Section 34 of the Trade Marks Act, 1999, protects the vested rights of a prior user. Merely because fans and water purifiers fall under the same class (Class 11), they are not automatically considered cognate goods, as classification is for registration purposes and not determinative of similarity

The **Delhi High Court** in the case of **Kent RO Systems vs Kent Cables [FAO(OS)(COMM) 141/2023] dated March 11, 2026**, has clarified that an appellate court will not interfere with the exercise of discretion by a Single Judge in granting or refusing an interlocutory injunction unless the discretion is shown to have been exercised arbitrarily, capriciously, perversely, or by ignoring settled principles of law. The High Court ruled that the Kent RO Systems (appellants) were rightly denied an interim injunction against the Kent Cables (respondents) and were correctly injuncted from using the mark 'KENT' for fans.

The ruling was premised on the grounds that the respondents were the prior users of the mark for fans, a right protected under Section 34 of the Trade Marks Act, 1999, and the appellants, despite being aware of the respondents' use of the mark for fans for over a decade, delayed taking action, thereby acquiescing to such use and disentitling themselves to the discretionary relief of injunction.

As the appellants had not yet launched their fans, while the respondents had an established business, the balance of convenience lay in favour of the respondents, who were the prima facie proprietors of the mark for that specific product, added the Court.

The Court observed that while Kent RO adopted the mark ‘KENT’ for oil meters in 1988, Kent Cables had adopted the same mark for wires and cables in 1986. Therefore, Kent Cables was the first adopter of the mark, albeit for different products, and their adoption could not be considered mala fide.

The Court analysed Kent RO's claim of infringement under Section 29(2)(a) of the Trade Marks Act, 1999, and noted that Kent RO's trademark registrations in Class 11 were specifically for ‘water purifiers’ and related goods, not for ‘fans’. It held that merely because fans and water purifiers fall under the same class (Class 11), they are not automatically considered cognate goods, as classification is for registration purposes and not determinative of similarity.

The Court considered that the expansion by Kent Cables from electric wires and cables into fans could be seen as a natural progression of their business. Since Kent Cables started using the mark for fans in 2009, when Kent RO was admittedly not in the fan business, their use could not be said to be taking unfair advantage of Kent RO's trademark.

Further, the Court found that Kent RO was aware of Kent Cables' use of the mark for fans since at least 2011, when it issued a cease-and-desist notice, and had opposed their trademark application in 2007. By not taking legal action for over a decade and allowing Kent Cables to grow its business, Kent RO had acquiesced to the use of the mark by Kent Cables. This delay and acquiescence disentitled Kent RO from the discretionary relief of an interim injunction.

The Court also observed that Section 34 of the Trade Marks Act, 1999, protects the vested rights of a prior user. The prior use of the mark 'KENT' for fans by Kent Cables was found to be sufficient to disentitle Kent RO from obtaining an injunctive relief against them at the interim stage.

As far as propriety of injunction against Kent RO is concerned, the Court upheld the injunction restraining Kent RO from launching fans. It reasoned that Kent RO had not used the mark for fans until the suit was filed. Ordinarily, there can only be one proprietor of a mark for a specific product, and prima facie, for fans, that proprietor is Kent Cables.