

THE TRADE MARKS ACT, 1999  
(BEFORE THE ASST. REGISTRAR OF TRADE MARKS)

IN THE MATTER OF APPLICATION NO. 5241172 IN CLASS- 3 IN  
THE NAME OF TANISHA SHETH 5, NAVJIVAN SOCIETY, MAHEMDAVAD,  
DIST. KHEDA, GUJARAT.

**: APPLICANT**

VS.

IN THE MATTER OF OPPOSITION NO. 1145970 thereto by Coty  
Beauty Germany GmbH, Berliner Allee 65, 64295 Darmstadt,  
Germany.

**: OPPONENT**

Present: Mr. Mukesh Jain, Advocate for the Applicant.

Miss. Bhoomika Khaneja for the Opponent.

**ORDER**

A Trade Mark consisting of the word "BOSSBABE" was sought for registration by the aforesaid Applicant in respect of goods "Cosmetics and skin care products, namely foundation, concealer, mascara, eye shadow, eye and / or brow liners, lipstick, lip liner, lip balm, face powder bronzer, blusher, moisturizer, make-up remover, non - medicated body powder, skin soaps, bath gel, bath oil,

bath salts, bath beads, non - medicated skin care preparations namely lotions, creams, cleansers, scrubs, masks and toners, hair care and hair styling preparations namely shampoos, conditioners, finishing spray and gel, personal deodorants, sun - tanning preparations, sunscreen oils and lotions shaving preparations, dentifrices, perfumes, eau de toilette, essentials oils for personal use, perfume oils, nail care preparations, nail enamel, pumice stone, cotton stick and wool swabs for non - medical purposes all for use on the body, scented room fragrances, incense sticks, potpourri and sachets, powdered cosmetic tissues, tissues impregnated with lotions, kits and gift sets containing skin and/or hair care preparations, body moisturizers, body scrubs / polishes, body lotions, beautifying oils, lip butters, shower gels / creams, soaps, body mists, eau de toilette, eau de parfum, bath crystals, hand creams, make up, baby powder; toiletries, namely, hair shampoo, hair conditioner, hair detanglers, hair spray, body wash and skin cleansers, body lotion, moisturizers, and skin cream, body soap, body powder and body oil; baby cologne; baby oil; baby cream, baby lotion, baby shampoo, baby cosmetic products, cotton swabs; pre-moistened wash clothes" in Class-3 under Application No. 5241172. Subsequently it was ordered for Advertised before Acceptance and it was advertised in Trade Marks Journal No. 2031-0 dated 20.12.2021.

On 28.01.2022 the above named Opponent filed a Notice of Opposition objecting to the registration of the impugned mark under Sections 9(2)(a), 11(1), 11(2), 11(3)(a), 11(4), 11(10), 12, 18(1), 28, 29, 102 and 103 of the Act. The Opponent stated that it is a globally renowned company in the beauty and fragrance industry, incorporated under the laws of Germany, and holds an exclusive fragrance licensing agreement from Hugo Boss Trade Mark Management GmbH & Co., by virtue of which it became the global licensee of HUGO BOSS products under Class 3. The Opponent is the registered proprietor of various trade marks including BOSS / HUGO BOSS Trade Marks in India, the details are as under:

S. no	Trademark	Trademark No.	Class	Status
1	HUGO (HUGO BOSS)	610824	3	Registered
2	HUGO BOSS ENERGISE	1282055	3	Registered
3	HUGO ELEMENT	2677090	3	Registered
4	BOSS	502837	3	Registered
5	BOSS INTENSE	1201610	3	Registered
6	BOSS SKIN	1326542	3	Registered
7	BOSS AQUA	766732	3	Registered

8	DARK BLUE HUGO HUGO BOSS	878574	3	Registered
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The Opponent submitted in his Notice of Opposition that the mark HUGO BOSS was introduced in the year 1923 and the mark BOSS was introduced for fragrances in the year 1984. The Opponent has been continuously and extensively using these Trade Marks since then. The impugned mark "BOSSBABE" adopted by the Applicant is identical and/or deceptively similar to the Opponent's prior registered and well-known Trade Marks, particularly the mark "BOSS", which forms the dominant and essential feature of the impugned mark. The registration of the impugned mark would cause confusion during the course of trade among the public. The Opponent finally prayed that the application be refused registration and the opposition may be allowed with costs.

In the Counter Statement dated 19.04.22, the Applicant stated that it is engaged in the business of manufacturing, marketing and trading of cosmetics and skin care products and has adopted the trademark BOSSBABE on 09.12.2021 with honest and bonafide intention. The Applicant claimed that the said trademark is a coined and invented mark, and is phonetically, structurally and visually different and distinct from the Opponent's

trademarks. The Applicant denied any deceptive similarity between the rival marks, denied that the Opponent's mark is a well-known trademark as declared by any Indian Court or the Indian Intellectual Property Office, and submitted that the mark must be seen as a whole. The Applicant prayed that the opposition be dismissed with heavy costs.

The Opponent filed its Evidence Affidavit under Rule 45 of the Trade Marks Rules, 2017 on 18.07.2022 in the name of Ms. Meena Bansal, Constituted Attorney of the Opponent Company, supported by documentary evidence as Annexures A to K. The Applicant, vide letter dated 09.09.2022, chose not to file any evidence under Rule 46 and instead relied upon the statements, averments and contentions made in its Counter Statement. Thereafter, the Opponent filed a Letter of Reliance under Rule 47 on 11.10.2022, reiterating its reliance upon the Notice of Opposition and the Evidence Affidavit filed under Rule 45. With this, the evidence stage was treated as closed and the matter was set down for hearing.

On the date of hearing, Mr. Mukesh Jain, Advocate appeared for the Applicant and Miss. Bhoomika Khaneja appeared for the Opponent. Both counsels represented the respective parties, argued vehemently, and the case was heard. The orders were thereafter reserved.

The Ld. Counsel for the Opponent argued that the Opponent is a globally reputed company in the beauty, fragrance and cosmetics industry and holds an exclusive licensing agreement for HUGO BOSS products under Class 3. The Opponent holds multiple valid and subsisting Indian registrations for the marks BOSS, HUGO BOSS and allied variants, all in Class 3, the same class in which the impugned application has been filed. The mark BOSS has been in continuous and extensive use since 1984 and has acquired substantial goodwill and reputation, including trans-border reputation in India. The impugned mark "BOSSBABE" is structurally dominated by the word "BOSS", which is identical to the Opponent's registered mark BOSS (TM No. 502837). The addition of the word "BABE" is a mere suffix that does not sufficiently distinguish the impugned mark from the Opponent's earlier marks. The goods in respect of which the impugned application is filed cosmetics, skin care, fragrances, bath products, perfumes are identical to the goods covered under the Opponent's existing Class 3 registrations. The Applicant filed the impugned application on a "proposed to be used" basis, making it clear that there is no prior actual use by the Applicant, whereas the Opponent has decades of use and registration in India and worldwide. The Ld. Counsel submitted that the conduct of the Applicant is malafide and driven by a dishonest intention to ride upon the vast goodwill and reputation of the well-known BOSS mark. Opponent's counsel further added that an injunction order

was passed in favour of the opponent by the Saket District Court, New Delhi in the matter of Hugo Boss Trademark Management GmbH & Co. K. g. v M/s. L. Factor Cosmetics & Ors, -CS (COMM) 530/2023. This demonstrates the Opponent's vigilance in safeguarding and enforcing its trademark rights.

At the time of hearing, the Applicant's counsel reiterated the contentions from the Counter Statement and submitted that the marks are different when seen as a whole and there is no likelihood of confusion. The Applicant's counsel also submitted that the Hon'ble Registrar may exercise discretionary powers in favour of the Applicant.

I have heard the arguments of both the counsels and have carefully gone through the records of the case. The Applicant's Trade Mark is "BOSSBABE" and the Opponent's Trade Mark is "BOSS". The primary and dominant element of the impugned mark is the word "BOSS", which is identically reproduced in the Applicant's mark as its first and most prominent component. When I compare the rival marks, I am of the view that both the marks are visually, phonetically and structurally similar to a significant degree on account of the common and dominant element "BOSS".

The following similarities are noted between the rival marks:

The impugned mark "BOSSBABE" consists of eight alphabets. The first four alphabets "BOSS" are wholly and identically present in the Opponent's registered Trade Mark. The added suffix "BABE" does not independently distinguish the impugned mark, nor does it create a new and distinct identity sufficient to negate the deceptive similarity. The word "BOSS" constitutes the dominant, essential and distinctive element of the impugned mark. It is well settled that when a dominant part of a mark is identical to a registered mark, the mere addition of a descriptive or non-distinctive suffix does not make it distinct by itself, eliminate the likelihood of confusion. Unlike the situation in which an entirely new word prefix transforms a mark into a distinct identity, here the word "BABE" merely follows and qualifies "BOSS" without altering its dominant character.

The goods in respect of which both marks are used or proposed to be used are identical and similar within Class 3 and include cosmetics, skin care products, fragrances, perfumes, bath preparations and related goods. The channels of trade, the consumer base and the points of sale are also identical. The relevant consumer in this category is not necessarily an expert, and confusion is highly probable when both marks cover the same class of goods.

The Opponent has filed cogent documentary evidence establishing long, continuous and extensive use of the BOSS and HUGO BOSS marks in India and worldwide since 1984. The Applicant, on the other hand, filed the impugned application on a "proposed to be used" basis on 09.12.2021 and till date not a single invoice nor any other supporting documents has been produced by the applicant, thereby failing to substantiate the claims made in the Counter Statement with any documentary proof of use, adoption or distinctiveness. When an Applicant opts to not file evidence and merely relies on averments in the Counter Statement, those averments remain unproved and cannot be accorded evidentiary weight against the positive documentary evidence placed by the Opponent.

The Applicant's claim that the BOSS mark is not a well-known mark as declared by any Indian Court or the Indian Intellectual Property Office does not, by itself, defeat the opposition. The question for determination under Sections 11(1) and 11(2) is the likelihood of confusion or association with an earlier registered mark and/or a well-known mark and the Opponent's marks qualify as earlier marks under the Explanation to Section 11(4) of the Act. The BOSS mark (TM No. 502837) has been registered in Class 3 since well before the date of the impugned application, and the impugned application was filed subsequent to those subsisting registrations, on a proposed-to-be-used basis.

I am accordingly of the view that the rival marks cannot be treated as different marks. The dominant element "BOSS" of the impugned mark creates a clear likelihood of confusion and association with the Opponent's prior registered and extensively used Trade Marks BOSS and HUGO BOSS in Class 3. The adoption of "BOSSBABE" by the Applicant does not appear to be an honest or bona fide adoption in the absence of any credible explanation for the adoption of the word "BOSS" as the dominant component of the impugned mark, particularly when the Opponent holds numerous prior registrations for BOSS-formative marks in the same class. The Applicant has not come forward with any evidence to establish a credible basis for its honest adoption or to discharge the burden that lay upon it to prove that its adoption was innocent and independent.

Considering the above, the registration of the impugned mark "BOSSBABE" is likely to cause confusion and deception in the minds of the purchasing public, who may be led to believe that the Applicant's goods are associated with, sponsored by, or connected to the Opponent. The registration of the impugned mark is contrary to the provisions of Sections 11(1) and 11(2) of the Act. It is further contrary to Section 18(1) of the Act inasmuch as the Applicant, having adopted a mark dominated by the Opponent's prior registered mark, cannot legitimately claim to be the proprietor of the same.

In view of the above, the Application No. 5241172 in Class-3 is refused for registration and consequently, the Opposition No-1145970 is allowed with no order as to costs.

Signed and Sealed at Ahmedabad dated this 08 June, 2026.



Rama Devi Verma  
रमा देवी वर्मा / Rama Devi Verma

Asstt. Registrar of Trade Marks  
सहायक पंजीकार व्यापार चिन्ह, भौगोलिक उपदर्शन और प्रतिलिप्याधिकार  
Assistant Registrar of Trade Marks, GI & Copyright

भारत सरकार / Government of India

व्यापार चिन्ह रजिस्ट्री / Trade Marks Registry

वैदिक संस्कृत भवन / IP Bhavan

चानक्यपुरी ओवर ब्रिज के निकट / Nr. Chanakypuri Over Bridge

घाटलोदीया, अहमदाबाद / Ghatlodiya, Ahmedabad