



1594/1595
17/05/2010

भारत सरकार / Government of India
व्यापार चिन्ह रजिस्ट्री / Trade Marks Registry
15/27, National Chambers,
Ashram Road,
Ahmedabad – 380 009
Tel.No. 26587193, 26580567
E-mail: tmrabad@yahoo.co.in

FROM: THE DEPUTY REGISTRAR OF TRADE MARKS

To,

1. M/s. Trade Mark Registration Services,
6-Gurudawara Building,
Opp. Liberty Showroom,
(Market Shop Number 245),
Main Market, Raja Park,
Jaipur-302 004 (Rajasthan)
2. M/s. Jasani & Company,
216-V.V. Comm. Complex,
2nd Floor, Dhebarbhai Road,
Rajkot-360 002 (Gujarat)

Sub: - Opposition No. AMD-742212 to application No. 1641655 in class 30

Gentlemen,

With reference to the above matter, I am directed by the Registrar of Trade Marks to forward herewith an order/decision passed in this matter.

Yours faithfully,

For Registrar of Trade Marks

ok

THE TRADE MARKS ACT, 1999

(Before the Deputy Registrar of Trade Marks)

In the matter of application No. 1641655 in Class 30 in the name of **M/s. Indo Brine Industries Ltd.**, Agrawal's House, Gokul Park, Plot No. 356, Ward 12-B, Tagore Road, Gandhidham, Gujarat.

: Applicants.

AND

In the matter of Opposition No. AMD-742212 thereto by **M/s. Dandi Enterprises**, Near Railway Station, Nawa City (Rajasthan).

: Opponents.

AND

In the matter of Interlocutory Petition dated 22.03.2010 filed by the applicants.

Present:(1) Shri Y.J. Jasani, Advocate for the applicants.

(2) Shri Satyanarayan Agrawal, Group Chairman & Managing Director of the applicants Company, and

(3) Shri Muralidhar M. Jeswani, Manager of the applicants company.

None for the Opponents.

ORDER

Proceeding having been taken under section 21 of The Trade Marks Act, 1999 by the above named opponents to oppose the registration of trade mark applied for by the above

named applicants and also Interlocutory Petition dated 22.03.2010 filed along with an affidavit of Shri Murlidhar M. Jeswani, Manager of applicants company to reject/dismiss the notice of opposition lodged by M/s. Dandi Enterprises, Near Railway Station, Nawa City (Rajasthan) (hereinafter referred to as the Opponents) against the registration of Trade Mark under application No. 1641655 in Class 30 and also to recall/withdraw the directions issued by the registrar.

In brief the fact of the case is as under:

On 16.01.2008 M/s. Indo Brine Industries Ltd., Agrawal's House, Gokul Park, Plot No. 356, Ward 12-B, Tagore Road, Gandhidham, Gujarat.(hereinafter referred to as the applicants) made an application being number 1641655 in Class 30 for registration of trade mark DANDI NAMAK with device of crossed sticks in respect of Iodized Salt for Human Consumption and for preserving food stuffs. User claimed by the applicants is 1st June, 1998. The application was ordered to be advertised before acceptance and eventually the said application was advertised before acceptance under proviso of section 20(1) of the Trade Marks Act, 1999 in the trade marks journal number 1402 dt. 16.10.2008 at page 7340. A notification in Trade Marks Journal No. 1409 dtd. 01.02.2009 at page No. 1980 was issued as under:-

“The Advertisement inadvertently published in Journal No. 1402 is treated as cancelled in view of the order/decision dated 24.04.2003 of The Hon'ble High court of Andhra Pradesh.” An another notification issued in the trade marks journal number 1410 dated 16.02.2009 whereby the aforesaid notification published in The trade marks journal No. 1409 was withdrawn and the publication of the application number 1641655 in the trade marks journal no. 1402 was restored.

On 09.03.2009 the opponents gave notice of their intention to oppose the registration of the impugned mark by filing a notice of opposition on Form TM-5 along with a request on Form TM-44. The said notice of opposition was served on the applicants vide this office letter No. OA-4558 dt. 5.10.2009 for fling the counter statement which was filed

by the applicants on 12.10.2009. A copy of the counter statement was served on the opponents vide this office letter No. OA -10703 dt. 24.02.2010. and invited their attention to Rule 50. Thereafter the applicants filed their Interlocutory petition on 22.03.2010 a copy of which was served on the opponents vide office letter No. OB 9621 dt. 30.03.2010 for their comments. The applicants have also filed a letter dated 30.04.2010 to issue the order under Rule 50(2) of The trade marks Rules 2002 as the opponents failed to file evidence under Rule 50(1). The hearing was fixed on 04-05.2010 when Shri Y. J. Jasani and others appeared on behalf of applicants but none appeared for the opponents, Mr. Y.J. Jasani requested me to hear the matter ex-party. However in the interest of natural justice one more opportunity was given to opponents and therefore the matter was adjourned to 14.05.2010 subject to filing TM-56 by the opponents with an instruction that no further adjournment shall be granted. At the hearing none appeared on behalf of the opponents and (1) Shri Y.J. Jasani, Advocate for the applicants. (2) Shri Satyanarayan Agrawal, Group Chairman & Managing Director of the applicants Company. (3) Shri Muralidhar M. Jeswani, Manager of the applicants company appeared for the applicants.

Shri Y.J. Jasani Counsel for the applicants submitted that the notice of opposition is not maintainable and drew my attention to Letter dated 30.04.2010 and requested me to pass order under Rule 50(2). He further submitted that the applicants have neither received any evidence in support of opposition nor received any reply to Interlocutory petition. He also submitted that the intention of the opponents is to delay the registration of the applicants without any justification. He further submitted that the opponents have not complied with the provisions of Rule 50 of The Trade Marks Rule 2002 and thereby the opponents themselves have abandoned their rights to oppose the registration of the application and hence the opponents themselves deemed to have been abandoned their opposition by their own act under Rule 50(2).

I have pursued the material available on record and observed that the opponents have neither filed request on Form TM-56 for extension of time for filing evidence in support of their opposition nor filed evidence in support of opposition within prescribed time limit under Rule 50. Further, the opponents have neither filed reply to Interlocutory

petition nor attended the hearing fixed in the matter. The records show that after filing of notice of opposition by the opponents, the opponents have not responded to any of the correspondence made by this office from time to time.

I have heard the counsel for the applicants carefully and also considered the material available on record of the proceedings. The opponents failed to attend the hearings fixed in the matter and no request on Form TM-56 for adjournment of hearing is also filed. In my opinion the opponents are not diligent enough to present their case and therefore without going into the merits of the Interlocutory Petition filed by the applicants the following order is passed:

That by operation of law the opponents are deemed to have abandoned their opposition under Rule 50(2) of The Trade Marks Rules, 2002.

It is hereby further ordered that the application No. 1641655 in Class 30 shall proceed further as per rules subject to outcome of other oppositions.

It is hereby further ordered that the aforesaid opponent shall forthwith pay a sum of Rs. 1,000/- (Rupees One Thousand Only) to the applicants as cost of these proceedings.

Signed and Sealed at Ahmedabad this 17th day of May, 2010.



(D. S. BANSOD)

DY. REGISTRAR OF TRADE MARKS