



Distell Succeeds in Removal of Infringing Identical Mark

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Registrar of Trade Marks allows rectification application by a South African company against marks "riding on [its] goodwill and reputation", holding it to be an 'aggrieved person' notwithstanding absence of a trademark registration in India. Distell Limited (Distell), a leading producer of wines and other spirits based in South Africa, successfully argued an application for revocation against the mark BLOUBERG registered in India by one Chetan Das of Bangalore (Respondent). The registered mark was identical to Distell's trademark BLOUBERG. BLOUBERG was adopted by Distell in respect of its white and red wines and has been in use since 1991. Wines under the mark are sold around the world and the mark is prominent in trade and popular with buyers. The Respondent had formerly imported wines from Distell for distribution in India. The Registrar noted that Distell had expressly raised concerns about the Respondent registering the BLOUBERG mark and filing applications for Distell's other marks in India. The Registrar concluded that the Respondent's registration of an identical mark was "clearly with mala fide intention to ride on the goodwill and reputation acquired by the petitioner." and that the Respondent "...has not approached this Tribunal with clean hands...". An order directing removal of the mark from the Trade Marks Register was passed. On the question of whether Distell could bring the application for revocation, the Registrar stated that the Trade Marks Act's eligibility criteria for 'aggrieved person' are to be liberally construed and any person whose legal rights have been adversely affected by an entry on the Register has the locus standi to be heard as a person aggrieved. The Respondent did not renew the registration after the rectification proceedings were initiated and did not appear at the final hearing. *Order dated 27.1.2017 by the Assistant Registrar of Trademarks, Chennai - In the matter of Registration No. 1181786 in Class 33 in the name of M/s Chetan Das and Rectification No.225194 thereto by Distell Limited*

