

In Someone Else's Shoes

A lawsuit for infringement of trademark and passing off was filed by Aqualite Industries through Remfry & Sagar against Ambika Shoes before the High Court of Delhi (*Aqualite Industries Private Limited vs. Ambika Shoes Pvt. Ltd. & Anr. (CS (Comm) 389/2021*) in August 2021.

Aqualite Industries is the registered proprietor of the marks AQUALITE/ **Aqualite** and related formative marks in India and it discovered that Ambika Shoes was using the deceptively similar marks ASNLITE/ **Asnlite** for identical goods, that is, footwear. In addition, Ambika Shoes was also copying the trade dress in respect of several footwear sold by Aqualite Industries.



While making *prima facie* observations, the court noted that the “*a bare comparison of the plaintiff's and defendants' marks make it apparent that the defendants have consciously adopted a mark which is visually as well as phonetically closely proximate to the mark of the plaintiff, and in any case deceptively similar.*”

Acknowledging the proprietary and statutory rights of Aqualite Industries and its extensive sales, as well as the deceptive similarity between the rival marks, the High Court of Delhi was quick to grant an *ex-parte* injunction in favour of Aqualite Industries and restrain Ambika Shoes from using the word and device marks ASNLITE or any other mark similar to Aqualite Industries' AQUALITE formative marks/trade dress. The court also appointed local commissioners to seize infringing goods at Ambika Shoes' premises and make an inventory of such articles.