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**CASE STUDY OF:** **Kent Cables Private Limited & Ors. vs Kent Ro Systems Limited & Ors. on 30 May 2023**

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**Kent Cables Private Limited & Ors. vs Kent Ro Systems Limited & Ors. on 30 May 2023**

* **Facts of the Case**

1. **Parties Involved**
   * **Kent Cables Private Limited (Kent Cables)** – Engaged in the business of electronic and electrical goods.
   * **Kent RO Systems Limited (Kent RO)** – Engaged in the manufacture and sale of water purifiers, air purifiers, kitchen appliances, and other electronic products.
2. **Trademark Adoption & Business Expansion**
   * Kent Cables adopted the **trademark "KENT" in 1984**, securing its first **registration in Class 09 on 08.09.1986**. Over time, it expanded its product range, establishing a strong market presence.
   * Kent RO adopted the **trademark "KENT" in 1988** for oil meters and later diversified into **water purifiers and kitchen appliances**. In **1999, it launched its Reverse Osmosis (RO) water purifiers**, which became a well-known household product.
3. **Trademark Registrations & Digital Presence**
   * **Kent Cables**: Registered proprietor of the word mark **"KENT"** and various label marks across multiple classes. Owns the domain [**www.kentbharat.com**](http://www.kentbharat.com) and has an active presence on social media platforms.
   * **Kent RO**: Holds **trademark registrations in Classes 09, 07, 11, and 21**, along with international registrations. Owns the domains **kentrosystem.com (since 19.03.2001)** and **kent.co.in (since 03.02.2006)**, with operations in over **50 countries**.
4. **Legal Dispute & Court Proceedings**
   * Kent RO **filed a suit (CS(COMM) 508/2022)** seeking a **permanent injunction** against Kent Cables to prevent the sale of **kitchen appliances under the "KENT" mark**.
   * On **29.07.2022**, the Delhi High Court **granted an interim injunction**, restraining Kent Cables from launching kitchen appliances under the disputed mark until further hearings.
5. **Core Dispute**
   * Both **Kent Cables and Kent RO hold valid trademark registrations for "KENT."**
   * Kent Cables claims to have been selling **fans since 1984** under the "KENT" mark.
   * Kent RO, in contrast, asserts **exclusive rights over "KENT" for water purifiers and related appliances** and argues that Kent Cables' expansion into kitchen appliances **creates consumer confusion and dilutes its brand identity**.
6. **Respondent’s Claims & Trademark Coverage**
   * Kent RO’s trademarks cover **various product categories, including water purifiers, kitchen appliances, and ventilation-related products such as fans (Class 11).**
   * It contends that Kent Cables’ attempt to **expand into kitchen appliances under the "KENT" brand infringes upon its established market identity**.

* **Key Legal Issues in the Case**

1. **Trademark Infringement and Passing Off (Section 29(2) of the Trade Marks Act, 1999)**
   * **Kent RO**, in **CS(COMM) 613/2022**, sought a **permanent injunction** to restrain **Kent Cables** from using the trademark **"KENT"** for electric appliances, including **fans, water heaters, and irons**.
   * It argued that such use constitutes **infringement and passing off**, as consumers may associate these products with **Kent RO**, leading to **confusion and dilution of its goodwill**.
2. **Prior Use & Common Law Rights**
   * **Kent Cables' claim:**
     + It has used the **"KENT"** mark for electrical goods (**wires, cables, and fans**) since **1984**.
     + It submitted **documentary evidence**, including **trademark registration (08.09.1986), invoices (1989–2022), advertisements, and promotional materials**, to establish **prior and continuous use**.
     + It argued that allowing **Kent RO** to enter the **fan market** under the same mark would cause **consumer confusion** and damage its **long-standing reputation**.
   * **Kent RO's claim:**
     + It adopted **"KENT"** in **1988** for **oil meters**, later expanding into **water purifiers and kitchen appliances**.
     + It has actively enforced its **trademark rights** against third parties using the "KENT" mark deceptively.
3. **Trademark Registration vs. Common Law Rights**
   * The court reiterated that **trademark registration does not override prior common law rights**.
   * **Common law rights take precedence** if a party can demonstrate **superior goodwill, reputation, and prior use**.
   * When two registered proprietors hold the same mark for different product categories, the court must **evaluate which party has stronger common law rights**.
4. **Likelihood of Confusion & Balance of Convenience**
   * Both companies operate within **overlapping consumer bases and trade channels**, making the **identical "KENT" mark** likely to cause **public confusion**.
   * Kent Cables has been **selling fans for years**, whereas Kent RO was **only preparing to launch** its fan division when the case was filed.
   * The **balance of convenience** favored Kent Cables, as restraining **Kent RO** from using the mark for **fans** would prevent **unfair advantage and market disruption**.

The case hinges on determining **superior trademark rights**, balancing **statutory registration against common law precedence**, and preventing **consumer deception and unfair competition**.

* **Respondent’s Arguments**

1. The respondent holds multiple trademark registrations for "KEI," including a device mark in Class 6 and Class 9 and a word mark in Class 35 for advertising, marketing, and sales of cables, wires, and related products.
2. The learned Single Judge presumed that the appellant’s use of the impugned trademark covered goods similar to those under the respondent’s registered marks. However, the "first user" rule in trademark law grants rights to the party that commenced use prior to both the proprietor’s use and registration. In this case, the appellant applied for registration in 1992—six years before the respondent's claimed use—supporting the appellant’s right to restrain the respondent’s use.

**Acquiescence and Delay in Legal Action**

50-51. Kent RO issued a cease-and-desist notice to Kent Cables in 2011, acknowledging its use of the "KENT" mark for fans. Despite this, Kent RO took no legal action for 11 years, only filing suit in 2022. This prolonged inaction suggests acquiescence, reinforcing Kent Cables' argument that the status quo should not be disturbed. The case *Ramdev Food Products (P) Ltd. v. Arvindbhai Rambhai Patel (2006) 8 SCC 726* supports this view.

Kent RO’s claim that it need not act against every infringer is undermined by its own legal notice and subsequent opposition to Kent Cables’ trademark application. Additionally, Kent Cables’ sales in multiple product categories indicate it is not an insignificant competitor.

**Pending Trademark Opposition**

1. Kent RO opposed Kent Cables' trademark application for "KENT" in fans, arguing that any sales post-opposition were at Kent Cables' own risk. However, opposition proceedings were delayed due to procedural issues and are still pending. This delay weakens Kent RO’s argument and strengthens Kent Cables’ claim of prior use.

A similar case, *Kent RO System Ltd. v. Gattubhai (2022 SCC OnLine Del 791)*, found that a prior user with substantial market presence could not be restrained from using the mark. The same principle applies here

**Conclusion**

* Kent Cables has demonstrated prior use of "KENT" for fans since at least 2011.
* Kent RO’s failure to act for 11 years suggests acquiescence.
* Pending opposition proceedings do not justify an injunction against Kent Cables.
* Legal precedents support protecting a prior user’s rights over a later registrant.
* **Analysis of law**

**Application of Section 29(4) – Trademark Infringement**

* Under Section 29(4) of the Trade Marks Act, 1999, infringement occurs when:
  1. The impugned mark is identical or similar to the registered trademark.
  2. The registered trademark has a strong reputation in India.
  3. The unauthorized use takes unfair advantage of or harms the distinctive character or repute of the registered mark.
* In this case, the first criterion is met as the marks are identical. The second is satisfied given Kent RO's market presence, sales turnover of ₹7,654 crores, and marketing investments of ₹1,106 crores. The brand's endorsements and awards establish its goodwill.
* The third criterion is also fulfilled—Kent RO lacks control over the quality of Kent Cables' products, potentially damaging its reputation. Customer reviews on Amazon further substantiate this claim. Hence, even if fans and water purifiers are deemed dissimilar, infringement is established.

**Scope of Section 28(3) – Rights of Registered Proprietors**

* Section 28(3) clarifies that two proprietors of identical or similar registered trademarks cannot enforce their rights against each other but may act against third parties.
* However, this does not override common law rights of passing off under Section 27(2). Registration alone does not protect against claims of passing off, reinforcing the principle that reputation-based rights remain enforceable.

**Passing Off and Cross-Class Similarity**

* Registration in different classes (e.g., pharmaceuticals vs. appointment booking services) does not automatically mean there is no likelihood of confusion.
* Courts do not strictly rely on trademark classification to determine similarity but instead consider the nature of goods and services, market perception, and potential consumer confusion.
* As stated in *K.C. Kailasam/Ramu Vedaraman’s Law on Trade Marks & Geographical Indications*, classification under the Act is not the sole determinant of similarity.

**Interpretation of Product Scope**

* Expanding the definition of "electrical and electronic instruments" to include all electrical appliances (e.g., TVs, computers) contradicts the principle of *ejusdem generis* (restricting broad categories to related items).
* The Single Judge’s ruling correctly identified the need for a narrow interpretation but ultimately misapplied the concept.

**Reputation and Prior Use**

* Greater brand recognition necessitates stronger protection against infringement (*Beiersdorf A.G. v. Ajay Sukhwani & Anr., 2008*).
* *Somany Ceramics Limited* further reinforces that even if goods are dissimilar, a well-known trademark is entitled to protection.
* Past precedents emphasize that the classification system does not prevent claims of infringement or passing off if consumer confusion is likely.
* **Precedent Analysis**

1. **Applicability of Section 29(4), Trade Marks Act, 1999**
   * *Beiersdorf A.G. v. Ajay Sukhwani & Anr., 2008 SCC OnLine Del 1226*
     + Held that a **well-known mark** enjoys protection against dissimilar goods if its reputation is established.
     + In the present case, "KENT" has significant **sales, goodwill, and celebrity endorsements**, meeting the threshold under **Section 29(4).**
     + Any unauthorized use that **dilutes distinctiveness** or takes **unfair advantage** constitutes **infringement.**
2. **Scope of Similar Goods and Ejusdem Generis Rule**
   * *Somany Ceramics Ltd. v. Somany Sanitary Ware Pvt. Ltd., 2021 SCC OnLine Del 3318*
     + Clarified that similarity of goods should not be determined **narrowly** based on class distinctions under **Section 7** of the Act.
     + The **rule of ejusdem generis** prevents overly broad interpretation of product categories.
     + In this case, "electrical and electronic instruments" should not be **interpreted expansively** to include all electrical appliances.
3. **Passing Off & Prior Use under Common Law**
   * *Century Traders v. Roshan Lal Duggar & Co., AIR 1978 Del 250*
     + Prior **use prevails over mere registration** under **Section 27(2)** of the Act.
     + Even if Kent Cables holds registration, **Kent RO can claim passing off** if goodwill and deception are established.
4. **Reputation vs. Classification of Goods**
   * *K.C. Kailasam & Ramu Vedaraman’s Law on Trade Marks (2003)*
     + Classification of goods under **Section 7** is not the sole criterion for determining similarity.
     + Courts assess **market perception, nature of trade, and likelihood of confusion** rather than **formal class distinctions.**
5. **Acquiescence & Delay in Enforcement**
   * *Ramdev Food Products Ltd. v. Arvindbhai Rambhai Patel, (2006) 8 SCC 726*
     + Delay in taking action **does not amount to acquiescence** unless it is **long, intentional, and allows the infringer to build substantial goodwill.**
     + If Kent RO **acted promptly** upon discovering infringement, they retain the right to **injunctive relief.**

**Conclusion**

The **Kent RO v. Kent Cables** case involves key trademark principles, including **protection of well-known marks, passing off, similarity of goods, and fair use.** Given the precedent set by these cases, **Kent RO has a strong claim under Section 29(4) and common law passing off,** provided they establish their extensive goodwill and the likelihood of consumer deception.

* **Court's Reasoning in Kent Cables Private Limited & Ors. vs. Kent RO Systems Limited & Ors. (30 May 2023)**

The court primarily analyzed the case under the **Trade Marks Act, 1999**, focusing on **Sections 11(2) and 29(4)** concerning trademark dilution and infringement.

1. **Well-Known Trademark & Protection Against Dilution (Section 11(2))**
   * The court acknowledged that **"KENT"** is a **well-known trademark** in the water purification industry and enjoys extensive goodwill and reputation.
   * It referred to **Section 11(2)**, which prevents the unauthorized use of a well-known mark in unrelated industries if it could dilute its distinctiveness or unfairly benefit another party.
   * The court noted that allowing **"KENT"** to be used for electrical goods could weaken its unique identity, even if there was no direct competition between the parties.
2. **Trademark Infringement (Section 29(4))**
   * The court applied **Section 29(4)**, which states that even when a trademark is used for unrelated goods/services, infringement occurs if:  
     a) The impugned mark is **identical or similar** to a registered trademark.  
     b) The use is **without authorization** and in relation to dissimilar goods.  
     c) The use **takes unfair advantage** of or is **detrimental to the distinctive character or reputation** of the registered mark.
   * The court found that the defendants’ use of **"KENT"** for **electrical goods** (cables and related products) could lead to dilution of the mark’s reputation, even if direct consumer confusion was not established.
3. **Likelihood of Consumer Association & Brand Dilution**
   * The court emphasized that trademark dilution does not necessarily require direct confusion but rather **a mental association between the marks** in the minds of consumers.
   * Given the **strong reputation of "KENT" in the Indian market**, the court determined that the defendants’ use of the name **could mislead consumers into assuming a connection** between the brands, which would be unfair to the plaintiff.
4. **Relief Granted**
   * The court ruled in favor of **Kent RO Systems Ltd.**, restraining **Kent Cables Pvt. Ltd.** from using **"KENT"** for their electrical goods.
   * It upheld the principle that **well-known trademarks are entitled to broad protection**, even beyond their original industry.

* **Conclusion**

The **Delhi High Court** examined the trademark dispute between **Kent Cables Private Limited (appellant)** and **Kent RO Systems Limited (respondent)** regarding the use of the **"KENT"** mark for **electrical fans**. The court’s reasoning was based on the following legal provisions and principles:

1. **Trademark Infringement (Section 29(2) of the Trade Marks Act, 1999)**
   * The court found that the **respondent’s registered trademarks** did not cover goods **similar** to those of the appellant, specifically electrical fans.
   * Consequently, the **impugned judgment holding infringement under Section 29(2) was deemed unsustainable**.
2. **Passing Off and Balance of Convenience**
   * The court ruled that at the **prima facie stage**, the **balance of convenience favored Kent Cables over Kent RO**.
   * It held that **Kent RO and its affiliates were permanently restrained** from **manufacturing and selling fans under the KENT trademark**, as it would amount to **passing off** their goods as those of Kent Cables.
   * Conversely, **Kent RO’s application to restrain Kent Cables from selling fans was dismissed**.
3. **Scope of Relief**
   * The court **did not pass orders** regarding other products mentioned in the reliefs sought, as these were **not pressed during the hearing**.
4. **Nature of the Judgment**
   * The court clarified that its **findings were only tentative and prima facie**, meaning they would not impact the **final adjudication of the suit**.