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

% Judgment delivered on: 09.01.2026

+ **C.A.(COMM.IPD-TM) 13/2025 & I.A. 7045/2025**

MANKIND PHARMA LIMITED

.....Appellant

Versus

THE REGISTRAR OF TRADE MARKS

.....Respondent

Advocates who appeared in this case

For the Appellant : Mr. Hemant Daswani and Ms. Saumya Bajpai, Advocates.

For the Respondent : Ms. Nidhi Raman, CGSC with Mr. Om Ram & Mr. Mayank Sansanwal, Advocates

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present Appeal has been filed under Section 91 of the Trade Marks Act, 1999 (“Act”), being aggrieved by the order dated 06.11.2024 (“**Impugned Order**”) passed by the Respondent, refusing the Appellant's Application for registration of the Mark ‘PETKIND’ (“**Subject Trade Mark**”) bearing Application No. 5157443 (“**Application**”) in Class 31.
2. The Respondent has refused the Application on the ground that there was a prior application for the mark ‘PETKIND’ (“**Cited Mark**”) under Application No. 4648505, which is phonetically and visually similar to the



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Subject Trade Mark and in respect of similar goods and services and under the same Class. Therefore, the Application was refused vide Impugned Order with the finding that the Subject Trade Mark is not registrable pursuant to Sections 9(1)(a), 9(1)(b) and 11(1) of the Act.

FACTUAL BACKGROUND:

3. The Appellant is a leading marketer of wide range of pharmaceutical, medicinal and veterinary preparations in India and is one of the largest pharmaceutical companies of India.

4. On 01.10.2021, the Appellant had applied for registration of the Subject Trade Mark by way of Application for agricultural, horticultural, aquacultural, forestry products, grains and by-products of the processing of cereals for human or animal consumption namely wheat, barley, sorghum, millet, living animals, fresh fruits and vegetables, seeds, raw and unprocessed grains and seeds, natural plants and flowers, foodstuffs for animals, malt goods.

5. The Respondent after examining the Application issued an Examination Report dated 27.10.2021 (“**Examination Report**”). The Examination Report stated that the Application is open to objection on relative grounds of refusal under Section 11(1) of the Act because the same or similar marks are already on record of the Register for the same or similar goods or services. As per the Examination Report, the objection was raised under Section 11(1) of the Act, as the Subject Trade Mark was identical with or similar to earlier application for Cited Mark and because of such identical or similar Mark, there existed a likelihood of confusion on the part of the public.

6. The Respondent held a hearing of the Application for registration of the Subject Trade Mark on 06.11.2024. The Counsel for the Appellant appeared



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at the hearing and made submissions in favour of the registration of the Subject Trade Mark.

7. The Application for the registration of the Subject Trade Mark was rejected *vide* the Impugned Order and being aggrieved by the same, the Appellant has filed the present Appeal before this Court, on the grounds that the decision is arbitrary, legally flawed, and contrary to the basic principles governing Trade Mark examination.

SUBMISSIONS ON BEHALF OF THE APPELLANT:

8. The learned Counsel for the Appellant made the following submissions:

- 8.1 The Appellant has over 280 registered Trade Marks, out of which 210 Marks are registered in Class 5, wherein the word ‘KIND’ forms part of the essential feature of their Trade Marks (“**KIND Family of Marks**”). The annual turnover in respect of top twenty-five different products of the Appellant containing the word element ‘KIND’ as a part of its Trade Mark cumulatively is over ₹25,53,00,00,000/- for the Financial Year (“**FY**”) 2022-2023.
- 8.2 The Mark ‘MANKIND’ belonging to the Appellant has been determined under Rule 124 of the Trade Marks Rules, 2017 as a well-known Trade Mark by the Registrar of Trade Marks and has been published in the Trade Marks Journal No. 1978 dated 14.12.2020 as a well-known Mark and included in the list of well-known Trade Marks maintained by the Registrar of Trade Marks.
- 8.3 The Appellant has honestly adopted and coined the Subject Trade Mark having many unique features, which makes the mark



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highly and inherently distinctive in respect of the goods being sold under the Subject Trade Mark. The Subject Trade Mark is a combination dictionary word with the source identifying feature of the Appellant's namely 'KIND' which is having no connection with the goods applied for, making it an arbitrary mark, which is well capable of registration as per the subsisting law.

- 8.4 The Respondent failed to take into consideration that Appellant has *bona fide* reasons to adopt the Subject Trade Mark as the same is intended for agricultural, horticultural, aquacultural, and forestry products and grains and by-products of the processing of cereals for human or animal consumption and adding it with the distinctive suffix 'KIND', which acts as a source identifier of the products that are exclusively associated with the Appellant.
- 8.5 The Respondent ought to have included in its Examination Report various marks under KIND Family of Marks that are registered in favour of the Appellant as citing the same in the Examination Report would have been evident that in the agricultural and horticultural industry, public and trade associate any mark with the word element 'KIND' with the Appellant, and, thus negating any objections under Section 11 of the Act.
- 8.6 Adoption of the Cited Mark by 'Petkind Pet Products Inc.' was *mala fide* and the same cannot be the reason for refusing the registration of the Subject Trade Mark, especially when Appellant has a practice to adopt various Trade Marks with the word element 'KIND' in various field of activities.



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- 8.7 In *Mankind Pharma v. Lemford Biotech Pvt. Ltd. and the Registrar of Trade Marks*, Neutral Citation: 2025:DHC:1232, *Mankind Pharma Ltd v. Arvind Kumar Trading and Anr.*, Neutral Citation: 2023:DHC:2700, *Mankind Pharma Ltd. v. Manoj Kumar M/s Novakind Biosciences*, Neutral Citation: 2024:DHC:7590, *Mankind Pharma Ltd. v. Gurinder Singh*, C.O. (COMM.IPD-TM) 257/2022 and *Mankind Pharma Ltd. v. Dr. Kind Formulation Pvt. Ltd. and the Registrar of Trade Marks*, C.O. (COMM.IPD-TM) 282/2022, this Court has recognised that the Appellant is the prior user of the KIND Family of Marks.
- 8.8 Accordingly, the Impugned Order deserves to be set aside and the Respondent ought to advertise the Subject Trade Mark in the Trade Marks Journal.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

9. Ms. Nidhi Raman, the learned CGSC for the Respondent made the following submissions:
- 9.1. The Impugned Order is in consonance with the settled principles of Trade Mark Law and the statutory scheme under the Act. A bare perusal of the Impugned Order demonstrates that the Respondent extended to the Appellant a full and fair opportunity of hearing, in due compliance with the principles of natural justice. The Impugned Order is a reasoned and well-considered decision.
- 9.2. The Subject Trade Mark is not merely similar but is identical to the Cited Mark. The identity between the marks is absolute and



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total on every legally recognized parameter of comparison. Visually, the marks are composed of the exact same letters in the same sequence. Phonetically, they are indistinguishable, pronounced in precisely the same manner. Structurally and conceptually, being the same word, they convey the exact same meaning and commercial impression.

- 9.3. The goods specified by the Appellant in the Application are identical / similar to the goods covered under the Cited Mark. The Appellant's specification for Class 31 explicitly includes the broad term 'foodstuffs for animals'. The Cited Mark is for the same goods of 'foodstuffs for animals' namely, "pet foods, pet beverages, pet treats, biscuits, chews, pellets, pet food supplements". The specific goods of the Cited Mark fall entirely within the genus of the goods claimed by the Appellant. Both sets of goods belong to Class 31 and targeted at the same consumer base i.e. pet owners and are sold through identical trade channels such as pet stores, veterinary clinics and supermarkets.
- 9.4. Given the absolute identity of the Subject Trade Mark and the Cited Mark and the clear identity and close relationship of the goods i.e. 'foodstuffs for animals', there exists an inevitable and strong likelihood of confusion on the part of the public. It is impossible for an average consumer to differentiate the trade source of these products. This creates a clear likelihood of association, where the public would be deceived into believing the Appellant's goods are connected with the owner of the Cited Mark.



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- 9.5. The documents filed and relied on by the Appellant fail to overcome the statutory objection raised under Section 11(1) of the Act. The Appellant's reliance on the KIND Family of Marks is misplaced, as all the documents submitted pertains overwhelmingly to goods in Class 5 and not to the goods in Class 31. The Appellant has not furnished any credible evidence of prior use, registration or established reputation for the Subject Trade Mark in connection with goods falling under Class 31.
- 9.6. The response to the Examination Report filed by the Appellant on 28.10.2024 was wholly devoid of any substantive reasoning or supporting material. The Appellant merely made a bald assertion that the Subject Trade Mark was honestly adopted and claimed it to be distinctive, without furnishing any documentary evidence or comparative analysis to support such assertion.
- 9.7. Accordingly, the Impugned Order rightly held that the Appellant is not entitled to the registration of the Subject Trade Mark.

ANALYSIS AND FINDINGS:

10. Section 11 of the Act provides "relative grounds for refusal of registration". The grounds for refusal, contained in Section 11 of the Act, relate to earlier Trade Marks registered in favour of someone else, or in respect of which an application is pending with the office of the Registrar of Trade Marks.

11. Section 11(1)(a) of the Act bars the registration of a Trade Mark that is identical to an earlier Trade Mark and used in relation to similar goods or services. Similarly, Section 11(1)(b) bars the registration of a Trade Mark that is similar to an earlier Trade Mark and used in relation to identical or similar



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goods or services. In either case, a third condition is required to be satisfied that owing to the identity or similarity between the subject Trade Mark and the Cited mark, and the identity or similarity between the goods covered under two marks, there exists a likelihood of confusion on the part of the public, which would include a likelihood of association with the earlier Trade Mark.

12. In ***Manu Garg & Ratan Behari Agrawal v. Registrar of Trade Marks***, 2023 SCC OnLine Del 581, this Court held that an additional requirement under Sections 11(1)(a) of the Act would be the aspect of likelihood of confusion and likelihood of confusion is not to be easily presumed. The nature of the goods and the class of their purchasers have to be borne in mind while deciding on the likelihood of confusion.

13. In ***Lite Bite Travel Foods (P) Ltd. v. Registrar of Trademarks***, 2023 SCC OnLine Del 296, it has been held that the existence, or likelihood of confusion is an issue of fact. Until and unless, on facts, it is established that, owing to identity / similarity of the mark of which registration is sought, and of the goods / services covered thereby, with an earlier mark, there is likelihood of confusion / association in the mind of the public, registration cannot be refused on that ground.

14. The Appellant has several Trade Mark registrations granted in its favour that use the word 'KIND' as a suffix in Class 31. Hence, the Appellant has developed a Family of Marks with the word 'KIND' as an essential part of the Appellant's Trade Marks. In ***Mankind Pharma Ltd. v. Cadila Pharmaceuticals Ltd.*** 2015 SCC OnLine Del 6914, this Court has held that the Appellant having established its first user of the word 'KIND' is entitled to a higher protection for the word 'KIND'. Due to its continuous and extensive usage, the word 'KIND' has come to be exclusively associated with



the Appellant, and this would entitle the Appellant to a higher protection for the 'KIND Family of Marks'. The Mark 'MANKIND' belonging to the Appellant has been determined under Rule 124 of the Trade Marks Rules, 2017 as a well-known Trade Mark by the Registrar of Trade Marks and has been published in the Trade Marks Journal No. 1978 dated 14.12.2020 as a well-known Mark and included in the list of well-known Trade Marks maintained by the Registrar of Trade Marks.

15. A perusal of the Examination Report shows that the Cited Mark was applied for on a proposed to be used basis and there is no active user of the Cited Mark. The Appellant has established that they have been using various marks with the suffix 'KIND' since 1986 and the use of the 'KIND' is affiliated to the Appellant especially with respect to goods falling under Class 31. The Appellant has 65 registered Trade Marks in Class 31 alone with the suffix 'KIND' and the Appellant has amassed significant goodwill.

16. Accordingly, the Cited Mark in the Examination Report would not lead to rejection of the Subject Trade Mark considering the overwhelming use and registrations of marks with the suffix 'KIND' by the Appellant.

17. In view of the above, the registration of the Subject Trade Mark ought not to have been rejected and deserves to proceed for advertisement. Accordingly, the present Appeal is allowed and the Impugned Order dated 06.11.2024 is set aside.

18. However, it is made clear that if there are any opposition proceedings filed against the Subject Trade Mark, the same would be decided in accordance with law on its own merits, without any reference to and without being influenced by the present Order.



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19. The Respondent shall proceed with the advertising of the Subject Trade Mark, i.e., PETKIND, under Trade Mark Application No. 5157443 in accordance with the provisions of the Act, within two months.
20. Let a copy of the present Order be sent to the Office of the Controller General of Patents, Designs and Trade Marks on e-mail ID - llc-ipo@gov.in, for compliance.
21. Accordingly, the Appeal is disposed of in the aforesaid terms. The pending Application stands disposed of.

TEJAS KARIA, J

JANUARY 9, 2026

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