

INFORGRAPHICS

In the Matter of Complaint Filed by KENNOL Performance Oil



Competition Commission
of Pakistan

www.cc.gov.pk

BACKGROUND ISSUE AND COMPLAINT



- The Complainant filed a formal complaint against the Respondents, alleging that the Respondents were engaging in deceptive marketing practices by copying the trademark of the Complainant on their products.
- The Complainant claimed to have suffered significant damage to its reputation due to real brand usurpation, misrepresentation of logo and graphics by the Respondents.

FINDINGS OF THE ENQUIRY REPORT

- The Enquiry Report concluded that the Respondents were prima facie found to have resorted to deceptive marketing practices by copying the trademark of the Complainant and marketed counterfeit product.
- After considering the findings of the Enquiry Report, the Commission initiated proceedings under Section 30 of the Act against Kennol Petroleum (Pvt.) Ltd, Japan Lube Petroleum, and Oil Dewan Store under Section 10 of the Act.



ISSUES FRAMED BY THE BENCH



The Bench, after hearing the parties and analyzing the findings of Enquiry Report framed the following issue;

- Whether the Respondents have been involved in deceptive marketing practice within the meanings of section 10 of the Act while fraudulently using the Complainant's trademark?



DATE OF ORDER

25 August 2021



BENCH MEMBERS

Ms. Shahista Bano
Ms. Bushra Naz Malik



SECTOR/MARKET

Oil and gas/Petroleum



NATURE AND SECTION VIOLATION

Deceptive Marketing Practices in violation of Section 10 of the Competition Act, 2010



COMPLAINANT

Kennol Performance Oil
Respondents

1. Kennol Petroleum
2. Japan Lube Petroleum
3. Oil Dewan Store

FINDINGS OF THE BENCH

The bench after hearing the parties and analyzing the findings of Enquiry Report framed following issues;



- The pictorial comparison of the trademarks revealed that the Respondents had similar trademarks in terms of color, graphics, fonts and placement on product packaging. In this connection, it was found that the ordinary consumer, particularly the illiterate consumers, would not be able to distinguish between the products in question.
- The Respondents resorted to fraudulent use of the Complainant's trademark which amounts to deceptive marketing practice in violation of Section 10 (2) (d) of the Act.
- By violating Section 10 (2) (d), the Respondents had also concurrently violated Section 10 (2) (a) of the Act and caused harm to business interests of the Complainant.

REMEDIES & PENALTY

- The Bench took into account the Respondents' compliance-oriented approach and their commitments to alter their company names and shut down the websites containing the impugned trademarks. However, upon further inquiry, it was found that the website was still active and the new trademarks still bore resemblance with the Complainant's trademark.

DIRECTIONS BY THE BENCH

In view of the same, the Bench directed the Respondent

- ✗ To cease use of the contentious trademark
- To ensure that their products were sold in a manner that was distinct and distinguishable from the Complainant's trademark and products and to shut their website and Facebook pages with the impugned trademarks.

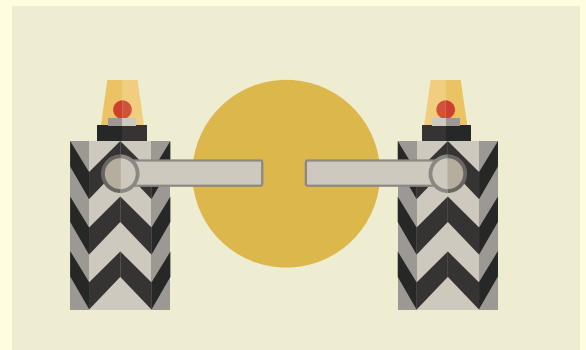
- A fresh compliance report was required to be submitted and a lenient approach was taken by the Bench where no penalty was imposed at the outset.

- However, failure to comply with the directions of the Bench would result in each Respondent liable to pay a penalty of PKR 1 million for each contravention.

TO DOWNLOAD THE DETAILED ORDER



SCAN ME



MEDIA COVERAGE

The collage shows multiple news articles from various Pakistani media outlets. The main headline across all is 'CCP issues show-cause notice to 4 firms for deceptive marketing practices'. The outlets include Pakistan Observer (16 March 2021), Urdu Point (16 March 2021), The Frontier Post (16 March 2021), Business Recorder (16 March 2021), and The Nation (16 March 2021). The articles detail the Competition Commission of Pakistan's (CCP) action against Unilever Pakistan Limited and other firms for deceptive marketing practices, including false claims about germ protection and product quality.