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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.A.(COMM.IPD-TM) 93/2022**
LUMIX DOMESTIC APPLICANCES PVT LTD. Appellant

Through: Mr. M.K. Miglani, Mr. Akash Singh
and Mr. Hardik Gogia, Advocates.

versus

LUMAX INDUSTRIES LTD. & ANR Respondents

Through: Mr. Kunal Vats and Mr. Rohan
Swarup, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
19.01.2024

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I.A. No...../2024 (To be Numbered) (u/Order XXIII Rule 3 r/w Section 151 of the Code of Civil Procedure, 1908, [hereinafter 'CPC'])

1. Counsel for parties state that they have settled their disputes which form the subject matter of the present appeal. An application under Order XXIII Rule 3 of Code of Civil Procedure, 1908 (“CPC”), bringing the terms of the settlement on record, has been filed *vide* diary no. 96215/2024 on 16th January, 2024. A copy thereof has been handed over across the board and is taken on record.
2. Registry is directed to allocate a number to the aforementioned application.
3. The present appeal was preferred against order dated 18th June, 2015 passed by the Deputy Registrar of Trade Marks allowing the opposition no.



DEL/187131 to Appellant's trademark application no. 1078334 in Class 11 for registration of trademark 'LUMIX'.

4. During the pendency of the present appeal, the parties have resolved and settled their disputes on the terms stipulated in paragraph no. 2 of the application, which delineated as under:

- “(i) That the Appellant has agreed to restrict the use of its trademark to goods read as “installations for Heating, Steam Generating, Refrigeration purposes including fans, coolers, Geysers, Toasters, Ovens, Stoves” in class 11, thereby distinguishing its goods in every possible manner from the goods of Respondent No. 1. That the Appellant has already filed a TM-16 dated 15.01.2007 to amend the specification of goods to the said effect.*
- (ii) That the Appellant undertakes that apart from the subject matter trademark application bearing no. '1078334', it has not filed any other application for registration of the mark 'LUMIX' or any other mark which is either identical or deceptively similar to the Respondent No. 1's trademark being 'LUMAX' under Class 11 in respect of installation for lighting or any other class of goods which is overlapping with the goods of Respondent No.1.*
- (iii) That the Appellant undertakes not to venture, at any point in time, into any goods except "Installations for Heating, Steam Generating, Cooking, Refrigeration purposes including fans, coolers, Geysers, Toasters, Ovens, Stoves" under the mark Lumix or any other mark which is either identical or deceptively similar to the Respondent No. 1's trademark being 'LUMAX'.*
- (iv) That the Appellant also has registrations over the mark "LUMIX" in Class 7 bearing no. 507365 & 1078332; Class 9 bearing number 1078333; and Class 21 bearing number 1078335. That the Appellant further undertakes that even in the said Classes i.e. 7, 9 and 21, it shall not venture into any goods or services that may overlap with the goods and services of Respondent No.1 especially in the field of Automobiles and parts thereof, under the mark LUMIX or any other mark which is either identical or deceptively similar to the Respondent No. 1's trademark being 'LUMAX';*
- (v) That the Respondent No. 1 in consideration of the foregoing admissions and undertakings of the appellant, withdraws its opposition being opposition no. DEL- 187131 to the Appellant's*



mark 'LUMIX' having application no. 1078334 in Class 11."

5. In light of the above, the parties jointly pray that the present appeal be disposed of, recording the terms of the settlement treating the opposition of Respondent No. 1 as withdrawn and the application of the Appellant to proceed for registration in respect of amended specifications of goods.

6. The aforementioned request is allowed and the application is disposed of.

C.A.(COMM.IPD-TM) 93/2022

7. In light of the order passed in application above (to be numbered), the present appeal is disposed of.

8. The afore-mentioned terms of the settlement between the parties are taken on record. The opposition of Respondent No. 1 bearing no. DEL-187131, is treated as withdrawn. Appellant's application no. 1078334 shall proceed for registration in respect of the amended specifications of goods mentioned in the application.

9. A copy of this order be communicated to the Trade Mark Registry at <llc-ipo@gov.in>.

10. Disposed of.

SANJEEV NARULA, J

JANUARY 19, 2024
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