

If third-party sellers exploit an e-commerce platform's "latching on" feature to attach themselves to a brand owner's existing listings and, through such listings, display the brand owner's trade mark, copyrighted product photographs and listing content so as to present their own products under the same commercial presentation, a prima facie case of passing off is made out

The **Delhi High Court** in the case of **Piyush Sapra vs Flipkart Internet Private Limited [CS(COMM) 643/2026] dated June 15, 2026**, has held that where third-party sellers exploit an e-commerce platform's "latching on" feature to attach themselves to a brand owner's existing listings and, through such listings, display the brand owner's trade mark, copyrighted product photographs and listing content so as to present their own products under the same commercial presentation, a prima facie case of passing off is made out. The Court accepted that such conduct is likely to deceive unwary consumers into believing that the defendants' products originate from, are affiliated with, or are connected with the plaintiffs, and is therefore liable to be restrained at the ad-interim stage.

The Court recorded that the Plaintiffs had made out a prima facie case of passing off against Defendant Nos. 2 to 13. It observed that the material on record indicated that Defendant Nos. 2 to 13 had exploited the "latching on" feature on the platform and inserted themselves as alternative sellers against listings of the Plaintiffs' products, with the result that the impugned listings continued to display the Subject Marks, the photographs and listing content of the Plaintiffs' products, thereby presenting Defendant Nos. 2 to 13's offerings under the same commercial presentation as that of the Plaintiffs' products.

The Court further observed that there existed a real likelihood that an unwary consumer of average intelligence and imperfect recollection may be led to believe that the Defendants' products originate from, are affiliated with, or are otherwise connected with the Plaintiffs' products. The acts of Defendant Nos. 2 to 13 were therefore held, prima facie, to be calculated to ride upon the goodwill associated with the Subject Marks and likely to cause confusion as to the origin of the products.

Accordingly, the Court restrained Defendant Nos. 2 to 13 and all persons acting on their behalf from using the Subject Marks 'SHAPERMEN' / 'SHAPER MEN' or any deceptively or confusingly similar mark, from using the Plaintiffs' copyrighted product photographs and listing content, and from manufacturing, marketing, selling, distributing, offering for sale, advertising, exporting, importing or otherwise dealing in products bearing the Subject Marks or any deceptively similar mark, or from passing off the Defendants' products as those of the Plaintiffs or as associated with the Plaintiffs. The Court further directed Defendant No. 1 to forthwith delist, take down and disable access to the impugned listings.