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CASE COMMENTARY – INTELLECTUAL PROPERTY RIGHTS

BIRKIN PRECEDENT: HERMÈS INTERNATIONAL & ANR.

Vs.

MACKY LIFESTYLE PRIVATE LTD. &ANR. (2025)

-Mahima Singh

No.	COMPONENTS	KEY ELEMENTS
1	Case	Hermès International & Anr. Vs. Macky Lifestyle Private Limited & Anr.
2	Citation	2025 Scc Online Del 8581 / Cs(Comm) 716/2021
3	Jurisdiction	High Court Of Delhi, New Delhi, India
4	Bench	Hon'ble Mr. Justice Tejas Karia
5	Judgement	November 24, 2025

INTRODUCTION

In November 2025 a landmark adjudication by the **DELHI HIGH COURT** in ***Hermès International & Anr v. Macky Lifestyle Private Limited & Anr*** reinforces the judiciary's protective approach toward the Luxury Brands and Non-Traditional Trademarks.

The Plaintiff, **Hermès International** is a globally acclaimed French luxury maison founded in 1837 headquartered in Paris, renowned for its ultra-premium luxurious artisanal goods, notably by iconic "Birkin" bag. Hermès has remained faithful to its artisanal model and

human values. The freedom to create, the constant quest for beautiful materials, the transmission of exceptional know-how, right down to details designed with use in mind – or the aesthetics of function – all forge the uniqueness of the house, creator of objects designed to last.¹ Its prestigious intellectual property includes its signature "Hermès" word mark, the stylized horse-and-carriage logo, and the exclusive 3D configuration of its bags.

The Defendant, **Macky Lifestyle Private Limited** is a West Bengal-based Indian MSME private firm established on May 15, 2018, under the leadership of directors Rajiv Ranjan Singh and Manoranjan Kumar Singh. Registered with the RoC in Kolkata, the business began dealing in leather bags and accessories around June 2021². The enterprise shot into the legal spotlight when luxury brand filed a trademark infringement lawsuit over the unauthorized replication of the Birkin bag's distinct 3D shape.

The dispute culminated in late 2025 issuing a permanent injunction in the Delhi High Court because it exercises Original Jurisdiction over high-value intellectual property rights disputes through its dedicated Commercial Division, making it the premier forum for complex, cross-border commercial litigation in India.³

FACTUAL ISSUE OF THE CASE & STATUTORY PROVISIONS

In *Hermès International v. Macky Lifestyle Private Limited* (2025), the Delhi High Court adjudication provides a definitive precedent regarding the intersection of multi-dimensional configuration marks, trans-border goodwill, and digital trademark infringement within the luxury brand goods sector. The plaintiffs initiated an action for trademark infringement, passing off, and brand dilution, seeking to restrain the defendants from the unauthorized manufacturing, digital display, and marketing of identical 3D bag designs on platforms like IndiaMART to unfairly capitalize on Hermès' global goodwill; in response, the defendants submitted that they had already ceased all business operations due to a total lack of sales and revenue since their inception.

¹ <https://www.hermes.com/us/en/content/235001-contemporary-artisans-since-1837/>

² <https://www.zaubacorp.com/MACKY-LIFESTYLE-PRIVATE-LIMITED-U74999WB2018PTC226118>

³ <https://ssrana.in/articles/delhi-high-court-refers-conflicting-territorial-jurisdiction-jurisprudence-to-a-larger-bench/>

The plaintiff asserted proprietary rights over the Birkin bag's silhouette as a protectable **trade dress**. To secure injunctive relief for trade dress infringement and passing off, the plaintiff successfully established the tripartite test:

- **Source-Identifier Status:** The unique combination of the bag's structural silhouette, closure mechanism, and flap profile possesses inherent or acquired distinctiveness, functioning legally as a source-identifier for the brand.
- **Secondary Meaning:** Through extensive, exclusive, and continuous international use, this specific 3D configuration has acquired secondary meaning, transitioning from a functional or aesthetic design into a symbol that consumers associate exclusively with the house of Hermes.
- **Likelihood of Confusion:** The defendant's unauthorized digital rendering and commercial configuration created a *prima facie* likelihood of confusion, diluted the plaintiff's brand equity, and constituted actionable misrepresentation and passing off under common law.

Under **Section 2(1)(zb) Trade Marks Act, 1999**, According to this section, a Trademark is essentially a mark that meets two primary criteria: It must be capable of being represented graphically, and It must be capable of distinguishing the goods or services of one person from those of another. The statute explicitly notes that a trademark can include the shape of goods, their packaging, and combinations of colours⁴ had acquired profounded secondary meaning and source-identifying autonomy independent of texts under the Class 18 of Nice Classification for Trademark recognized by WIPO.

By establishing an unassailable trans-border reputation that crossed terrestrial boundaries, Hermes persuaded the court to elevate the 3D shape and associated logos to the status of a "**Well-Known Trademark**" under **Section 2(1)(zg) read with Section 11(6)**⁵ of the Act. This provides top-tier protection against dilution by blurring or tarnishment across all asset classes nationwide. The concurrent unauthorized deployment of *Hermès* word marks and figurative marks alongside the 3D silhouette exacerbated the infringement.

⁴ <https://www.manupatracademy.com/law-notes/fourth-year-trademark-law-in-india-ipr>

⁵ <https://www.sconline.com/blog/post/2025/11/26/birkin-and-hermes-declared-well-known-trade-marks-del-hc/>

JUDICIAL RATIO DECIDENDI

The **Ratio Decidendi** (the core legal principle and rationale upon which the court based its decision) established by Hon'ble Mr Justice Tejas Karia of the **Delhi High Court** in *Hermès International & Anr v. Macky Lifestyle Private Limited & Anr.* (2025) revolves around two ground-breaking pillars of intellectual property rights:

1. 3d Shape Configurations Qualify For "Well-Known" Status:

The Court held that a Non-Traditional Trademark—specifically 3D configuration, shape and trade dress of a product—is capable of independently qualifying for the elevated tier of statutory protection afforded to a "Well-Known Trademark" under Section 2(1)(zg) in conjunction with Section 11(6) of the Trade Marks Act, 1999.

The legal rationale establishes that where a product's distinctive physical silhouette has been subject to continuous, extensive global enforcement and prolonged use, such that it generates immediate, exclusive source-identifying recognition among the relevant class of consumers, the trade dress transcends its utilitarian or design character. Consequently, it functions as a primary source identifier, thereby acquiring the status of an unassailable trademark entitled to the highest degree of protection against infringement and dilution.⁶

2. De - Minimis Domestic Sales Does Not Preclude Cross-Border Protection:

The court reaffirmed the principle of **trans-border reputation** and spillover goodwill established a case of **composite infringement**. The ratio specifies that under Indian law, long-standing global reputation, continuous historical usage across multiple foreign jurisdictions, international media/press exposure, and recognition by the relevant consumer segment (even a niche luxury class) within India are sufficient to fulfill the statutory requirements of Section 11(6). A global luxury brand is not required to show massive domestic commercial sales volume or widespread physical trade within India to secure cross-class, well-known dilution protection.⁷

⁶ <https://selvams.com/insights/3d-shape-marks-can-now-attain-well-known-status-in-india-does-your-brand-qualify-for-the-enhanced-protection/>

⁷ <https://www.barandbench.com/law-firms/view-point/revisiting-brand-protection-in-india-the-birkin-case-study>

INTERPRETATION OF COURTS JUDGMENT

The 'Birkin' 3D shape configuration commands an ultra-luxury cross-border reputation and trans-border goodwill among the relevant public in India, propagated via international travel, global media, and digital exposure. Consequently, as a registered composite trademark possessing a 'reputation in India,' it is the proprietor who entitled to anti-dilution protection under Section 29(4) of the Trade Marks Act, 1999, to restrain unauthorized third-party use across entirely unrelated goods or services to prevent blurring or tarnishment.

- **Doctrine of Trans-Border Reputation:** Physical market presence or local sales are completely immaterial if a brand possesses a "spillover" reputation among the relevant public sector in India.⁸ This judicial principle deeply embedded in Indian IP jurisprudence via landmark rulings like *N.R. Dongre v. Whirlpool Corporation*. The High Court affirmed that a luxury brand does not require a robust physical commercial presence or high-volume domestic sales within India to sustain an action for passing off.
- **Protection of Non-Traditional Marks:** The judicial acknowledgment of a 3D trade dress establishes that container shapes and product silhouettes function directly as source identifiers.⁹
- **Dilution and Tarnishment:** Well-known status extends protection across all asset classes, prohibiting third parties from "free-riding" or diluting the exclusivity of ultra-luxury markers.¹⁰
- ***Sic utere tuo ut alienum non laedas* (Use your own property in such a manner as not to injure that of another):** Commercial entities cannot use internet references or digital lookalikes to misappropriate a luxury house's proprietary silhouette

⁸ <https://www.sconline.com/blog/post/2025/11/26/birkin-and-hermes-declared-well-known-trade-marks-del-hc/>

⁹ <https://www.bananaip.com/intellepedia/birkin-bag-three-dimensional-trade-dress-well-known/>

¹⁰ <https://www.lexology.com/library/detail.aspx?g=0b1c98c4-d5f7-4564-aae6-7a24702c2da1>

CRITICALLY EVALUATED CONCLUSION

By recognizing cross-border goodwill, the Delhi High Court declared Hermès' word, figurative, and 3D configuration marks as "Well-Known Trademarks" under Sections 2(1)(zg) and 11(6) of the Trade Marks Act, 1999. The decision in *Hermès International v. Macky Lifestyle Pvt. Ltd.* sets a strong precedent for luxury trade dress protection in developing markets by granting structural designs the same legal status as traditional brand names. Crucially, the court ruled that digital exploitation of a proprietary shape meets the "use in the course of trade" requirement under Section 29, extending trademark liability to the virtual world.

- ✓ The profound level of knowledge or recognition of the mark in the relevant sector of the public record the successful enforcement of rights across multiple jurisdictions extent geographical area of use and promotional activities domestically and globally.
- ✓ The decision takes a progressive approach to non-conventional trademarks, correctly acknowledging that high-end luxury architecture serves as a primary source identifier.
- ✓ The defendant had already ceased operations and mounted no aggressive defense; the evidentiary standards were not rigorously tested in a contested adversarial proceeding.
- ✓ In landmark jurisprudence, the Delhi High Court recently recognized the brand's unique trade dress as a "well-known trademark" with international standing, confirming that physical mass-market sales within India are not mandatory to establish a trans-border reputation.