

To,
The Registrar of Trademarks,
Mumbai

Re: Application No **6298321** in class 30 in the trademark name of "**PIKANTE**"

Proprietor Name: YASH SHRIRAM BHAKARE

Dear Sir/ Madam,

We write to you with reference to your examination report dated 13/03/2024 in respect of the above captioned application number, we have received examination report by way of official communication from the Trade Mark Registry.

It is submitted that the applicant's mark "**PIKANTE**", [CLASS : 30] COFFEE, TEA, COCOA, SUGAR, RICE, TAPIOCA, SAGO, ARTIFICIAL COFFEE, FLOUR AND PREPARATIONS MADE FROM CEREALS, BREAD, PASTRY AND CONFECTIONERY, ICES, HONEY, TREACLE, YEAST, BAKING-POWDER, SALT, MUSTARD, VINEGAR, SAUCES (CONDIMENTS), SPICES, ICE. is highly distinctive mark which is capable of distinction the services rendered by the applicant and is exclusively associated with applicant's business only.

Objections on Relative Grounds under Section 11(1)

We seek to reply to your objections under section 11 (1) by analyzing all the trademarks cited in the Examination Report in detail:

Cited Similar/Resembling mark under Application No: 2531473.

It is submitted that the cited mark is neither identical nor deceptively similar to the mark of the applicant.

It is submitted that, the Applicant's mark in question "**PIKANTE**" being device mark is distinctive with a new and unique logo. It is well accepted judicial principle that trademarks are compared for determining likelihood of confusion on the basis of trilogy of appearance, sound as well as meaning. Here in the present case the competing marks are appearance, sound as well as meaning. Thus, the prongs of the cited marks dictate against similarity. Therefore, in view of section 17 of the Trade Mark Act, 1999 the registration of the mark only protects the mark as whole and the owner of the cited mark cannot claim any rights in individual components of the cited mark.

The objection taken is not at all tenable. The trademark applied for a device mark with words "**PIKANTE**" which is capable of distinguishing the services rendered by the applicant and is exclusively associated with the applicant's services only.

Moreover, there is no likelihood of confusion because the applicant's mark differs significantly from the registrant's mark when viewed in its entirety. It is well-established that a likelihood of confusion finding must be based on overall impression provided by the respective marks and not on one of the individual components of each mark. Thus the competing mark on the register and the applicant's mark should be allowed to co-exist on the register and in the market place. As held in the case of **Harjeet Kaur Vs. Dy. Registrar of Trade Marks**, "When trademark is composite one, the same cannot be separated by prefix or suffix to find out the similarity or dissimilarity. It has to be taken in totality to find out the similarity".

In light of the aforesaid, it is submitted that the cited mark cannot be a ground of objection to the registration of the applicant's mark "**PIKANTE**". Moreover, it has been well explained by the Hon'ble Supreme Court in **Corn Products Refining Co. Vs. Shangrila Foods Products Limited**. The question whether the two marks are

likely to give rise to confusion or not is a question of the first impression and that was well recognized that in deciding a question of similarity between two marks, the marks have to be considered as a whole".

With regards to objection raised under section 11 of the trademark act relating to the cited marks, we submit that the applicant's trademark "**PIKANTE**" under no **6298321** is entirely different from the cited trademark such as phonetically, visually and structurally. It is well recognized that in deciding a question of similarity between two marks, the marks have to be considered as a whole. Thus, there exists no likelihood of confusion among the members to trade or public and hence the mark applied for is eligible for registration under sections 9, 11 and 12 of the Trademark Act, 1999. It is respectfully submitted that it would be unfair to allow the cited mark to block the progress of our client's application when the respective marks are clearly so different. Having regard to the above facts, I request you to kindly waive the objection and accept the trademark for registration or in the alternative, post a hearing at an early date for personal representation of matters.

Yours Faithfully



YASH SHRIRAM BHAKARE

Place: Satara

Date: 14thMarch2024