

MANU/DE/7487/2007

**Equivalent Citation:** 2007(34)PTC467(Del)

**IN THE HIGH COURT OF DELHI**

CM 1703/2007 in CM(M) No. 183/2007

Decided On: 05.02.2007

Appellants: **Zee Telefilms Ltd. and Anr.**  
**Vs.**

Respondent: **Asia Today Ltd. and Ors.**

**Hon'ble Judges/Coram:**

Pradeep Nandrajog, J.

**Counsels:**

For Appellant/Petitioner/plaintiff: Rajiv Nayar, Sr. Adv. and Pratibha M. Singh, Bitika Sharma and Sagar Pathak, Advs

**Subject: Intellectual Property Rights**

**Acts/Rules/Orders:**

Trademarks Act, 1999 - Section 9, Trademarks Act, 1999 - Section 11; Trademarks Rules, 2002 - Rule 37, Trademarks Rules, 2002 - Rule 37(2)

**Case Note:**

**Intellectual Property Rights - Trademark - Application filed seeking registration of the trademark "Zee" - Held, it was considered that the principle of the dilution of the trademark had been extended for the mark in question - Yet, in spite thereof, registrar of trademarks was admitting for registration, applications by hundreds of individuals who seek registration of the trademark "Zee" for purposes of sale of their goods - Petitioner stated that it was impossible for the Petitioner to keep a track of all applications which were advertised and file opposition - Application rejected.**

**JUDGMENT**

**Pradeep Nandrajog, J.**

CM (M) No. 183/2007

1. Learned Counsel for the petitioner has drawn my attention to Rule 37 of the Trademarks Rules 2002. A perusal of Sub Rule 2 of Rule 37 shows, prima facie of course, that before the Registrar of Trademarks proceeds to advertise a mark registration whereof is sought, the Registrar is obliged to cause a research to be made amongst the registered trademarks as also pending applications for purposes of ascertaining whether there are on record, in respect of same goods or services or similar goods or services, any mark identical with or deceptively similar to the mark sought to be got registered.

2. Issue which would arise for consideration is whether language of Section 9 and Section 11 requires a similar exercise to be carried out for marks pertaining to different goods or services.

3. Grievance of the petitioner is that its trademark as also logo "Zee" has been recognized in various decisions as having acquired a distinct secondary meaning and would Therefore be entitled to a protection in respect of goods which are yet to be marketed by the petitioner.

4. The principle of the dilution of the trademark has been extended for the mark in question. Yet, in spite thereof, Registrar of Trademarks is admitting for registration, applications by hundreds of individuals who seek registration of the trademark "Zee" for purposes of sale of their goods.

5. Petitioner states that it is impossible for the petitioner to keep a track of all applications which are advertised and file opposition thereto.

6. It is urged that it is the statutory duty of the Registrar to reject at the threshold, applications filed seeking registration of the trademark "Zee".

7. Issue notice returnable before the Joint Registrar for 24.4.2007.

8. Matter be listed in court immediately after service is effected on the respondents.

manupatra 9. Learned Joint Registrar need not have the pleading completed before him.

CM 1702/2007

1. Notice returnable for 24.4.2007.

2. In the meanwhile the Registrar of Trademarks (All Branches) is restrained from processing pending applications pertaining to registration of the trademark "Zee". Further injunction is issued restraining Registrar of Trademarks from advertising any further application which may be filed pertaining to the trademark "Zee".

3. Operation of the impugned order dated 11.9.2000 and 15.9.2000 whereunder respondents 6, 7 and 8 have obtained registration of the trademark "Zee" shall remain stayed till the present order is vacated or modified.

4. dusty.

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