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

+ **C.A.(COMM.IPD-TM) 25/2024 & I.A. 9190/2024**

MANKIND PRIME LABS PRIVATE LIMITED Appellant

Through: Mr. Hemant Daswani, Ms. Saumya
Bajpai and Mr. Pranjal, Advocates.

versus

REGISTRAR OF TRADE MARKS

..... Respondent

Through: Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar Mishra,
Mr. Alexander Mathai Paikaday, Mr.
Lakshay Gunawat and Mr. Krishnan
V., Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

26.04.2024

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I.A. 9191/2024 *(seeking exemption from filing original or certified, clearer and translated copies with proper margins of the documents and filing dim and illegible documents)*

1. Exemption is granted, subject to all just exceptions.
2. The Appellant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

C.A.(COMM.IPD-TM) 25/2024

4. The Appellant's trademark application for the mark "LULIHIGH" bearing application no. 4804295 in Class 5 has been rejected under Section 11(1) of the Trademarks Act, 1999 [hereinafter '*the Act*'] on account of a



pending application for the trademark 'LULI'.

5. Mr. Hemant Das, counsel for the Appellant, submits that the first four letters of the mark "LULIHIGH" are derived from the chemical composition comprising of 'Luliconazole' which is part of the pharmaceutical preparations. Likewise, the conflicting/cited mark "LULI" is also based on the same chemical. It is further submitted that such an ingredient being generic cannot be owned by anyone exclusively for use as a trademark. Therefore, the added matter to the Appellant's mark "HIGH" makes the Applicant's mark distinctive of the cited mark.

6. Issue notice. Mr. Srish Kumar Mishra, counsel for the Respondent, accepts notice. Written submissions, in response to the appeal, be filed within four weeks from today. Rejoinder submissions on behalf of Appellant, be filed within two weeks thereafter.

7. Renotify on 23rd September, 2024.

SANJEEV NARULA, J

APRIL 26, 2024

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