

Madras High Court Holds “Vapo” to Be Publici Juris; Rejects P&G’s Challenge to “VAPORIN” Registrations

In *The Procter and Gamble Company v. IPI India Private Limited* (O.P.(TM) Nos. 48, 49 and 50 of 2024), the Madras High Court dismissed trademark rectification petitions filed by Procter & Gamble (P&G), holding that the term “Vapo” is descriptive, common to the trade, and publici juris, and therefore incapable of monopolisation.

P&G, the proprietor of the well-known “VICKS VAPORUB” brand, sought cancellation of IPI India’s registrations for “VAPORIN”, “VAPORIN COLD RUB”, and related device marks, alleging deceptive similarity and dishonest adoption aimed at riding on Vicks’ goodwill. It asserted long-standing statutory and common law rights over “Vapo” formative marks.

Rejecting these claims, the Court held that “Vapo” is derived from the word “vapour” and is commonly used to describe vapour based medicinal products. Noting extensive third-party use and industry practice, the Court found the term to be publici juris and incapable of exclusive appropriation.

On a comparison of the rival marks, the Court found that “VICKS VAPORUB” and “VAPORIN” are phonetically, visually, and structurally distinct, with different trade dress, packaging, and overall commercial impression. Viewed from the standpoint of an average consumer with ordinary intelligence and



imperfect recollection, the likelihood of confusion or deception was held to be remote.

Accordingly, the Court declined to cancel IPI India's registrations and dismissed all the rectification petitions.

This decision reinforces that even iconic brands cannot claim exclusivity over descriptive or commonly used elements of language. Trademark protection hinges on the distinctiveness of the mark as a whole, and courts remain cautious against monopolising terms that have become part of the public domain, particularly in crowded consumer markets.



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