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

\+ C.A.(COMM.IPD-TM) 56/2021

LIFE TECHNOLOGIES CORPORATION ..... Appellant

Through: Ms. Nancy Roy and Mr. J. Sharanya, Advocates.

versus

THE DEPUTY REGISTRAR OF TRADE MARKS AND ANR ..... Respondents

Through: Mr. Harish Vaidyanathan Shankar, CGSC 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

% 17.03.2023

1. Appellant impugns order dated 26th September, 2018, whereby Registrar of Trade Marks has deemed the Appellant's application No. 1979472 for the device mark "LIFETECH" in class 9 [*hereinafter*, '***subject mark'***] as 'abandoned' for non-filing of counter-statement under Section 21(2) of the Act.

2. The subject mark was published in the trademarks journal No. 1722-0 on 07th December, 2015, subsequent to which, Respondent No. 2 filed opposition No. 849032 on 05th April, 2016. Appellant contends that in terms of Section 21(2) of the Trademarks Act, 199, the Trademarks Registry did not serve a copy of said notice of opposition upon them, and they learnt of

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the opposition through the Registry's website. Thereafter, they wrote to Respondent No. 1 on 02nd December 2016, and later on 20th January, 2017, 09th March, 2017 and 25th April, 2017, requesting them to provide a copy of the notice of opposition. Instead, Appellant received a copy of impugned order dated 26th September, 2018 wherein it is noted that notice of opposition was served on Appellant on 18th August, 2017.

3. Respondent No. 2 has been served, but has not appeared to contest the present petition. Respondent No.1 has also not produced any document to prove service of the notice of opposition on Appellant.

4. The multiple communications sent by the Appellant to Respondent No. 1 indicates that despite diligent follow-ups on Appellant's part, a copy of notice of opposition was not served upon them.

5. Hence, the present appeal is allowed with following directions:

(i) Order dated 26th September, 2018 is set aside.

(ii) Application No. 1979472 in class 9 and opposition No. 849032 are restored to their original number.

(iii) Trademarks Registry shall proceed to decide the application and opposition, in accordance with law, after issuing notice to both parties on addresses available in their record.

6. With the above directions, the present appeal is disposed of.

SANJEEV NARULA, J

MARCH 17, 2023
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