

S.bag/S.K.