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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.A.(COMM.IPD-TM) 24/2024 & I.A. 9030/2024, I.A. 9031/2024

LIFESTYLES HEALTHCARE PTE LTD

.....Appellant

Through: Mr. Lalitaksh Joshi, Mr. Arjun
Khurana, Mr. Hardik Chaudhary, Ms.
Sherry Shukla and Ms. Ananya Sanjiv
Sarogi, Advocates
Mob: 9730630681
Email: lalltaksh.joshi@gmail.com

versus

THE REGISTRAR OF TRADEMARKS DELHIRespondent

Through: Ms. Avshreya Pratap Singh Rudy,
Mr. Kanav Vir Singh, Ms. Usha
Jamnal, Ms. Harshita Chaturvedi,
Advocates
Mob: 9810001315

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

06.02.2025

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1. The present appeal has been filed under Section 91 of the Trade Marks Act, 1999 and under Rule 156 of the Trade Mark Rules, 2017 challenging the order of refusal dated 09th January, 2024 passed by the Registrar of Trade Marks in Application no. 4997759 for the mark 'SKYN'.
2. Learned counsel for the appellant submits that by way of the said impugned order, the application for registration filed by the appellant has been dismissed on the basis of the cited mark, which belongs to the appellant itself.
3. Learned counsel for the appellant further submits that there are Assignment Deeds in favour of the appellant, wherein, the mark in question, i.e., 'SKYN' has been assigned in favour of the appellant.



4. He further submits that the appellant already has 'SKYN' mark registered in its favour in various Classes for different products.

5. He further draws the attention of this Court to the table given in the appeal with respect to various registrations, which already exist in favour of the appellant.

6. Learned counsel for the appellant further submits that during the pendency of the present appeal, two more registrations for the mark 'SKYN' have been granted in favour of the appellant.

7. No reply has been filed on behalf of the respondent.

8. However, learned counsel for the respondent submits that considering the submissions made before this Court, appropriate orders may be passed by this Court.

9. Having heard learned counsels for the parties, this Court notes that there are various registrations with the mark 'SKYN' already existing in favour of the appellant, details of which are reproduced as under:

Sr. No.	Mark	Application No.	Current Proprietor per TMO Records	Application Date	Class	Status	Date of filing Assignment Requests	Assignment Status / Comments
1	SKYN	1804629	Lifestyles Healthcare Pte Ltd	April 09, 2009	10	Registered (Rectification Filed)	March 20, 2018	Assignments recorded vide order dt. January 24, 2019 despite pending rectification.
2	SKYN	2391216	Lifestyles Healthcare Pte Ltd	September 06, 2012	10	Registered	March 20, 2018	Application No. 1804629 (Sr. No. 1) was cited. Application was accepted vide order dt. July 15, 2024, which stated "Reply perused, it is found satisfactory. The cited mark has been assigned to the applicant. Therefore, the objection raised U/s 11(1) is hereby waived off and the mark stands accepted".
3	SKYN	2776008 (Cited Mark)	Aasell Limited	July 17, 2014	5	Opposed	March 20, 2018	Assignment is pending in TMO's end. Opposition Hearing took place on August 22, 2024.
4	SKYN	4990245	Lifestyles Healthcare Pte Ltd	June 01, 2021	3	Registered	NA	Application was filed in Appellant's name.
5	SKYN	4997759	Lifestyles Healthcare Pte Ltd	June 08, 2021	5	Refused	NA	Application was filed in Appellant's name.
6	SKYN	5009613	Lifestyles Healthcare Pte Ltd	June 18, 2021	10	Registered	NA	Application was filed in Appellant's name.
7	SKYNFEEL	IR 1318492 (IRD 3432423)	Lifestyles Healthcare Pte Ltd	July 11, 2016	10	Protection Granted	Assignment through WIPO	-
8		2391227	Lifestyles Healthcare Pte Ltd	September 06, 2012	3, 5, 10	Registered	March 20, 2018	Recorded on January 24, 2019



10. It is to be noted that by the impugned order dated 09th January, 2024, Registrar of Trade Marks, has recorded as follows:

आदेश/ORDER

Above application has been filed for registration of the trademark SKYN on 08/06/2021 which was examined on 23/06/2021 and examination report was communicated to the applicant at his address for service. A reply to the office objection(s) had been filed on behalf of the applicant but the same was not found satisfactory and the application was set down for hearing and eventually hearing took place before me on 03/01/2024.

Dareen Dsliva Attorney appeared before me and made his/her submissions. I have heard arguments and gone through the records.

Counsel has submitted that the applied trademark mark is not similar to the mark cited in examination report. The attorney requested to waive off the objections under Section 11 (a) and (b) of the Trade Marks Act, 1999 and requested to accept and advertised the subject mark in the Trade Marks Journal.

Similar, valid mark cited in examination report "SKYN" in respect of the similar nature of specification is already on record. The status of cited mark is valid. The applicant has no bona fide adoption of the subject mark as the cited mark is prior to the subject mark in respect of the similar applied specification.

The subject application "SKYN" was filed subsequently to the above said cited mark. Instant mark is phonetically similar to the conflicting mark which is mentioned in the search report. The applicant failed to give reason as to why the subject similar mark is adopted when the cited mark was already on record.

User Claimed:

The applicant filed the Trade Mark Application on proposed to be used basis. The available documents are perused and appreciated. On the other hand the above mentioned cited mark is being used since 2014 in respect of the similar specification.

Observation and conclusion:

In view of phonetic and visual similarities between the subject and cited mark and their similar specification, it is opined that there exists a strong likelihood of confusions on the part of the consumers, as they are likely to assume and confuse that the subject trademark and its specification are connected or otherwise associated with the conflicting cited mark. The consumers may be under the mistaken belief that the applicant's goods/services originate from the conflicting mark or that they have some trade connection or affiliation.

In view of these grounds, the Registrar of Trademarks has opined that the applicant has deliberately chosen the subject mark in an effort to ride upon the goodwill and reputation of the conflicting marks. Applicant has no bona fide adoption of the subject mark in respect of the applied goods description. In view of the above said reasons, the subject application is refused under Section 11 of the Trade Marks Act, 1999 under relative grounds for refusal for registration.

After perusal of all the documents on record and submission made by the applicant / authorised agent, it is concluded that applied mark is not registrable because of the reason stated as above. Hence application no 4997759 cannot be accepted and refused accordingly.

दिनांक/Dated : 09 January 2024.



सेवा में/To,
ARJUN KHURANA
C9/9624, Vasant Kunj, New Delhi

(AMIT KUMAR)
वरिष्ठ परीक्षक, व्यापार चिह्न/SENIOR EXAMINER OF
TRADE MARKS
(अधिनियम के 3 (2) के तहत प्राधिकृत)/Authorized
under 3(2) of the Act

PrintExit

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 10/02/2025 at 14:49:50



11. Perusal of the impugned order dated 09th January, 2024 passed by the Registrar of Trademarks, manifests that the premise on which the application of the appellant has been rejected, is existence of a prior trade mark, i.e., 'SKYN'.

12. This Court notes the submissions made by the appellant that the prior registrations for the mark 'SKYN' are pertaining to the appellant itself, and do not belong to any other third party.

13. This Court also takes note of the reply filed by the appellant to the Examination Report before the Registrar of Trademarks, which reads as under:

“xxx xxx xxx

1. CITED MARK UNDER APPLICATION NUMBER 2776008

With respect to the above-mentioned cited mark, it is submitted that the cited mark belongs to the Applicant herein. In this regard, it is submitted that a request for assignment of the above-mentioned cited mark from 'Ansell Limited' to 'SxWell Australia Pty. Ltd.' and subsequently from 'SxWell Australia Pty. Ltd.' to 'LifeStyles Healthcare Pte Ltd', i.e., the Applicant herein, has been filed in the matter. **Thus, the cited mark belongs to the Applicant itself and thus, does not act as a bar to the present application.** A copy of the status page of the cited mark under application number 2776008 along with copies of requests filed vide Forms TM-M dated March 20, 2018, have been annexed herewith as **Annexure A.**

xxx xxx xxx”

(Emphasis Supplied)

14. Reading of the aforesaid reply clearly shows the stand of the appellant that there are Assignment Deeds in favour of the appellant for the mark in question, and that the cited mark belongs to the appellant.

15. This Court also notes the Confirmatory Deed of Assignment dated 05th December, 2017, for the assignment of the mark, i.e., 'SKYN' in favour of predecessor-in-interest of the appellant, which is on record before this Court.



16. This Court also takes note of the Confirmatory Deed of Assignment dated 10th December, 2017, for the mark 'SKYN' in favour of the appellant herein, which is placed on record before this Court.

17. Accordingly, the impugned order dated 09th January, 2024 passed by the Registrar of Trade Marks is set aside.

18. The matter is remanded back to the respondent for consideration of the application of the appellant, i.e., Application no. 4997759 for registration of the mark 'SKYN', afresh, expeditiously, in accordance with law.

19. The present appeal accordingly stands allowed and disposed of, along with pending applications.

20. The Registry is directed to supply a copy of the present order to the Office of the Controller General of Patents, Designs and Trade Marks of India, on E-mail Id: llc-ipo@gov.in, for compliance.

MINI PUSHKARNA, J

FEBRUARY 6, 2025

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