

Bsa Business Software Alliance, Inc vs Tube Investments Of India Ltd & Anr on 13 October, 2023

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI
C.A.(COMM.IPD-TM) 28/2023, I.A. 19774/20
19776/2023

BSA BUSINESS SOFTWARE ALLIANCE, INC....

Through: Ms. Aarti Aggarwa
Advocates, (M 98

versus

TUBE INVESTMENTS OF INDIA LTD & ANR.....

Through: Mr. Arun C Mohan,
Pandey, Mr. Sast
Biyanka Bhatia,
(M. 7060554622)

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WITH

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C.A.(COMM.IPD-TM) 29/2023, I.A. 19814/20
19816/2023

BSA BUSINESS SOFTWARE ALLIANCE, INC. ...

Through: Ms. Aarti Aggarwa
Advocates,

versus

TUBE INVESTMENTS OF INDIA LTD & ANR.....

Through: Mr. Arun C Mohan,
Pandey, Mr. Sast
Biyanka Bhatia,

57

AND

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C.A.(COMM.IPD-TM) 30/2023, I.A. 19821/20
19823/2023

BSA BUSINESS SOFTWARE ALLIANCE, INC. ...

Through: Ms. Aarti Aggarwa
Advocates,

versus

TUBE INVESTMENTS OF INDIA LTD & ANR. ...

Through: Mr. Arun C Mohan,
Pandey, Mr. Sasth
Biyanka Bhatia, A

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CORAM:

JUSTICE PRATHIBA M. SINGH
ORDER

% 13.10.2023

1. This hearing has been done through hybrid mode.

2. These are three appeals filed by Petitioner-BSA Business Software Alliance, Inc. challenging the impugned order dated 25th April, 2023 passed by the Registrar of Trademarks. Vide the said order the oppositions filed by the Respondents have been allowed. The Appellant's applications for registration of the mark 'BSA' bearing number 1678256 in classes 16, 35, 41, 42 have been rejected by the Registrar of Trade Marks.

3. The Court notices that BSA Business Software Alliance, INC is an entity which is a non-profit trade association, which claims to advance the goals of the software industry, and advocate for public policies that foster technology innovation and drive growth in the digital economy. It undertakes various compliance activities on behalf of the software companies and almost all the largest software makers are members of the said association such as Adobe Systems, Apple Inc., Bentley Systems, Cisco, Dell, IBM, Microsoft, McAfee, etc.

4. Petitioner also claims to coordinate on a global level and take action against software sellers and end-user organizations that make unauthorized copies of software, and coordinate with enforcement agencies to enforce copyright laws.

5. On the other hand, the Respondent No.1- Tube Investments of India Limited is also a well known Chennai based company, which has been using the mark 'BSA' since 1950. Its mark is registered, bearing no. 1498332 in class 35 for bicycle, cycle components, accessories, electric scooters, fitness equipment and other related products. The Appellant's trademark applications were opposed by BSA Cycles, which led to the impugned orders being passed.

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6. Mr. Arun C. Mohan, Id. Counsel has entered appearance on behalf of the Respondent. He submits that there are various matters, which are pending between the parties in opposition proceedings before the Trademark Registry.

7. In the opinion of this Court, there ought to be a broad delineation of goods and services between the BSA i.e., Business Software Alliance and 'BSA' used by the Respondent for bicycles and allied products. The same ought to be agreed between the parties so that the respective marks can be registered, and the parties do not sue each other in respect of products and services, which they agree upon.

8. For the said purpose, let an authorized representative on behalf of the Appellant and the Respondents join the Court proceedings on the next date of hearing. Mr. Arun C. Mohan and Ms. Mohini, Id. Counsels shall coordinate with each other and attempt a resolution by delineation of products and services with their respective clients. Once the delineation is done, the parties can then seek registrations in respect of the mark 'BSA' for their respective concerned products and services.

9. List on 29th November, 2023 in the supplementary list.

10. The appeal in respect of class 41 has not been listed today. Let the said appeal be listed along with these three appeals.

PRATHIBA M. SINGH, J.

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