

# Ibibo Group Pvt Ltd. vs Satyendra Kumar Singh And Anr on 1 April, 2025

**Author: Amit Bansal**

**Bench: Amit Bansal**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 1

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C.O. (COMM.IPD-TM) 251/2022

IBIBO GROUP PVT LTD.

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Through:

Mr. Abhishek Kotnala and  
Kartikeya Tandon, Advocates

versus

SATYENDRA KUMAR SINGH AND ANR

.....

Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present rectification petition has been filed under Sections 47 and 57 of the Trade Marks Act, 1999 (hereinafter 'the Act') seeking cancellation of registration/ removal of the trade mark ' ' bearing no. 3742148 in class 9 in the name of the respondent no.1 (hereinafter 'impugned mark') from the Register of Trade Marks.

## PROCEEDINGS IN THE PETITION

2. The present petition was received on transfer after the abolition of the erstwhile Intellectual Property Appellate Board (hereinafter 'IPAB') pursuant to the Tribunal Reforms Act, 2021.

3. Notice in the present petition was issued by the IPAB to the respondent no.1 on 18th March 2019. It was noted in the order dated 28 th February 2022 that previous order sheets post 18th March 2019 and certain details of the parties were not on record.

4. On 22nd July 2022, fresh court notice was issued to the respondent no.1 including through counsel. As recorded in the order dated 15 th December 2022, the respondents were duly served.

5. Despite the aforesaid, neither any appearance has been made on behalf of the respondent no.1 nor has any reply been filed to the present petition. BRIEF FACTS

6. Brief facts set up in the petition, which are relevant for adjudicating the present petition, are as under:

6.1. The petitioner, Ibibo Group Private Limited, is operating an online travel platform under the mark 'GOIBIBO'. The petitioner is one of India's largest online travel companies and has its presence across India and several other countries around the world.

6.2. The petitioner has been continuously and uninterruptedly using the marks GOIBIBO, ' ', ' ' and other GOIBIBO-formative marks in relation to all its business activities since 2009 (hereinafter 'GOIBIBO marks').

6.3. The GOIBIBO marks are coined/ invented marks and therefore are highly unique and distinctive. Due to their extensive use spanning over a decade, which is further elaborated hereinbelow, the GOIBIBO marks have become synonymous with the petitioner and its services. 6.4. The petitioner's services under the GOIBIBO marks include booking of air tickets, hotel reservations, domestic and international holiday packages and ancillary travel requirements such as facilitating access to travel insurance. The petitioner has carved out a niche for itself within the travel industry over the last decade as one of the most popular one-stop travel websites.

6.5. The petitioner owns and operates one of the most widely used travel websites of India including [www.goibibo.com](http://www.goibibo.com) (registered on 22nd May 2009) since 2010. Till date, over 10 million bookings have been made through the petitioner's website.

6.6. The petitioner substantially invests in advertising and promotional activities under the GOIBIO marks which include promotions through conventional print media as well as digital media. The petitioner has also sponsored various national and international events where the GOIBIBO marks have been prominently featured. Resultantly, the petitioner has been subjected to widespread unsolicited media publicity in leading Indian and international publications including newspapers and magazines.

6.7. The petitioner also actively operates its profiles on social media platforms such as Facebook, Twitter, YouTube and Instagram, all of which prominently feature the GOIBIBO marks. The petitioner also launched a mobile application in 2013 under the GOIBIBO marks and the same is available through various platforms including Google Play and Apple iStore.

Till date, the petitioner's mobile application has received over 16 million downloads.

6.8. The petitioner's sales turnover and marketing expenses under the GOIBIBO marks in India for the years 2013-14 to 2017-18 are provided in paragraphs no.12 and 13 respectively of the petition. Pertinently, in the year 2017-18, the petitioner's sales turnover was to the tune of Rs. 135,631 lakhs

and its marketing expenses were to the tune of Rs. 125,175 lakhs. 6.9. On account of its ever-increasing success, the petitioner and its GOIBIBO marks have received several prestigious awards and recognition, some of which are listed in paragraph no.16 of the petition. The petitioner has also been associated with numerous prestigious projects from noted celebrities, corporate giants and other industry leaders. 6.10. In addition to its common law rights by virtue of the aforesaid, the petitioner has also obtained trade mark registrations for the GOIBIBO marks and various other GO-formative marks in classes 9, 35, 36, 39 and 43. A list of the petitioner's registered trade marks is given in paragraph no.10 of the petition. The earliest registration for the mark GOIBIBO in favour of the petitioner dates back to 18th August 2011 with a user claim since 22nd May 2009.

6.11. The petitioner, while reviewing the Trade Marks Journal No. 1840 dated 12th March 2018 came across the publication of the impugned mark bearing no. 3742148 in class 9 filed on 1 st February 2018 on a 'proposed to be used' basis. A notice of opposition against the said application could not be filed before the due date due to an error on the part of the trade mark agents. Accordingly, the impugned mark was registered on 31st July 2018. 6.12. Aggrieved by the aforesaid, the present petition has been filed. SUBMISSIONS OF THE PETITIONER

7. Counsel appearing on behalf of the petitioner has made the following submissions:

7.1. The petitioner is the prior adopter and user and the exclusive proprietor of the GOIBIBO marks and other GO-formative marks.

7.2. The impugned mark is deceptively similar to the petitioner's GOIBIBO marks and other GO-formative marks and any use of the same is liable to cause confusion and deception among the members of trade and public. 7.3. Owing to the petitioner's widespread goodwill and reputation under the GOIBIBO marks, the general public associates the petitioner not only with the GOIBIBO marks but also with its various other GO-formative marks such as GO CONTACTS, GOCASH PLUS, GO BIZ, GO BUSINESS, GO STAYS, wherein the mark 'GO' forms the dominant and essential part and is independently popular among the general public. Resultantly, the mark GO is also associated by the members of trade and public with the petitioner's services only and registration of the impugned mark is diluting the distinctiveness of the petitioner's GOIBIBO and other GO-formative marks. 7.4. The impugned mark stands registered in relation to 'mobile and mobile accessories, charger, ear phone, battery, bluetooth, screen guard in class 09', which are similar to and overlapping with the petitioner's business activities. 7.5. The impugned mark has not yet been used by the respondent no.1, therefore, no prejudice or harm can ensue upon the respondent no.1 if the impugned mark is expunged from the Register of Trade Marks. ANALYSIS AND FINDINGS

8. I have heard the counsel for the petitioner and perused the material on record.

9. Despite service, the respondent no.1 has neither entered appearance before this Court nor has he filed his reply to the present petition. This indicates that he has

nothing substantial to put forth on merits by way of a response to the averments made in the petition. It is trite law that in the absence of any denial of the averments made in the petition, the same have to be taken as admitted. In view of the above, the averments made in the petition are deemed to have been admitted.

10. A comparison of the impugned mark with the petitioner's GOIBIBO marks and other GO-formative marks is set out below:

Petitioner's Marks  
GOIBIBO

Impugned Mark

GOSTAYS

GoHomes

GoTrains

GoCars

GoBiz

GoBusiness

GoContacts

GoCashPlus

GoAI

GoBot

GoConnect

11. This Court in the case of Greaves Cotton Limited v. Mohammad Rafi and Ors., 2011 SCC OnLine Del 2596, has held as follows:

"16. It is not necessary that in order to constitute infringement, the impugned

trademark should be an absolute replica of the registered trademark of the plaintiff. When the mark of the defendant is not identical to the mark of the plaintiff, it would be necessary for the plaintiff to establish that the mark being used by the defendant resembles his mark to such an extent that it is likely to deceive or cause confusion and that the user of the impugned trademark is in relation to the goods in respect of which the plaintiff has obtained registration in his favour. It will be sufficient if the plaintiff is able to show that the trademark adopted by the defendant resembles its trademark in a substantial degree, on account of extensive use of the main features found in his trademark. In fact, any intelligent person, seeking to encash upon the goodwill and reputation of a well- established trademark, would make some minor changes here and there so as to claim in the event of a suit or other proceeding, being initiated against him that the trademark being used by him, does not constitute infringement of the trademark, ownership of which vests in some other person. But, such rather minor variations or distinguishing features would not deprive the plaintiff of injunction in case resemblance in the two trademarks is found to be substantial, to the extent that the impugned trademark is found to be similar to the registered trademark of the plaintiff. But, such malpractices are not acceptable and such a use cannot be permitted since this is actuated by a dishonest intention to take pecuniary advantage of the goodwill and brand image which the registered mark enjoys, it is also likely to create at least initial confusion in the mind of a consumer with average intelligence and imperfect recollection. It may also result in giving an unfair advantage to the infringer by creating an initial interest in the customer, who on account of such deceptive use of the registered trademark may end up buying the product of the infringer, though after knowing, either on account of difference in packaging etc. or on account of use of prefixes or suffixes that the product which he is buying is not the product of the plaintiff, but is the product of the defendant."

[emphasis supplied]

12. As may be seen from the side-by-side comparison of the marks set out in the table above, the essential part of the impugned mark is 'GO', which is also evident from the fact that the impugned mark also contains a logo for the word 'GO', in addition to the words 'GO PLUS'. Therefore, when considered in totality, it is evident that the impugned mark is deceptively similar to the petitioner's GOIBIBO marks and other GO-formative marks.

13. Further, as mentioned hereinabove, the petitioner uses several GO- formative marks in relation to its business activities, as a result of which the mark GO is also associated by the members of trade and public with the petitioner only.

14. This Court further notes that the petitioner is the registered proprietor of the GOIBIBO marks and other GO-formative marks in relation to 'downloadable software for accessing digital content in the field of travel, hotels, and other accommodations; downloadable software used for accessing a website/ platform where users can avail and benefit from loyalty and incentive schemes and plans; downloadable software used for searching and comparing rates for hotels and other

accommodations; downloadable software to be used in the field of the intermediation between those who seek and offer temporary accommodation, tourism and travel arrangement' in class 9, among other classes. Therefore, the impugned mark registered in the name of the respondent no.1 is in respect of goods which are similar to and overlapping with the services of the petitioner.

15. The petitioner has been using the GOIBIBO marks since 2009 in India and, by virtue of their widespread advertisement and promotion, has acquired immense goodwill and reputation thereunder. On the other hand, the respondent no.1 adopted the impugned mark on 1 st February 2018 on a proposed to be used basis and has not made any use of the impugned mark in relation to the aforesaid goods in class 9. Considering the aforesaid, I am of the view that any use of the impugned mark is likely to cause confusion and deception among the consumers who associate the GOIBIBO marks and other GO-formative marks with the petitioner only and none else.

16. I am therefore of the view that the petitioner is aggrieved by the continued subsistence of the impugned mark on the Register of Trade Marks.

17. In light of the aforesaid, it is clear that any use of the impugned mark adopted by the respondent no.1 is liable to be associated with the petitioner and dilute the goodwill and reputation of the petitioner under the GOIBIBO marks and other GO-formative marks. Therefore, the continuation of the registration of the impugned mark in the name of the respondent no.1 in the Register of Trade Marks is in contravention of the provisions of Sections 9, 11 and 18 of the Act and is liable to be cancelled under the provisions of Section 57 of the Act.

18. Accordingly, the present petition is allowed and the Trade Marks Registry is directed to remove the impugned mark ' ' bearing no. 3742148 in class 9 in the name of the respondent no.1 from the Register of Trade Marks.

19. The Registry is directed to supply a copy of the present order to the Trade Marks Registry, at e-mail: llc-ipo@gov.in, for compliance.

20. All pending applications stand disposed of.

AMIT BANSAL, J APRIL 1, 2025/Vivek/-