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2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

CASE ANALYSIS: DR.REDDYS LABORATORIES LIMITED V. CONTROLLER GENERAL OF PATENTS DESIGNS AND TRADEMARKS AND OTHER CONNECTED MATTERS

By: Joshua Daniel

There were four different Petitioners who approached the Hon'ble Delhi High Court, invoking its extraordinary jurisdiction under Article 226/227¹ of the Constitution of India, the Petitioners were aggrieved by the arbitrary and discriminatory manner in which the Controller General of Patents, Designs and Trade Marks (CGPDTM)/ Trademarks Registry/ Respondent, decided to disallow some oppositions beyond the statutory period, despite the order of the Supreme Court of India dated 10th January, 2022² being in force, which extended the statutory limitation in view of pandemic and the public notice dated 18th January, 2022³ issued by the CGPDTM themselves affirmed the same. The Petitioners were denied the right to file oppositions on the ground that they were being filed beyond the prescribed time limit of four months as under Section 21 of the Trademarks Act, 1999⁴.

The Petitioners stated that the Trademarks Registry was well aware of the fact that the Petitioners intended to file oppositions against the said applications, as a result of several Emails written to the concerned office of the Respondent by the Petitioners, but all vain. In fact, in case of the three writ petitions where registration certificates were already issued are stated to have been issued after the advanced copy was served on the Respondent.

The Court took cognizance of the fact that despite the clear order of the Supreme Court (Supra), which was later reaffirmed by the Respondents, by passing a public order addressing the same, they still continued to act in denial, according to their whims and fancies.

When the Officials from Registry appeared before the Court on 10/03/2022, they submitted various TM applications that were filed within the limitation period and were accepted but the Officials continued to suppress the fact that over 6000 - 7000 oppositions were allowed beyond the statutory limitation period of 4 months. This fact was only revealed on 16/03/2022, which led the Hon'ble Delhi High Court to lash out heavily on the officials of the Registry and on 21st March, 2022, the Court passed an order imposing a cost of ₹ 1 lakh on the Deputy Registrar and the Assistant Registrar of Trademarks for non-disclosure of material facts and wasting time of the judiciary. The Petitioners had filed this case challenging the arbitrary and discriminatory manner in which the CGPDTM had denied them the opportunity to file Oppositions to the Applications, which they intended to oppose.

Keeping the above in mind, Justice Prathiba M. Singh passed the following directions⁵:-

¹ Constitution of India art. 226 & 227.

² Cognizance For Extension Of Limitation, Suo Motu Writ Petition (C) No. 3 OF 2020 (27/03/2022 & 18:35) https://main.sci.gov.in/supremecourt/2022/871/871_2022_31_301_32501_Order_10-Jan-2022.pdf

³ Cognizance for Extension of Limitation, Supreme Court of India, Public Notice dated (18/01/2022) Office of CGPDTM, Mumbai Govt. of India

⁴ The Trademarks Act, 1999, Sec. 21

⁵ Cognizance For Extension Of Limitation, Suo Motu Writ Petition (C) No. 3 OF 2020 (27/03/2022 & 18:35) https://main.sci.gov.in/supremecourt/2022/871/871_2022_31_301_32501_Order_10-Jan-2022.pdf

- The Petitioners are allowed to file Oppositions latest by 31st March, 2022, either online or offline, against applications which they intended to oppose, and the same shall be registered by the registry by 10th April, 2022 and thereafter notice shall be issued to the concerned applicants.
- Registration certificate shall not be issued to the Applicant in W.P. (C) IPD 4/2022, till the decision on the opposition is taken. Further registration certificates issued to applicants in the connected matter shall stand suspended, till the decision on the opposition is taken.
- The applications which were published in the journal and for which statutory deadline of 4 months for filing an opposition has expired between 15th March, 2020 to 28th February, 2022, with regard to such applications time period to file oppositions is extended by 90 days from 1st March, 2022 to 29th May, 2022, which is a holiday and the deadline is shifted to 30th May, 2022. Upon filing of oppositions, the status of the trademark application shall be reflected appropriately on the portal within 48 hours.
- To ensure that such activities are not repeated again, a warning and heavy cost was imposed on the two officials, which is to be deposited by them in DHCBA pandemic Relief Fund and the proof of cost so deposited shall be filed before the Registry and shall be given to the Id. Central Government Standing Counsel, appearing for the CGPDTM, before the next date of hearing.
- For the 2 lakh oppositions which are pending and ready for hearing. CGPDTM is required to furnish a proposal as to the status of compliance of this order, a complete year-wise chart of oppositions that are pending, where pleadings are complete and the matters have matured for hearing, shall be filed along with the proposed mechanism.
- The Court further directed the officials to place on record the procedure in which the registration certificates shall be cancelled or recalled for registered marks, which were ought to be opposed. The mechanism so placed, shall be perused by the Court and proper orders shall be passed on the next date of hearing.
- The copy of the present order is to be uploaded as a public notice on the website of the CGPDTM, www.ipindia.gov.in, or any other website owned by them.

I welcome the above ruling which will not only be relevant to the Petitioners but also to the public at large who were arbitrarily denied the opportunity to oppose applications that defied the order passed by the Apex Court and were granted registration without considering the extension of the limitation period, thereby depriving an honest user or aggrieved person to exercise his/her rights. With this order, the Court has made sure to address the grievances of the aggrieved Petitioners and passed all the necessary orders to secure their rights. Also by imposing a heavy cost on the Respondent, the Court made sure that such acts are not repeated again and the concerned officials are held responsible for the same. Although, it will be interesting to see how the Court responds to the large number of pending oppositions with the Trademarks Registry and how they propose to deal with them.