

To,  
The Registrar of Trademark,  
Trademark Registry, MUMBAI

Date: 13/07/2017

**Sub: REPLY TO EXAMINATION REPORT(MIS-R) Dated on: 03/06/2017 15:00:15**  
**Ref: Application Number-3552924**

Sir,  
With reference to the above application, the point wise reply is as under: -

Reply attached seperately

RAJIV KUMAR CHOUDHRY  
Attorney [20213]

**IN THE INDIAN PATENTS AND TRADEMARKS OFFICE  
BEFORE THE REGISTRAR OF TRADEMARKS, [MUMBAI OFFICE]**

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Applicant Name: <b>AJAY SAXENA</b>	)	Application Number:
	)	3552924
Examination Report (ER):	)	
TMR/MUMBAI/EXM/2017/	)	Class: 45
	)	
ER Date: 23/06/2017	)	MARK: <b>EcoTv</b>
	)	
Examiner: SOUVIK BOSE	)	
	)	
	)	
	)	

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The  
Registrar of Trademark,  
Mumbai Office,

In respect of the matter referenced above, we reply as follows:

Sincerely,



Rajiv Kr. Choudhry

[Attorney Code: 20213 ]

RKC/sk

Dear Sir,

We write with reference to the captioned application. The Learned Examiner has raised objection to the registration of the captioned application under Section 11 of the Trade Marks Act, 1999.

1. With regards to the objection raised under Section 11 of the Act, our response is:

1. The cited marks are different and distinguishable from the captioned mark. Per judicial principle of entirety, the marks should not be broken down into segments, but considered as a whole. When this principle is applied in the instant case, the captioned mark comes across as structurally, phonetically and visually different from the cited marks.
2. The above contention is supported by Delhi High Court's pronouncement in the case of *United Biotech Pvt. Ltd. v. Orchid Chemical and Pharmaceuticals Ltd & Ors.*, 2012(50)PTC433(Del), wherein the Court stated: "It is also well settled that the competing marks should be compared as a whole without dissecting the same".
3. Also, in *Roche and Co. v. Geoffrey Manners and Co. Pvt. Ltd.* [1970] 2SCR213, the question of 'deceptive similarity' was also considered. It was observed that "It is also important that the marks must be compared as a whole." The true test is whether the totality of the proposed trade mark is such that it is likely to cause deception or confusion or mistake in the minds of persons accustomed to the existing trade mark".

In view of the above reasoning, the Learned Registrar is requested to waive the objection raised and allow the captioned mark to be published in the Trade Marks Journal.

In the alternate, we request that a hearing be appointed in the matter.

Sincerely,



Rajiv Kr. Choudhry | D/841/2006

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of **RHA Legal**

Advocates for the Applicant