

When comparing two trademarks, if a part of the marks is common to the trade or descriptive, that common element cannot be the decisive factor in determining similarity. The comparison must be made by giving greater regard to the uncommon elements of the marks

The **Delhi High Court** in the case of **Volkswagen AG vs Registrar of Trade Marks [C.A.(COMM.IPD-TM) 30/2024] dated March 12, 2026**, has clarified that when comparing two trademarks, if a part of the marks is common to the trade or descriptive (in this case, the word 'MOTION' for the automobile industry), that common element cannot be the decisive factor in determining similarity. The comparison must be made by giving greater regard to the uncommon elements of the marks. Accordingly, it rejected Volkswagen's petition against the Registrar of Trademarks' decision to register Maruti Suzuki's 'TRANSFORMOTION' trademark.

The Court held that a trademark that is perceived as a single, composite word should be considered as a whole and should not be artificially dissected for the purpose of comparison. The presence of a distinguishing prefix ('TRANS') that creates a different visual and phonetic impression, coupled with a stark visual difference (numeral vs. alphabets), can render two marks dissimilar, even if they share a common suffix.

The likelihood of confusion is diminished when the goods in question are high-value items (like cars) that are purchased after due deliberation by consumers, and when the competing parties are well-known entities with their own independent goodwill and reputation in the market, added the Court.

Hence, the Court explained that a claim of confusion is significantly weakened when the defendant's use of its mark in a specific market predates the plaintiff's entry and use of its mark in that same market, as consumers could not have been aware of the plaintiff's mark at the time the defendant commenced use.

The Court observed that visually, there is no plausible chance of confusion between the two marks, noting the 'stark difference' of the Appellant's mark starting with a numeral '4' versus the Respondent's mark starting with alphabets. Phonetically, the Bench agreed with the Registrar that the sound of 'TRANS' in 'TRANSFORMOTION' makes it sufficiently distinct from '4MOTION'/'FORMOTION'.

Regarding conceptual similarity, the Court first noted that this plea was not raised before the Registrar and the Appellant was precluded from raising it on appeal. Nevertheless, the Court found no merit in the argument, as '4MOTION' denotes an existing vehicle feature, while 'TRANSFORMOTION' is used in an advertising campaign to convey a transition of technology.

The Court found merit in the Respondent's submission that the word 'MOTION' is common to the automobile industry and descriptive in its use by both parties to denote technology. It held that the word 'MOTION' cannot be decisive, and the rival marks must be compared by considering their uncommon parts. The Court was also unable to accept the Appellant's plea

to dissect the impugned mark, stating that 'TRANSFORMOTION' 'commends to the mind of the Court as a single word' and there is no inclination to split it up.

On likelihood of confusion and prior use, the Court held that since the marks were found not to be deceptively similar, the Appellant's argument of being the 'earlier trademark' was not relevant. The Court was persuaded that there was no likelihood of confusion, considering that both parties (Volkswagen AG and Maruti Suzuki India Limited) have substantial independent goodwill and that cars are high-value products purchased by consumers after due deliberation.