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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 15th April, 2025*

+ C.O. (COMM.IPD-TM) 20/2024 with I.A. 2914/2024 and I.A. 2915/2024

EPIFI TECHNOLOGIES PRIVATE LIMITEDPetitioner

Through: Mr. Nitin Masilamani, Mr.
Amritanshu Jha & Mr. Ashutosh
Kulshrestha, Advocates.

versus

FORMULA ONE LICCENSING BV & ANR.Respondents

Through: None.

CORAM:**HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present rectification petition has been filed under Sections 47 and 57 of the Trade Marks Act, 1999 (hereinafter 'the Act') seeking cancellation of registration/ removal of the trademark 'F1' bearing no. 1988403 in class 36 in the name of the respondent no.1 (hereinafter 'impugned mark') from the Register of Trade Marks.

PROCEEDINGS IN THE PETITION

2. Notice in the present petition was issued to the respondents on 7th February, 2024.

3. The parties explored the possibility of settlement, however, the settlement talks did not fructify as recorded in the order dated 19th December, 2024. In the same order, the respondents were granted four (4) weeks' time to file a reply. None appeared on behalf of the respondents on



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the said date.

4. Despite the aforesaid, neither any appearance has been made on behalf of the respondent no.1 today nor has any reply been filed to the present petition.

5. Written submissions, along with judgments in support, on behalf of the petitioner have been filed.

BRIEF FACTS

6. Brief facts set up in the petition, which are relevant for adjudicating the present petition, are as under:

6.1. The petitioner is the owner and provider of a leading financial mobile device application which provides access to a multitude of financial services to its users in India and, which has carved a niche for itself as an alternative to complex traditional banking for its users, offering *inter alia* an in-built savings account, VISA debit card and various money management services in partnership with regulated entities.

6.2. The petitioner adopted the mark 'FI MONEY' in February, 2021 as its brand name which communicates and symbolizes financial inclusion, financial management and the fintech revolution. The petitioner also has a products webpage that is accessible to customers at <https://fi.money/> providing information regarding the product offerings and services.

6.3. The financial goods and services offered by the petitioner under the trademark 'FI MONEY' have been widely advertised and promoted through print, audio visual and interactive media, including the internet, advertisements, articles, magazines, newspapers etc.

6.4. The petitioner's mobile application (available for download through the Google Play Store) has a total of 50 million downloads worldwide as on



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September, 2023, of which 49.83 million downloads are from users in India. The petitioner's mobile application also enjoys a rating of 4.4 on the Google Play Store. In addition to this, the petitioner's mobile banking application available for download through the Apple App Store has a total of approximately 1 million downloads as on September, 2023 and has a rating of 4.6 on the Apple App Store.

6.5. The petitioner filed Trademark Application No. 5037769 on 9th July, 2021 for registration of the mark 'FI MONEY' and its variants in class 36.

6.6. The respondent no.1 has registered the mark 'F1' in class 36. The impugned mark has been registered in the name of the respondent no.1, with effect from 2nd July, 2010 on a '*proposed to be used*' basis in class 36 in relation to financial services.

6.7. The respondent no. 1 opposed the registration of the petitioner's trademark application by way of an Opposition No. 1227886 on 6th July, 2023, which relied on Registered Trade Mark No. 1988403 as a prior mark.

6.8. Aggrieved by the aforesaid, the present petition has been filed.

SUBMISSIONS OF THE PETITIONER

7. Counsel appearing on behalf of the petitioner has made the following submissions:

7.1. Owing to its continuous and extensive use and pan-India promotion and advertisement activities, the 'FI MONEY' marks are exclusively associated with the petitioner.

7.2. As per the petitioner's knowledge, the impugned mark is neither in use at present nor was ever put to commercial use in relation to the services in class 36 for which the impugned mark has been registered.

7.3. The respondent no.1 has no *bona fide* intention to use the impugned



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mark in relation to the services claimed in the impugned registration. Despite elapse of more than 13 years from the date of filing of the trademark application, the respondent no.1 has not obtained appropriate approvals or registrations under the Indian laws in respect of the various financial services recited in the impugned registration. Therefore, the impugned mark is merely a block on the Register of Trade Marks.

7.4. Between 21st March, 2024 and 19th December, 2024, the parties were negotiating amongst themselves, however, the settlement did not mature.

7.5. The respondent no.1 has subsequently withdrawn the Opposition No. 1227886, however, the parties were unable to reach any settlement that would forestall future disputes. Hence, the disposal of the present petition on merits remains imperative.

7.6. The petitioner is an aggrieved person under the provisions of the Act as the respondent no.1, through the registration of the impugned mark, is posing a hindrance to the registration of the petitioner's mark 'FI MONEY' in class 36.

ANALYSIS AND FINDINGS

8. I have heard the counsel for the petitioner and perused the material on record.

9. The respondent no.1 has not filed his reply to the present petition, which indicates that he has nothing substantial to put forth on merits by way of a response to the averments made in the petition. It is trite law that in the absence of any denial of the averments made in the petition, the same have to be taken as admitted. In view of the above, the averments made in the petition are deemed to be admitted.

10. Reference in this regard may be made to the case of ***DORCO Co. Ltd.***



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v. Durga Enterprises and Another, 2023 SCC OnLine Del 1484, wherein I had ordered for removal of the impugned mark therein on the ground of non-use. The relevant observations from **DORCO** (supra) are set out below:

“8. In the judgment in Shell Transource Limited v. Shell International Petroleum Company Ltd., 2012 SCC IPAB 29, it was observed by the IPAB that the onus of proving “non-user” is on the person who pleads the same. However, when the applicant pleads “non-user”, the respondent must specifically deny it. Therefore, in the absence of a specific denial, it was held that the allegations of “non-user” stood admitted.

9. In the present case, the allegations of “non-user” against the respondent no.1 stand admitted in the absence of a specific denial of the same and the impugned trademark is liable to be removed from the Register of Trade Marks on account of “non-user” as contemplated under Section 47(1)(b) of the Act.”

[Emphasis supplied]

11. A perusal of Section 47(1)(b) of the Act would reveal that a registered trademark is liable to be taken off the Register of Trade Marks if up to a date three months prior to the date of filing of the rectification petition, the same is not used in relation to those goods/ services in respect of which it is registered for a continuous period of at least five years from the date on which the mark is entered in the Register of Trade Marks.

12. From the date of filing of the impugned trademark application, 13 years have lapsed and the respondent no.1 herein has not filed any evidence to show the use of the mark ‘F1’ with respect to services covered under class 36 in India.

13. In addition to this, the requirements of Section 47(1)(a) of the Act have also not been satisfied. In order to provide services recited in the impugned registration, the respondent no.1 has failed to obtain necessary prior approvals and/or prior registration under various Indian laws and/or with various regulatory authorities despite elapse of more than 7 years from



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the date of registration. Hence, it is a clear indicator of the lack of *bona fide* intent on the part of the respondent no.1 to use the impugned mark in respect of services covered under class 36.

14. The petitioner has continuously and extensively been using the 'FI MONEY' marks since February, 2021 in India and, by virtue of their widespread advertisement and promotion, has acquired immense goodwill and reputation thereunder. On the other hand, the respondent no.1 has not made any use of the impugned mark in relation to the aforesaid services in class 36. Considering the aforesaid, I am of the view that the petitioner is aggrieved by the continued subsistence of the impugned mark on the Register of Trade Marks.

15. In view of the above, the impugned mark is liable to be removed from the Register of Trade Marks under the provisions of Section 47(1)(a) and Section 47(1)(b) of the Act.

16. Accordingly, the present petition is allowed and the Trade Marks Registry is directed to remove the impugned mark 'F1' bearing the no. 1988403 in class 36 in the name of the respondent no.1 from the Register of Trade Marks.

17. The Registry is directed to supply a copy of the present order to the Trade Marks Registry, at e-mail: lrc-ipo@gov.in, for compliance.

18. All pending applications stand disposed of.

AMIT BANSAL, J

APRIL 15, 2025

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