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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ C.A.(COMM.IPD-TM) 71/2021

ROBOTICS TODAY B.V. ..... Appellant

Through: Mr. Abhishek Saket, Advocate.

versus

REGISTRAR OF TRADE MARKS ..... Respondent

Through: Mr. Harish Vaidyanathan Shankar, Central Government Standing Counsel with Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat and Mr. Alexander Mathai Paikaday, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 08.02.2023

1. The present appeal under Section 91 of the Trade Marks Act, 1999 [hereinafter "*the Act*"] is directed against order dated 20th December, 2018 read along with Statement of grounds of decision dated 21st February, 2019 [hereinafter collectively "*impugned order*"] whereby Appellant's Trade Mark Application No. 2561649 for the device mark – ' Robotics Today ' [hereinafter "*subject mark*"] under Class-35 has been rejected under Section 9(1)(*b*) and 11 of the Act. Relevant portion of the Statement of Grounds of decision are culled out below:

> " *xx … xx … xx*
> ** Adv. Manish appeared and made submissions. Heard. Perused. Objection under Section (9) sustained. Application is devoid of any distinctive*

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character. Trademark Refused.

*** 9(1)(b) - The Trade Mark consist exclusively of marks or indications which serve in trade to designate the kind, quality, quantity, intended purpose, values, geographical origin or the time of production of the goods or rendering of the service or other characteristics of the goods or services.*"

2. Mr. Abhishek Saket, counsel for Appellant, submits that the subject mark has been wrongly rejected. The Appellant-Company, registered in Netherlands has a trans-border reputation and is a publishing platform for anything related to robotics or automation. The subject mark is inherently distinctive and is registered in several jurisdictions including United States, European Union, Canada, etc. Mr. Harish Vaidyanathan Shankar, CGSC for Respondent, opposes the petition and supports the reasoning given in the impugned orders.

3. The Court has considered the afore-noted submissions and perused the documents on record. The subject mark, although a device mark, is a composite mark, comprising of only two words 'ROBOTICS' and 'TODAY', which are dictionary words. The composite mark 'ROBOTICS TODAY', on its own, has no dictionary meaning, and when used for advertising/ marketing and providing information in the field of the robotics industry, it alludes to the purpose, without explicitly stating it; thus, it is not descriptive, but only suggestive. Further, the Appellant already has registrations for identical mark under Class-41 and 42 (Trade Mark Application No. 2561650 and No. 2561651, respectively) and thus, objection under Section 9(1)(b) of the Act is devoid of merit.

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4. Next, we shall proceed to deal with the objection under Section 11 of the Act, for which it would be appropriate to extract the search report as under: -

GOVERNMENT OF INDIA
TRADE MARKS REGISTRY

INTELLECTUAL PROPERTY INDIA

LOCATION:
SECTION: EXM
REPORT: EXM007

WORD MARK SEARCH REPORT
APPLICATION NUMBER: 2561649
Class : ---
TRADEMARK: 'Robotics Today (DEVICE)'

USER : BAJ
PAGE:1
DATE: 18/07/2014

APPL NO	CLASS	CONFLICTING MARK	JOURNAL No	PROPRIETOR NAME	PROPRIETOR ADDRESS	STATUS	TM IMAGE
GOODS SERVICES							
1694842	35	ROBOTICS	1404	MR. KAMLESH MANGALBHAI GOHIL.	C/3 - 803, ANUSHRUTI TOWER, OPP. NEW YORK TOWER, NEAR THALTEJ CIRCLE, S.G.ROAD, THALTEJ, AHMEDABAD- 380059	Registered	

APPLICATION DATE 04/06/2008
12:47:55

ROBOTICS WORLD SHOW

GOODS/SERVICE EXHIBITION ORGANIZING AND SERVICE PROVIDING TO EXHIBITERS AND TO ADVERTISEMENT AND PUBLICITY IN RELATION TO EXHIBITIONS FOR MACHINE TOOLS SHOW.

BALAJI
For REGISTRAR OF TRADE MARKS

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5. The subject mark and cited mark has one commonality *i.e.*, use of the word ‘ROBOTICS’. However, the subject mark when compared as a whole to the conflicting mark is *prima facie* found to be dissimilar, which has a graphical representation of a robot on a microchip. Appellant has been using the subject mark in India since the year-2012 and has several registrations for the same in other jurisdictions including United States, European Union, Canada, etc. In that light, the objection under Section 11 is also not sustainable. The Appellant itself has not claimed any exclusive or proprietary right in the word ‘ROBOTICS’, which, according to it, is common to trade.

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6. For the fore-going reasons, present appeal is allowed with following directions:

(i) Impugned order is set aside.

(ii) Trademark Registry is directed to process the registration application for the subject mark.

(iii) Subject mark be advertised within a period of three months from today.

(iv) If there is any opposition, the same shall be decided on its own merits, uninfluenced by observations made hereinabove.

(v) The rights in subject mark shall be restricted to combination of words 'ROBOTICS TODAY' as depicted above.

(vi) It is clarified the subject mark shall not grant any exclusive rights in the words 'ROBOTICS' or 'TODAY', separately or individually. This disclaimer shall be reflected in the Trade Marks Journal at the time of advertisement if the subject mark ultimately proceeds for registration.

7. With the above directions, the appeal is disposed of along with pending application(s), if any.

8. Registry is directed to supply a copy of the present order to the Trademark Registry at llc-ipo@gov.in for compliance.

SANJEEV NARULA, J

FEBRUARY 8, 2023
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