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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 52/2018, I.A. 19320/2022 & I.A. 6416/2023**  
**CROCS INC.USA** ..... Plaintiff  
Through: **Mr. Pankaj Kumar, Adv.**  
  
versus

**AQUALLITE INDIA LIMITED AND ANR.** ..... Defendants  
Through: **Mr. Peeyoosh Kalra, Mr. Ishith Arora and Ms. Simranjot Kaur, Advs.**

**CORAM:**  
**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**ORDER (O R A L)**  
**09.10.2023**

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**CS(COMM) 52/2018**

1. The plaintiff, in this suit, alleged infringement, by the defendants, of the design of the plaintiff's footwear, which is referred to, in the suit, as the "CROCS DESIGN", in respect of which the plaintiff held design registration no. 197685 dated 28 May 2004. The life of the design expired by efflux of time on 28 May 2019.

2. Two weeks prior thereto, on 9 May 2019, an order was passed by the Deputy Controller of Patents and Designs cancelling the registration of the plaintiff's design on the ground of lack of novelty and prior publication.

3. It is stated that an appeal has been preferred against the said



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order but no orders have been passed thereon.

4. Learned Counsel for the plaintiff has invited my attention to an order dated 12 July 2023 passed by a Coordinate Bench of this Court in CS(COMM) 625/2018 in respect of the plaintiff itself, albeit against M/s Bata India Ltd.

5. In similar circumstances, the Coordinate Bench held that, in view of the cancellation of the design on the ground of lack of novelty and prior publication, the suit could not survive but left open the remedies, if any, available to the plaintiff in the event of the appeal against the order of cancellation being allowed.

6. Reserving liberty with the present plaintiff in the same terms, this suit is disposed of with all pending applications.

7. Needless to say, there is no question of recording of any evidence in this matter any further.

**C.HARI SHANKAR, J**

**OCTOBER 9, 2023**

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