

no-top- 6994/6995 /10/02/11

भारत सरकार / GOVERNMENT OF INDIA
 व्यापार चिन्ह रजिस्ट्री / TRADE MARKS REGISTRY
 कोचिन कार्यालय भारत की एक ही सेवा सुवर्ण ईस्ट - 600032
 Intellectual Property Building , G. S. T. Road, Coimbatore 600032



Date:10/02/2011

To,

- 1.) LALL LAHARI AND SAJIHOTRA. (Agent)
 N-128 PANCHSHEEL PARK, NEW DELHI- 110017.
- 2.) MURTHI & MURTHI ADVOCATES, (Agent)
 DR.KRISHINASWAMI ROAD, COCHIN - 682 035.
- 3.) MATHEWSONS EXPORTS & IMPORTS (P) LTD., (Opponent)
 MATHEWSONS BUILDING, KALOOR, COCHIN - 682017.

Subject : **Rectification** No.259225 to Application No. 1109980 in class 3 in the name of:

Sir/Madam,

With reference to the above,matter I am directed by the Registrar of Trade Marks to forward herewith an order / decision passed in the matter.

Yours faithfully,

Handwritten signature

For Registrar Of Trade Marks

THE TRADE MARKS ACT, 1999
(Before the Deputy Registrar of Trade Marks)

IN THE MATTER OF Registered Trade Mark Application
No.1109980 in Class 3 in the name of M/s Oriental
Extractions Pvt. Ltd..

Registered Proprietor

And

IN THE MATTER OF Rectification No.259225 in Class 3 in
the name of Mr. S. Siva Subramaniyan, Polaythodu,
Mundakkal, Kollam – 691 001.

Applicants for Rectification

And

IN THE MATTER OF Interlocutory Petition dated
13.10.2008 filed by the Registered Proprietor.

Present: **Mrs. Uma Murthy, Advocate, appeared on behalf
of M/s Murty & Murty for the Applicants for
Rectification**

None for the Registered Proprietor.

ORDER

This order will dispose of Interlocutory Petition filed by Registered Proprietor.

The Trade Mark MANJAL was sought for registration in Class-3 by M/s Oriental Extractions Pvt. Ltd. bearing No.1109980 in Class-3. After some preliminary objection, the mark was ordered to be advertised in the Trade Marks Journal and accordingly it was published in the Trade Marks Journal No. 1103 (Suppliment), 21.9.2003. Since there is no opposition to the said application within the statutory period, the mark got registered.

The applicants for rectification have filed Form TM-26 for removing the mark from the Register by M/s Mathewsons Exports & Imports (P) Ltd., Cochin 682 017 mainly on the following reasons:

The mark MANJAL is not registrable under Section 9(1) of the Trade and Merchandise Marks Act, 1999, since it is devoid of any distinctive character and is not capable of distinguishing the goods. The mark 'MANJAL' is a generic name in use from time immemorial to designate the kind, quality and values of a plant variety. The mark MANJAL is already in public domain and cannot be termed to be the exclusive mark of the Respondents. The entry of registration of the subject mark has been made without sufficient cause and therefore the entry remains wrongly in the register. The registration has been made wrongfully and in bad faith and ought to be expunged from the register. The

