

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
(COMMERCIAL DIVISION)
ORIGINAL SIDE

IPDATM/148/2023

BENNETT COLEMAN AND COMPANY LIMITED(SR 9/2020/TM /KOL)
VS
SONY ERICSSON MOBILE COMMUNICATIONS AB AND ANR.

BEFORE:
The Hon'ble JUSTICE RAVI KRISHAN KAPUR
Date : 22nd December, 2025

Appearance:
Mr.Shounak Mukherjee, Adv.
Ms. Patrali Ganguly, Adv.
...for the petitioner.

Mr. Indrajeet Dasgupta, Adv.
..for the respondent no.2 (Registrar).

The Court: Mr. Indrajeet Dasgupta, Advocate who usually appears on behalf of the respondent Registrar, is directed to appear on behalf of the respondent no.2 (Registrar). The services of Mr. Dasgupta, Advocate be regularized by the Appropriate Authority.

This is an application seeking rectification of the mark “” (*the impugned mark*) in classes 09 and 38 registered in the name of the respondent no.1, Sony Ericsson Mobile Communications AB. The petitioner alleges to be the prior adopter and continuous extensive user and registered proprietor of ‘NOW’ family of marks. The petitioner enjoys statutory protection in respect of the said mark and relies on numerous registrations in support thereof.

The grievance of the petitioner is directed against the respondent no.1

being the registered proprietor of the impugned mark ''. It is alleged that the petitioner has come to learn about the impugned mark in connected proceedings pending before the Hon'ble High Court at Delhi. One of the principal grounds for seeking cancellation is that the respondent no.1 is not a user of the impugned mark. Despite having obtained registration for the said mark as far back as on 18 March, 2009, there has been no bonafide use of the impugned mark for the goods and services covered under the impugned registration. The petitioner relies on Section 47 of the Trademarks Act, 1999 and also on the orders dated 30 May, 2023 [C.O. (COMM.IPD-TM) 223/2022] and 19 January, 2024 [C.O. (COMM.IPD-TM)153/2021] passed in connected proceedings pending before the Delhi High Court.

The Registrar of Trademarks being the respondent no.2 is represented and submits that the impugned registration was registered on proposed to be used basis as far back as in 2007 and has never been used. The last renewal which had been obtained by the respondent no.1 was on 13.05.2017. There is nothing on record to show that the respondent no.1 has subsequently used the mark. Despite notice, the respondent no.1 remains unrepresented and chooses not to appear in this proceeding.

In view of the admitted facts and the submissions made on behalf of the respondent Registrar, it is evident that the impugned mark has never been used since inception, *i.e.*, 2007. There is nothing to demonstrate that the impugned mark has been used either in class 9 or class 38. Despite having obtained

registration, the respondent no.1 has for all practical purposes abandoned the impugned mark.

In such circumstances, the continuous presence of the impugned mark on the Registrar is unjustified and constitutes a wrongful and erroneous entry which is in contravention of section 47 of the Act. In this background, the impugned registration bearing No.1553343 be expunged. With the above directions, IPDATM/148/2023 stands allowed.

(RAVI KRISHAN KAPUR, J.)