

K.S. Jadhav

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL MISCELLANEOUS PETITION NO.1278 OF 2022

Samsung Electronics Co. Ltd.

...Petitioner

Versus

Registrar of Trademarks

...Respondent

Mr. Mehul Shah a/w Ms. Chaitali Jadhav, Advocates for Petitioner.

Mr. Yogeshwar Bhate a/w Mr. Shreyas Deshpande, Advocates for Respondent.

CORAM : R.I. CHAGLA, J.

DATE : 27TH JULY, 2023.

ORDER :

1. By this Petition, the Petitioner is seeking setting aside the impugned order dated 30th April, 2021.

2. The learned Counsel for the Petitioner has submitted that the impugned order dated 30th April, 2021 is a cryptic order and has been passed without considering the submissions of the Petitioner in their Reply dated 27th February, 2020 to the Examination Report.

The impugned order also makes reference to two cited marks and

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there is a finding that the applied for mark is objectionable under Section 11(1) of the Trade Marks Act, 1999 on the ground that the cited marks in the provisional refusal are considered as identical / similar having similar goods / services and likely to cause confusion among public / probable consumers.

3. There are submissions made that the cited marks are in respect of goods which are different from the goods of the Petitioner. This has not been considered in the impugned order.

4. The learned Counsel appearing for the Respondent on instructions states that the matter may be remanded back for fresh consideration and passing of the order.

5. Having considered the above submissions, the impugned order is required to be set aside in that, it has been passed without considering the submissions of the Petitioner in their Reply to the Examination Report. Accordingly, the following order is passed :

(i) The impugned order dated 30th April, 2021 is set aside.

(ii) The matter is remanded back to the Senior Examiner

of Trade Marks for passing order after granting hearing to the Petitioner and considering their submissions which shall form part of the order.

(iii) This exercise shall be carried out within a period of six weeks from the date of this order.

(iv) The Commercial Miscellaneous Petition is accordingly disposed of.

[R.I. CHAGLA, J.]