



\$~4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.O. (COMM.IPD-TM) 180/2021**
SNAP INC. Petitioner

Through: Ms. Nancy Roy, Ms. Prakriti
Varshney and Ms. Aastha Kakkar,
Advs.

versus

M.K. SWITCHGEAT PVT. LTD. AND ANR. Respondents

Through: Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar Mishra,
Mr. Alexander Mathai Paikaday, Mr.
Lakshay Gunawat and Mr. Krishnan
V., Advs.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
06.05.2024

%

1. This rectification petition was filed by the petitioner seeking removal of respondent No.1's following mark [*'impugned mark'*]:

Mark	'SNAP'
Application No.	1251298
Application Date	24 th November, 2003
Class	9
User Detail	Proposed to be used
Granted On	22 nd November, 2005

2. At the outset, it is stated by Ms. Nancy Roy, counsel for the petitioner



that the status from the Trade Marks Registry dated 05th May, 2024 shows that the impugned mark was valid up to 24th November, 2023 and has since not been renewed.

3. Be that as it may, the petition has been moved essentially on the ground of non-use under Section 47 of the Trade Marks Act, 1999 by the petitioner. This petition was initially filed before the Intellectual Property Appellate Board [***IPAB***] and then transferred to this Court post the abolition thereof in 2021.

4. A perusal of the order sheets would show that no one had been appearing for the respondent and only on one occasion, on 01st August, 2023 before the Joint Registrar, Mr. Varshesh Khurana, Advocate had appeared through VC. It was, therefore, recorded by the Joint Registrar on 12th March, 2024 that since no appearance has been made and no reply has been filed, the right of respondent No.1 to file a reply stands closed.

5. At the time of the filing of the petition, the petitioner had applied for registration of their following trademarks [***petitioner's marks***]:

PARTICULARS	PETITIONER'S MARKS	
Mark	<i>'SNAPCHAT'</i>	<i>'SNAPCHAT'</i>
Application No.	2879330	2881055
Application Date	10 th January, 2015	12 th January, 2015
Class	99	99*
Granted on	14 th July, 2017	14 th July, 2017
*9, 38, 41, 42, and 45		

6. It is pointed out that there is non-use by respondent No.1 of the impugned mark, as has been stated as part of this petition. The petitioner



has also stated that their mark has been registered or applied for in many countries of the world including the United States of America, Egypt, Hong Kong, Russia, Taiwan, etc. The petitioner has been using its trademark ‘SNAPCHAT’ on various operating systems and messaging platforms for use on mobile phones. They are also the owner of the website www.snapchat.com.

7. Considering that there has been no *bona fide* use of the impugned mark since 2005 when it was registered, now lapsed in 2023, as also the fact that respondent No.1 has chosen not to appear or to refute or rebut the statements and averments made by the petitioner, in the opinion of this Court, this rectification petition ought to be allowed in favour of the petitioner.

8. Accordingly, the impugned mark as mentioned in para 1 be removed from the Register of Trade Marks.

9. The website of the Trade Marks Registry be updated accordingly.

10. Registry to supply a copy of this order to the Trade Marks Registry at llc-ipo@gov.in for compliance.

11. Petition is disposed of in the above terms.

12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 6, 2024/MK/sc