

# Intellectual Property Rights Annual Review

LegaLogic

2024

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# TRADEMARKS CASES

## Bombay High Court passes a Temporary Injunction in favour of Burger King

**Case:** Burger King Corporation v. Anahita Irani and Anr. [Interim Appl. No. 11916/2024], Bombay High Court

### Background of the case:

In an intriguing trademark dispute, Burger King Corporation filed a lawsuit against a local Pune restaurant using the "Burger King" name. The multinational giant, registered since 1954, and holds a registered trademark in India since April 25, 1979 and considered as a well know trademark sought to protect its well-known brand from alleged trademark infringement by the Pune-based entity operating since 1992 and registered trademark in 2003.

### Plaintiffs Arguments:

- **Permanent Injunction:** Sought to stop the local use of "Burger King".
- **Passing Off:** Claimed the Pune entity misled consumers by using a similar name and branding.
- **Damages and Rendition of Accounts:** Monetary compensation of Rs 20 lakhs for profits earned through trademark misuse.
- **Delivery Up:** Return or destruction of infringing goods.

### Defendants Arguments:

- The trademark was not well-known in India during the early '90s.
- Asserted distinctiveness in their logo.
- Argued the trademark act did not apply extraterritorially.
- Prior use of mark Pune burger king that has been in market since 1994 whereas plaintiff first used the trademark and entered in the market in 2014 by opening their first store.
- The plaint was not instituted in a proper manner in accordance with Order 29 of CPC
- Did not had proper verification of evidence affidavit in accordance with Order 19 Rule 3 of CPC.

### Verdict:

- The court validated Burger King's trademark registrations but found issues with document authorization.
- The court granted injunction
- Insufficient evidence of real damage led to the dismissal of both the lawsuit and counterclaim.

### Appeal:

The order of the Pune District was challenged by the Burger King Corporation into Bombay High Court, and court granted an interim stay in favor of the Appellant. Presently case is pending for hearing.

## Conclusion:

This case underscores the balance between global trademark rights and local laws for local business and multinational business companies, reflecting the legal system's integrity in allowing brands to coexist peacefully. The court's decision ensured fairness by considering intent, evidence, and stakeholder perception. [Read more](#)

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## INDIGO TAKES MAHINDRA ELECTRIC TO DELHI HIGH COURT OVER USE OF '6E' IN ITS NEW ELECTRIC CAR

**Case:** Inter Globe Aviation Limited (IndiGo) v. Mahindra Electric Automobile Limited, CS (COMM)-1073/2024, Delhi High Court.

### Background of the case:

In 2024, Interglobe Aviation limited filed a lawsuit for trademark infringement against Mahindra Electric for using the "6E" name for its BE 6e electric SUV, which is similar to IndiGo's callsign and is used by them in various services so it is a prominent feature associated with only indigo.

### Key Legal Points:

- **Trademark Infringement:** IndiGo holds the "6E" trademark in multiple classes, including electronic advertising and airline services.
- **Potential Consumer Confusion:** IndiGo argues that the use of "6E" by Mahindra could confuse customers and dilute their brand identity.

### Defendant's Response:

- Mahindra Electric claims that their use of "6E" for the BE 6e SUV is distinct and does not relate to aviation.
- The trademark for "BE 6e" was approved under Class 12 for motor vehicles.

**Current Status:** The case is pending for hearing and the next hearing scheduled for April, 2025. Till the time Defendant i.e. Mahindra has signed an undertaking stating that they will not use the mark "6E" for their upcoming electric SUV cars until the matter is decided.

## Conclusion:

This case highlights the complexities of trademark disputes in the rapidly evolving automotive and aviation industries. The outcome will have significant implications for brand identity and consumer perception. [Read More](#)



## FRAUDULENT USE OF ICONIC TRADEMARK TAJ HOTEL

**Case: The Indian Hotels Company Limited v. Manoj, CS(COMM) 683/2022 & I.A. 35307/2024 Delhi High Court.**

### Background of the case:

In a significant ruling, the Delhi High Court sided with The Indian Hotels Company Limited (IHCL), known for its prestigious “TAJ” brand and the Taj Mahal Palace Hotel, against Manoj, the owner of “www.tajiconicmembership.com.”

### IHCL’s Arguments:

- Unauthorized use of the “TAJ” trademark in the defendant’s business name and domain, misleading consumers about an affiliation with IHCL.
- Copying of copyrighted photographs from IHCL’s website, including images of the Taj Mahal Palace Hotel.
- Impersonation of IHCL to commit fraud, including an incident involving the defrauding of a jeweler of gold coins worth over Rs. 51 lakhs.

### Court’s Decision:

- Recognized IHCL’s substantial goodwill and reputation in the “TAJ” trademark since 1903.
- Determined the unauthorized use of the “TAJ” mark and content by the defendant constituted trademark and copyright infringement, likely to mislead consumers.
- Issued a permanent injunction preventing the defendant from using the “TAJ” mark, associated logos, or domain names.
- Ordered the transfer of the defendant’s domain, “www.tajiconicmembership.com,” to IHCL.
- Awarded IHCL Rs. 10 lakhs in damages and Rs. 5 lakhs in legal costs.

### Conclusion:

The Delhi High Court’s decision underscores the importance of protecting well-established trademarks and copyrighted materials in the architectural buildings. The importance of protecting well-known trademarks and the legal consequences of unauthorized use, especially when it leads to consumer confusion and fraud. It also highlights the court’s willingness to grant relief in favor of plaintiffs when defendants fail to participate in legal proceedings. This ruling reaffirms the legal system’s commitment to upholding intellectual property rights, ensuring that brands with a longstanding reputation can safeguard their business interests and maintain consumer trust.

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### Key Highlights:

- **Assessment of Confusion:** The court analyzed various factors, including the strength of the marks, similarity between marks, proximity of goods/services, consumer confusion, intent, conduct of parties, and nature of consumers.

- **Court's Analysis:** The court relied on several landmark cases, such as South India Beverages and Aditya Birla Fashion, to determine that "Armour" was not the dominant part of Under Armour's mark. The Vardhman Buildtech case clarified that registration does not grant exclusive rights to parts of a trademark.
- **Verdict:** The court held that there was no consumer confusion and thus denied Under Armour's request for an injunction but imposed certain limitations on the defendants' use of the "Aero Armour" mark to prevent potential consumer confusion..

## Conclusion:

The judgement rendered by the Hon'ble Delhi High Court in the present case not only sheds light on the importance of registration of part of a trademark and the content dealt intrademark disputes, particularly when common descriptive terms are used in branding. It highlights the importance of a comprehensive analysis of the likelihood of consumer confusion, the distinctiveness of trademarks, and the intent behind the adoption of similar marks in determining the outcome of such disputes also highlights the necessity for brands to carefully consider their brand protection and enforcement strategies and the importance of timely and comprehensive trademark registration to safeguard brand integrity. [Read More](#)

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## BOMBAY HIGH COURT RULES ON MANGALAM ORGANICS V. PATANJALI: TRADEMARK INFRINGEMENT OVER CAMPHOR PRODUCTS

**Case: Mangalam Organics Ltd. v. Patanjali Ayurved Ltd. & Ors. 12-IA(L) 4586/2024 in COMIP(L) 21853/2023 ( H.C Bombay august 30, 2024)**

### Background of the case:

Mangalam Organics Ltd., the world's largest camphor manufacturer, filed a trademark infringement case against Patanjali Ayurved Ltd. for using a cone-shaped trade dress and carton packaging similar to its own misleading them to believe patanjali products are associated with Mangalam.

### Key Points:

- **Arguments:** Mangalam Organics alleged that Patanjali Ayurved's camphor product, "Patanjali Aastha Kapoor Cone," infringed on its trademark and breached an August 2023 court order.
- **Court's Findings:** The court found that Patanjali Ayurved willfully breached the court order by continuing to manufacture and sell the camphor product
- **Penalty:** The court imposed a penalty of ₹4 crore on Patanjali Ayurved for contempt of court, in addition to an earlier ₹50 lakh deposit.
- **Appeal:** Patanjali appealed the penalty, and on August 30, 2024, the Bombay High Court stayed the ₹4 crore penalty, pending further hearings.

**Current Status:** Bombay High Court Stays ₹4 Crore Penalty Imposed On Patanjali Ayurveda In Trademark Infringement Case. The stays order is passed by the division bench comprising of Justice Chnadurkar and Justice Rajesh Patil.

### Conclusion:

Understanding the critical importance of distinct branding and adherence to court orders in trademark disputes. It highlights the judiciary's role in enforcing intellectual property rights and the potential consequences of non-compliance with judicial directives. The Bombay High Court has directed Patanjali Ayurved Ltd. to deposit Rs. 50,00,000 to the court as it violated an injunction/ad-interim order of the Court that had restrained the company from selling its camphor products, in relation to a trademark infringement case filed by Mangalam Organics Ltd. Mangalam Organics.

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## ADIDAS AG WINS TRADEMARK INFRINGEMENT CASE AGAINST JAI PRAKASH IN DELHI HIGH COURT

**Case: Adidas AG v. Mr. Jay Prakash, CS(COMM) 1282/22 ( H.C Delhi September 7, 2024).**

### Background of the case:

Adidas AG, the renowned German sportswear company, filed a lawsuit against Mr. Jay Prakash for trademark infringement and passing off. Adidas alleged that Mr. Prakash was selling counterfeit products without authorization bearing Adidas trademarks, including the "Three Stripes," "Performance Logo," and "Trefoil" marks.

### Key Points:

- **Arguments:** Adidas claimed that Mr. Prakash was unlawfully marketing, distributing, and selling counterfeit apparel and accessories.
- **Court's Findings:** The court determined that the defendant's unauthorized use of Adidas's trademarks constituted infringement. The court found that Mr. Prakash's actions could mislead consumers and damage Adidas's brand reputation. And dilute the distinctiveness of the brand
- **Verdict:** The court issued a permanent injunction restraining Mr. Prakash from using Adidas trademarks and deliver all counterfeit goods to adidas.
- **Damages Awarded:** Additionally, Mr. Prakash was ordered to deliver all infringing goods to Adidas for destruction and to pay damages of Rs. 5 lakhs along with the costs of the suit.

### Conclusion:

In a suit filed by Adidas AG ('Adidas') to secure their rights against the use of an identical mark by the defendants for various classes of goods, including textiles, a Single Judge Bench of Sanjeev Narula, J. granted permanent injunction to Adidas and restrained the defendants from manufacturing, trading, selling, marketing, offering for sale or dealing in any way in textile piece goods under the 'Adidas' marks or any other marks deceptively similar to Adidas' marks.



## DELHI HIGH COURT RULES IN FAVOR OF HALDIRAM: TRADEMARK 'WELL-KNOWN' STATUS UPHOLD AGAINST BERACHAH SALES

**Case: Haldiram India Pvt. Ltd v. Berachah Sales Corporation and Ors, CS(COMM) 495/2019 (H.C Delhi April 2, 2024)**

### Background of the case:

The Delhi High Court's ex parte injunction against the defendants in the Haldiram case highlights the protection of well-known trademarks. It emphasizes the importance of safeguarding brand identity and preventing consumer confusion, reinforcing the legal significance of distinct logos and names in maintaining market reputation.

Haldiram India Pvt. Ltd., a renowned name in the fast-moving consumer goods (FMCG) sector, filed a trademark infringement case against Berachah Sales Corporation & Ors. The plaintiff sought protection for its "HALDIRAM" mark, declaring it as a well-known trademark under Section 2(1)(zg) of the Trade Marks Act, 1999.

### Key Points:

- **Trademark Distinctiveness:** The court declared "HALDIRAM" as a well-known trademark, acknowledging its extensive reputation and distinctiveness.
- **Geographic Scope:** The court clarified that the distinctiveness of well-known trademarks transcends geographic boundaries, extending the protection to West Bengal where it previously did not apply.
- **Ex-Parte Judgment:** The court issued an ex-parte judgment in favor of Haldiram, restraining the defendants from using the "HALDIRAM" mark or any deceptively similar marks.

### Conclusion:

The Delhi High Court's ex parte injunction against the defendants in the Haldiram case highlights the protection of well-known trademarks. It emphasizes the importance of safeguarding brand identity and preventing consumer confusion, reinforcing the legal significance of distinct logos and names in maintaining market reputation. This ruling reinforces the importance of protecting well-known trademarks and their distinctiveness across different regions. It sets a precedent for future trademark disputes, ensuring that well-established brands can safeguard their reputation and consumer trust. [Read more](#)

## DELHI HIGH COURT RULES IN FAVOR OF MANKIND PHARMA: RESTRAINS USE OF 'MANKIND AGRI SEEDS' MARK

**Case: Mankind Pharma v. Mankind Agri seeds, CS(COMM) 495/2019 (H.C Delhi April 2, 2024).**

### Background of the case:

Mankind Pharma, a prominent pharmaceutical company, filed a trademark infringement suit against Mankind Agri Seeds, a Gujarat-based agricultural goods manufacturer, for using the "Mankind" trademark named its company as Mankind Agri seeds in its advertising and sales which was likely to cause confusion and dilute the distinctiveness of the trademark .

### Key Points:

- **Trademark Infringement:** Mankind Pharma alleged that Mankind Agri Seeds was using its trademark to benefit from the pharmaceutical company's established goodwill and reputation.
- **Court's Findings:** The court observed a prima facie case of infringement and passing off against Mankind Agri Seeds.
- **Interim Order:** The court granted an ex parte ad-interim injunction, restraining Mankind Agri Seeds from using the "Mankind" trademark. Additionally, the court appointed Advocate Uday Bharat Bali as the Local Commissioner to conduct a search and seizure of the infringing products at Mankind Agri Seeds' premises.
- **Court's Observations:** The court noted that the use of the "Mankind" trade name by the defendant could create market confusion and cause irreparable injury to Mankind Pharma which is a well known trademark.

### Conclusion:

The court has considered that Mankind has been using the "KIND" family of trademarks for the last 3 decades and has numerous trademark registrations over the trademark "MANKIND" and other "KIND" trademarks. While granting the injunction, the Court also considered that the trademark "MANKIND" has been declared as a well-known trademark and that Mankind Pharma has sole and exclusive rights in and over the trademark/trade name "MANKIND" and "KIND" formative trademarks. The court's decision ensures that Mankind Pharma's reputation and consumer trust are safeguarded against unauthorized use of its trademark. [\*\*Read More\*\*](#)

## DELHI HIGH COURT RESTRAINS ASHIRVAD PIPES FROM USING MARKS SIMILAR TO JAQUAR'S 'ARTIZE' AND 'TIAARA'

**Case:** Jaquar and Company Pvt. Ltd v. Ashirvad Pipes Pvt. Ltd, CS(COMM) 670/2023 ( H.C Delhi April 1, 2024).

### Background of the case:

Jaquar And Company Private Limited, known for its sanitary-ware and faucets under the "ARTIZE" and "TIAARA" brands, filed a trademark infringement suit against Ashirvad Pipes Private Limited for using the marks "ARTISTRY" and "TIARA," which Jaquar claimed were confusingly similar to its own.

### Key Points:

- **Trademark Infringement:** Jaquar alleged that Ashirvad's use of "ARTISTRY" and "TIARA" infringed on its trademarks and could mislead consumers.
- **Court's Analysis:** The court examined the similarity between the marks, the potential for consumer confusion, and the distinctiveness of Jaquar's trademarks.
- **Interim Order:** The court granted an interim injunction restraining Ashirvad from using the contested marks and appointed a Local Commissioner to conduct a search and seizure of the infringing products.

### Conclusion:

The Court observed that the adoption of the mark ARTISTRY, in the foreknowledge of the existence of plaintiff's ARTIZE range for similar goods, lends prima facie credence that there was a conscious attempt, on defendant's part, to adopt marks which would be confusingly similar to the marks of plaintiff. The Court noted that defendant earlier was using the mark "Ashirvad by Aliaxis" and adopted "ARTISTRY" after plaintiff's ARTIZE mark had gained repute and thus opined that this act also indicated, prima facie, that there was a conscious attempt to ride on plaintiff's reputation. The Court directed defendant to ensure that the impugned marks were removed from all physical and virtual locations within defendant's control, and from all websites, e-commerce platforms and social media pages. Defendant should also communicate with e-commerce platforms or websites over or through which the goods bearing the impugned marks were sold, to remove the goods from said platforms and websites. It highlights the judiciary's role in preventing consumer confusion and safeguarding brand integrity, even when the goods or services offered by the parties

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## RAZORPAY SECURES JOHN DOE ORDER FROM DELHI HIGH COURT TO COMBAT FRAUD AND PROTECT CUSTOMERS

**Case:** Razorpay Software Pvt. Ltd v. John Doe and Ors, CS(COMM) 269/2024 (H.C Delhi April 2, 2024).

### Background of the case:

Razorpay Software Private Limited, a payment gateway service provider, filed a lawsuit against John Doe & Ors. for perpetrating a financial scam by falsely associating themselves with Razorpay and causing financial losses to the public.

### Key Points:

- **Arguments:** Razorpay alleged that John Doe was creating a false association with them, using forged documents and misleading consumers into believing they were affiliated with Razorpay.
- **Court's Findings:** The court found prima facie evidence of fraud and trademark infringement.
- **Interim Order:** The court restrained John Doe from using Razorpay's trademarks or logos and directed the blocking of associated social media accounts.
- **Further Actions:** The court appointed a Local Commissioner to conduct a search and seizure of the infringing products and materials at John Doe's premises.

### Conclusion:

With a commitment to safeguard customers and protect its brand identity against financial fraud, Razorpay has secured a John Doe Order from the Delhi High Court. Effective immediately, this order mandates Facebook, WhatsApp, and Telegram to suspend accounts found infringing on Razorpay's trademarks and conducting fraudulent activities. This step reinforces Razorpay's commitment to combating financial fraud and protecting customers from scams undertaken in its name. This case highlights the importance of protecting trademarks and preventing fraudulent activities that can harm a company's reputation and consumer trust.

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## SUPREME COURT DISMISSES MAKEMYTRIP'S PLEA AGAINST GOOGLE OVER KEYWORD TRADEMARK INFRINGEMENT

**Case:** MakeMyTrip (India) Private Limited v. Google LLC, Special Leave Petition (Civil) No. 269/2024 (Supreme Court Of India March 11, 2024)

### Background of the case:

MakeMyTrip (India) Private Limited filed a special leave petition against the Delhi High Court's judgment, which set aside an interim order restraining Google from using MakeMyTrip's registered trademarks as keywords in the Google Ads Program.

## Key Points:

- **Trademark Infringement:** MakeMyTrip claimed that Google's use of its trademarks "MakeMyTrip" and "MMT" as keywords for displaying competitor Booking.com's ads constituted trademark infringement and passing off.
- **Court's Findings:** The Supreme Court dismissed the plea, remarking that consumers looking to book tickets through MakeMyTrip would not confuse it with Booking.com.
- **Delhi High Court's Ruling:** The Delhi High Court had held that using trademarks as keywords without causing confusion or unfair advantage does not infringe on the trademark.

## Conclusion:

"Those looking to book their tickets through "MakeMyTrip" would not confuse it with "Booking.com," the three-judge bench of Dr. DY Chandrachud, CJI., J.B. Pardiwala, and Manoj Misra, JJ., said orally while dismissing the plea in a special leave petition filed by MakeMyTrip against the Delhi High Court judgment, which set aside the interim order passed by a single judge that prohibited Google from using MakeMyTrip's registered trade marks as "keywords" on the Google Ads Program.

MakeMyTrip asserted that its registered trademarks "MakeMyTrip" and "MMT" were being violated by being utilized as keywords in the Google Ads Program to display links and advertisements from its rival "Booking.com". [Read more](#)

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## DELHI HIGH COURT GRANTS JOHN DOE ORDER TO PROTECT DREAM11'S TRADEMARK RIGHTS SPORTA TECHNOLOGIES PRIVATE LIMITED V. JOHN DOE & ORS.

**Case: Sporta Technologies Private Limited v. John Doe & Ors, CS(COMM) 21/2024 (H.C Delhi November 4, 2024).**

### Background of the case:

Sporta Technologies Private Limited, the parent company of Dream11, filed a lawsuit against John Doe & Ors. for trademark infringement, passing off, and copyright infringement. The plaintiffs alleged that the defendants were using the marks "DREAM," the domain name "dream11lotery.com," and the email address "admin@dream11.com" to mislead the public into thinking they were associated with Dream11.

## Key Points:

- **Trademark Infringement:** The defendants' use of similar marks and domain names was found to infringe on Dream11's registered trademarks.
- **Court's Findings:** The court observed that the defendants' actions could mislead consumers and damage Dream11's brand reputation.

- **Interim Order:** On January 8, 2024, the court granted an interim injunction restraining the defendants from using any marks or domains similar to Dream11's.
- **Final Judgment:** The court issued a permanent injunction against the defendants, ordering them to cease all infringing activities and deliver up all infringing materials.

## Conclusion:

The court ruled that the fake site, which imitated Dream11's trademark, layout, and branding, constituted clear trademark and copyright infringement. Justice Mini Pushkarna's judgment emphasized the importance of protecting consumer trust and maintaining market integrity. The court's application of Order VIII Rule 10 CPC allowed for swift justice in the absence of the defendants. Alongside a permanent injunction, nominal damages of ₹1 lakh were awarded, reinforcing the importance of accountability in IP violations. [Read More](#)

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## LENOVO WINS TRADEMARK INFRINGEMENT CASE AGAINST RPD WORKSTATIONS: 'THINBOOK' MARK CANCELLED

**Case: Lenovo (Singapore) Pte Ltd. v. RPD Workstations Pvt. Ltd. OP (TM) No. 61 of 2024 (H.C Madras December 3, 2024).**

### Background of the case:

Lenovo (Singapore) Pte Ltd. filed an appeal under Section 57 of the Trade Marks Act, 1999, seeking to rectify, cancel, and remove the entry of the mark "THINBOOK" in Class 9, registered in the name of RPD Workstations Pvt. Ltd.

### Key Points:

- **Trademark Infringement:** Lenovo claimed it is the originator, prior adopter, prior user, and prior registered proprietor of the THINK Family of Marks, including THINKPAD and THINKBOOK.
- **Court's Findings:** The court found that the mark "THINBOOK" is deceptively and phonetically similar to Lenovo's THINK Family of Marks.
- **Interim Order:** The court directed the Trade Mark Registry to cancel the impugned mark "THINBOOK" from the Register of Trade Marks within four weeks.

## Conclusion:

The court emphasized the importance of protecting established trademarks from potentially confusingly similar marks, thereby safeguarding consumer interests and the proprietary rights of trademark owners and the importance of protecting well-known trademarks and preventing consumer confusion. [Read More](#)



# MP HIGH COURT SETS ASIDE EXCISE COMMISSIONER'S ORDER FOR NOT CONSIDERING SIMILARITIES BETWEEN COMPETING BEER LABELS

**Case :Mount Everest Breweries Ltd. v. MP Beer Products Ltd 2024:MPHC-IND:32138**

## Background of the case:

Mount Everest Breweries Limited (MEBL) alleged that MP Beer Products reused their embossed "STOK" beer bottles, infringing trademarks and misleading consumers. The Madhya Pradesh High Court upheld a prohibition on reusing such bottles, emphasizing the need to protect intellectual property rights and prevent consumer confusion in the beverage industry.

Mount Everest Breweries Ltd. filed a petition challenging a single judge order which quashed the Excise Commissioner's order prohibiting all beer and liquor bottling units from reusing embossed bottles. The single judge had remitted the matter back to the Commissioner for reconsideration.

## Key Points:

- **Trademark Infringement:** Mount Everest Breweries Ltd. manufactures and sells beer under the trademark "STOK" embossed on their glass bottles. They discovered that private respondents were reusing these embossed bottles to market their own beer.
- **Court's Findings:** The division bench upheld the Excise Commissioner's order prohibiting the reuse of bottles with embossed logos but set aside the prohibition on reusing bottles after removing/scratching the logos, leaving that issue for a different forum.
- **Moot Point:** Whether reusing embossed bottles with another manufacturer's trademark constitutes infringement of intellectual property rights under the Trademarks Act.

## Court's Analysis:

- The court noted that the MP Foreign Liquor Rules emphasize that labels and brands must uniquely identify the manufacturer, and the presence of two brands is misleading.
- The court held that using the appellant's embossed bottles infringed their intellectual property rights and violated the MP Foreign Liquor Rules.
- However, the court stated that private respondents are free to reuse generic beer bottles manufactured by third parties which do not violate the label, trademark/brand/logo of another entity.

## Conclusion:

The division bench upheld the Commissioner's prohibition on the use of old bottles carrying embossed trademarks, emphasizing the importance of preventing consumer confusion and protecting intellectual property rights. However, it set aside the restriction on scratching off logos, leaving this matter open for determination in appropriate proceedings. [Read More](#)

## DELHI HIGH COURT UPHOLDS TRADEMARK INFRINGEMENT RULING IN FAVOR OF GLAXO GROUP LIMITED

**Case: Glaxo group limited and Ors v. Rajiv Mukul and Anr, EX.P. 9/2022**

### Background of the case:

Glaxo Group Limited filed a suit against the Defendants for using deceptively similar trademarks to its registered marks for vaccines like 'Zentel', 'Otrivin', and 'Ambirix'. The Defendants used marks such as 'Sontel', 'Etoriwin', and 'Aribrix', allegedly to misappropriate the proprietary suffix 'Rix'.

### Key Points:

- **Trademark Infringement:** Glaxo accused the Defendants of infringing its trademarks by using similar words and packaging.
- **Court's Decision:** The High Court passed a decree in favor of Glaxo, authorizing a compromise between Glaxo and the Defendants. The Defendants were directed to destroy any unfinished products or materials bearing the impugned marks.
- **Ongoing Infringement:** Despite the decree, the Defendants continued to infringe Glaxo's trademarks by using the mark 'Betnevin' with similar packaging to Glaxo's "Betnesol".
- **Execution Petition:** Glaxo filed an execution petition to enforce the original decree before the High Court.

### Conclusion:

The Delhi High Court single bench Jasmeet Singh upheld the decree and directed the Defendants to comply with the terms, emphasizing the importance of protecting intellectual property rights and preventing consumer confusion. [Read more](#)

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## DELHI HIGH COURT ISSUES NOTICE IN TRADEMARK DISPUTE: THE HERSHEY COMPANY V. SHREE GANESH NAMKEEN

**Case: The Hershey Company v. Dilip Kumar Bacha trading as Shree Ganesh Namkeen and Anr, C.O. (COMM.IPD-TM) 179/2023 ( H.C Delhi February 9, 2024).**

### Background of the case:

The Hershey Company sought the cancellation of the trademark 'HARSHY' (TM Application No. 3897902, dated July 25, 2018), registered to Shri Dilip Kumar Bacha, proprietor of Shree Ganesh Namkeen, based in Indore, Madhya Pradesh. Hershey contended that 'HARSHY' was deceptively similar to its well-known 'HERSHEY' trademark, potentially causing consumer confusion.

## Key Points:

- **Trademark Infringement:** Hershey claimed that the Defendants' use of similar trademarks was an attempt to misappropriate their proprietary by using the word harshy
- **Jurisdictional issue:** which High Court shall have the jurisdiction to hear cancellation/rectification petitions under Section 57 of the Trademark Act, 1999 ('1999 Act').
- **Court's Decision:** Justice Prathiba M. Singh said, prima facie, the High Court with jurisdiction over the appropriate Trade Marks Registry office in this case is the Bombay High Court would be the correct forum for the cancellation petition. The court referenced the absence of a definition for 'High Court' in the Trade Marks Act, 1999, and considered parallels with the Patents Act, 1970

## Conclusion:

This case underscores the complexities of jurisdiction in intellectual property disputes, particularly following the dissolution of the Intellectual Property Appellate Board (IPAB). It highlights the need for clarity regarding which High Courts have authority over trademark cancellation petitions, especially when the parties are located in different jurisdictions. [Read More](#)

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## BOMBAY HIGH COURT RULES IN FAVOR OF KEWAL KIRAN CLOTHING LIMITED IN TRADEMARK DISPUTE AGAINST NETFLIX AND MACGUFFIN PICTURES

**Case: Kewal Kiran Clothing Limited v. Netflix Entertainment Services India LLP and Macguffin Pictures LLP, C.O. (COMM.IPD-TM) 179/2023 (H.C Bombay January 15, 2024).**

### Background of the case:

Kewal Kiran Clothing Limited, a major apparel manufacturer and retailer in India, filed a trademark infringement suit against Netflix Entertainment Services India LLP and Macguffin Pictures LLP for using the 'KILLER' trademark in their web series titled 'KILLER SOUP'.

## Key Points:

- **Trademark Ownership:** Kewal Kiran claims to be the proprietor of the 'KILLER' trademark registered across various classes since the early 2000s.
- **Alleged Infringement:** Kewal Kiran alleges that the Defendants used a deceptively similar title, 'KILLER SOUP', which could mislead the public and damage their brand reputation.
- **Cease and Desist Notice:** Kewal Kiran issued a cease and desist notice to Netflix and Macguffin on January 10th, 2024, but received no substantive response.
- **Interim Application:** Kewal Kiran seeks urgent interim reliefs, including restraining the Defendants from using the 'KILLER SOUP' title and appointing a Court Receiver to search and seize infringing material.



## Conclusion:

The matter is pending before the Commercial Division of the Bombay High Court, with Kewal Kiran arguing that the Defendants' use of the 'KILLER SOUP' title constitutes trademark infringement and could cause irreparable harm to their brand. [Read More](#)

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## CALCUTTA HIGH COURT APPROVES SETTLEMENT BETWEEN DABUR INDIA LIMITED AND DHRUV RATHEE TO REMOVE REFERENCES TO 'REAL' JUICES IN YOUTUBE VIDEO

**Dabur India Limited v. Dhruv Rathee and Ors, (CS-COM)474/2024 (H.C Calcutta June 18, 2024).**

### Background of the case:

Dabur India Limited, a leading manufacturer and distributor of Fast Moving Consumer Goods, filed a suit against Dhruv Rathee, a social media influencer, and others for allegedly infringing their trademarks and copyrights. Dabur's trademarks include 'REAL', 'REAL FRUIT POWER', 'FRUIT POWER', and 'REAL ACTIVE'.

### Key Points:

- **Trademark Infringement:** Dabur alleged that Dhruv Rathee's YouTube video, which critiqued packaged fruit juices, used Dabur's trademarks without permission.
- **Disparagement:** The video was claimed to unfairly compare carbonated drinks and ready-to-serve fruit beverages, potentially harming Dabur's reputation.
- **Court's Decision:** The Calcutta High Court issued an interim order directing Dhruv Rathee to remove the allegedly defamatory sections of his video.
- **Settlement:** Both parties agreed to a settlement where Dhruv Rathee would blur out or remove references to Dabur's trademarks in the video.

## Conclusion:

The case was disposed of in terms of the settlement, with the court noting that the dispute was resolved amicably. [Read More](#)

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## LUPIN'S MULTI-DOSE INHALER RECEIVES TRADEMARK PROTECTION FOR UNIQUE COLOUR COMBINATIONS AND 3D SHAPE

**TM application no:- 4389468**

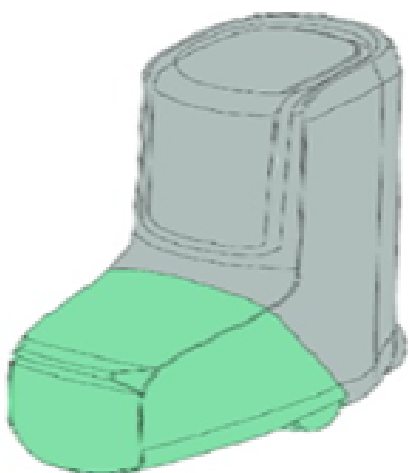
Lupin Atlantis Holdings SA, a global pharmaceutical company, successfully registered three colour combinations for its multi-dose inhaler as trademarks in India. The registered colour combinations are:

- Grey (on actuator) with Olive green (on cap)
- Grey (on actuator) with Pink (on cap)
- Grey (on actuator) with Pantone Brown (on cap)

Additionally, the inhaler's shape has been registered as a 3D shape mark.

### **Significance:**

This registration highlights the importance of colour and shape in product differentiation and brand protection. It sets a precedent for other companies looking to secure trademark protection for their products' visual elements.



# COPYRIGHT CASES



## CALCUTTA HIGH COURT RULES ON ROYALTY DISPUTE BETWEEN VODAFONE IDEA LTD AND SAREGAMA INDIA LTD

**Case: Vodafone idea ltd v. Saregama India ltd and Anr. CS/23/2018 (CS-COM/93/2024) (CS/58/2024) IA NO: GA/1/2018 GA/3/2019 ( H.C Calcutta)**

The Calcutta High Court has ruled that authors are entitled to royalties for commercial use of their sound recordings. The judgement, passed in three suits involving Vodafone, IPRS, and Saregama, questioned whether Vodafone should pay royalties and operate a separate license from IPRS to exploit the underlying musical and literary work of authors. The court interpreted sections of the Copyrights Act, 1957 and the authority of copyright societies to administer rights of its members. The court concluded that there could not have been any agreement between Vodafone and Saregama to license rights without paying royalties to IPRS members. [Read More](#)

## BOMBAY HIGH COURT RULES ON COPYRIGHT LICENSING DISPUTE BETWEEN NOVEX COMMUNICATIONS AND TRADE WINGS HOTELS

**Case: Novex Communications Pvt. Ltd. v. Trade Wings Hotels Ltd., Commercial IP Suit No. 264 of 2022**

In a significant ruling, the Bombay High Court held that copyright owners like Phonographic Performance Ltd and assignees such as Novex can issue music licenses even if they are not registered as copyright societies under the Copyright Act. The Court interpreted Section 33(1) of the Act to mean that this provision does not apply to sound recordings<sup>1</sup>. This decision aligns with the Delhi High Court's interpretation but conflicts with the Madras High Court's stance, which held that only copyright societies can license out rights for sound recordings. [Read more](#)

## BOMBAY HIGH COURT ISSUES RESTRAINING ORDER IN COPYRIGHT DISPUTE BETWEEN PIDILITE INDUSTRIES AND RANG RASAYAN PVT. LTD.

**Case: Pidilite Industries Limited v. Radha Kishan Bishan Dass Rang Rasayan Pvt. Ltd., Commercial IP Suit No. 612/2024 (H.C Bombay, March 15, 2024).**

The Bombay High Court recently ruled in favor of Pidilite Industries Limited in a copyright infringement case against Radha Kishan Bishan Dass Rang Rasayan Pvt. Ltd. Pidilite alleged that Rang Rasayan used packaging for its Holi colors that closely resembled Pidilite's "Rangeela" brand. Justice Bharati Dangre issued an interim order restraining Rang Rasayan from manufacturing, selling, or distributing products with similar packaging.

The Court also directed Rang Rasayan to provide details of the stock of infringing products manufactured and sold over the past year.

[Read More](#)

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## **DELHI HIGH COURT ORDERS ACTION AGAINST DOODSTREAM.COM FOR COPYRIGHT INFRINGEMENT IN WARNER BROS. CASE**

**Case : Warner Bros. Entertainment Inc. & Ors. v. Doodstream.com & Ors., CS(COMM) 234/2024**

The Delhi High Court has issued a decree of permanent injunction against defendants 1 to 3, which are accused of facilitating the uploading, hosting, streaming, reproducing, distributing, and making available to the public any cinematographic work, content, or program in relation to which the plaintiffs own the copyright. The plaintiffs, including Warner Bros. Entertainment, Amazon Content Services LLC, Columbia Pictures Industries, Disney Enterprises, Netflix US, Paramount Pictures Corporation, Universal City Studios Productions LLP, and Apple Video Programming LLC, are leading entertainment companies known for creating, producing, and distributing motion pictures and cinematograph films. The plaintiffs argue that no other entity can upload, stream, disseminate, or communicate their content without license and authorization from them. The defendants, Doodstream.com, doodstream.co, and dood.stream, claim to be rogue cyberlocker websites that incentivize the hosting, uploading, storing, sharing, streaming, and downloading of copyrighted material unauthorizedly. The court has directed defendants to take down all listings of plaintiffs' infringing content, communicate this to them in writing or email, disable features allowing link regeneration and reuploading of infringing content post takedown, and file an affidavit disclosing revenues generated from the launch of the websites. [Read More](#)

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## **DELHI HIGH COURT PROTECTS JACKIE SHROFF'S PERSONALITY RIGHTS AGAINST UNAUTHORIZED USE BY PEPPIY STORE**

**Case: Jaikishan Kakubhai Saraf alias Jackie Shroff v. The Peppy Store & Ors., CS(COMM) 389/2024.**

The Delhi High Court has issued an ad-interim injunction to prevent defendants from infringing on actor Jackie Shroff's personality rights. The court ruled that the defendants were commercially misappropriating Shroff's name, attributes, and registered trademarks. Instead of granting a blanket injunction, the court carefully assessed the alleged infringing activities. The court imposed an interim injunction on some defendants but refused to grant an ex-parte interim injunction against one who made a meme/spoof video on Shroff's previous interviews. The court acknowledged the cultural currency of some personas and the cultural currency they become part of collective imagination when people create memes or parodies.

Justice Anish Dayal passed the order. In contrast, the Delhi High Court has issued broad injunctions against parody artists and online mememers/trollers, but these orders have given little regard to the right to free speech, especially in the context of parody and satire. [Read More](#)

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## ANI SUES OPENAI OVER COPYRIGHT INFRINGEMENT CLAIMS IN LANDMARK AI CASE

**Case: ANI Media Pvt. Ltd. v. OpenAI, CS(COMM) 2345/2024**

ANI, a news agency that licenses data to news outlets and media organizations, has filed a case against OpenAI for alleged copyright infringement. ANI claims that OpenAI's ChatGPT data sources access public data, third-party partners' data, and data researched directly by OpenAI. The company claims that OpenAI improperly used its content for training its AI model. ANI also claims that OpenAI has no right to use content not publicly available, as it does not have a license to copy, store, or use it for training purposes.

OpenAI has defended itself, asserting that its practices are both legal and transparent. It argues that its actions are legally justified because ANI's material is publicly available and that it can block access through the "Robots.txt" protocol. OpenAI has also denied reproducing ANI's copyrighted material and has not provided evidence to show any specific instance of infringement.

OpenAI denies accessing content behind pay walls or available only via subscription, such as ANI's exclusive reports. The defense maintains that OpenAI's model does not access subscription-based or licensed content unless it is publicly available. OpenAI also denies false attribution, stating that no complaints have been lodged by ANI regarding inaccuracies in attribution.

**The case also revolves around territorial jurisdiction, as OpenAI disputes the court's jurisdiction over the matter as the training of the model occurs outside India.** The court initially issued a notice and summons to OpenAI, recording objections regarding territorial jurisdiction but allowing the case to proceed. The court also appoints an amicus curiae (friend of the court) to assist in the legal proceedings.

The case brings critical issues concerning the rights of media organizations in the age of artificial intelligence. While OpenAI defends its practices as legitimate and transparent, ANI's claims highlight the complexities of data usage, copyright, and attribution in the digital era. This case has the potential to set important precedents in the regulation of AI and protection of intellectual property in the media sector. [Read More](#)



## DELHI HIGH COURT GRANTS INTERIM INJUNCTION AGAINST BOLLYZONE.TV FOR UNAUTHORIZED STREAMING OF ZEE CONTENT

**Case: Zee Entertainment Enterprises Limited v. Bollyzone.TV & Ors., CS(COMM) 937/2024**

Zee Entertainment Enterprises Limited, a renowned broadcaster, production house, and film studio, filed a suit against several defendants for permanent injunction, rendition of accounts, and damages due to blatant piracy of the plaintiff's works and infringement of copyright and broadcast reproduction rights. The plaintiff operates Zee Channels and the digital streaming service Zee5, which are renowned for their original programming and cinematic productions. The core issue in the suit revolves around the defendants, identified as rogue websites, accused of unlawfully hosting, streaming, and distributing the plaintiff's copyrighted works without authorization. The plaintiff holds exclusive distribution rights over its content as per the Copyright Act, 1957, including rights related to the public exhibition and communication of its works, classified as "Cinematograph Films." The plaintiff has gathered substantial evidence demonstrating that the defendants' websites are systematically infringing upon these rights by displaying its original content, such as popular television shows and films, without consent. The plaintiff sought legal recourse to protect its intellectual property rights and prevent further unauthorized exploitation of its content. The court granted a temporary injunction against the defendants, restraining them from hosting, streaming, or making the plaintiff's works available for public viewing or downloading without authorization. The balance of convenience clearly favored the plaintiff, and the court recognized the potential for irreparable harm if the defendants continued their infringing activities unchecked. [Read More](#)

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## BOMBAY HIGH COURT QUASHES GOA CIRCULAR EXEMPTING MUSIC AT RELIGIOUS CEREMONIES FROM COPYRIGHT VIOLATION

**Case: Phonographic Performance Limited v. State of Goa, Writ Petition No. 253 of 2024**

In March 2024, the Government of Goa issued a Circular on Section 52(1)(za), which allowed unauthorized use of sound recordings in bona fide religious ceremonies. This circular was challenged by Phonographic Performance Ltd (PPL) and Sonotek Cassettes Company before the Bombay High Court in Goa. PPL argued that the government, as an executive body, did not have the power to clarify or interpret the law through a Circular, which could not broaden the scope of Section 52(1)(za) to permit unauthorised use of sound recordings in weddings and related events. They also argued that encouraging authorities to take action against copyright societies/hotels for demanding royalties/fees interfered with the statutory rights of copyright owners to take legal measures against infringers.

The Bombay High Court at Goa ruled in favor of PPL and struck down the Circular for being ultra vires and expanding the scope of section 52(1)(za). The court ruled that the Circular was unlawful because it improperly broadens the scope of Section 52(1)(za) and infringes on the statutory rights of copyright holders. The Court did not seem to comment on whether such circulars can interpret provisions within the scope of the provision. Whether such use constitutes infringement must be determined by the courts based on the specific facts and circumstances. The State of Goa relied on Article 162 of the Indian Constitution to prevent abuse of police power since copyright infringement is now a cognizable offence. This could cause undue harassment and embarrassment to the public, especially during marriage festivities when there has not been a clear ruling from the courts on the legislative interpretation for this either. Since the DPIIT and State of Goa's notice were issues to prevent abuse of police power, they could have provided actual instances where police power was used by copyright owners to harass people leaving no scope for any ambiguity and making a solid case for their concerns.

In its ruling, the Court highlighted the enforcement mechanism already laid down in the Act for any aggrieved party to protect its rights and take measures when violated. However, Section 60 has its own set of issues, most significant of which is the limited scope of Section 60. While Section 60 was designed to protect a person from wrongful threats, it does not have the same footing as that of a suit alleging infringement. In the eyes of the Court, the enforcement mechanism strikes a balance between the interests of copyright owners and rights of the public domain, but a remedy like Section 60 would unlikely be effective against vigilant prosecutors like PPL. [Read more](#)

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## DELHI HIGH COURT RULES ON COPYRIGHT DISPUTE BETWEEN GLOBAL MUSIC JUNCTION AND ANNAPURNA FILMS

**Case: Global Music Junction Pvt. Ltd. v. Annapurna Films Pvt. Ltd. & Ors., CS(COMM) 715/2022.**

The plaintiff, **Global Music Junction Pvt. Ltd.**, is a company involved in the production, distribution, and monetization of music and entertainment content. They had entered into a production agreement with **Khesari Lal Yadav**, a renowned Bhojpuri artist, to create 200 songs with exclusive rights vested in the plaintiff. However, an addendum to the agreement suspended these exclusive rights but granted the plaintiff a right of first refusal if any third party wanted to use Lal's works. This agreement was later terminated by Lal, leading to the present lawsuit for copyright infringement.

The plaintiff argued that the agreement was a commercial contract and that they held exclusive rights over all material produced under the agreement before its termination. The defendants contended that Lal was free to enter into agreements with other third parties as the exclusivity clause and right of first refusal clause had been suspended after signing the addendum agreement.

## Court's Decision:

The court ruled in favor of the defendants, stating that the case was one for specific performance rather than copyright infringement. The court observed that while Global Music Junction held exclusive rights over all material produced under the original agreement before its termination, they could not hold these same rights over material yet to be created. [Read more](#)

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## DELHI HIGH COURT DENIES INJUNCTION IN COPYRIGHT DISPUTE BETWEEN POCKET FM AND NOVI DIGITAL ENTERTAINMENT

### Case :Pocket FM Pvt. Ltd. v. Novi Digital Entertainment Pvt. Ltd., CS(COMM) 524/2024

In a recent Delhi High Court case, Pocket FM Private Limited filed a case against Novi Digital Entertainment Private Limited for copyright infringement regarding its audio series "Yakshini." Pocket FM had allowed Novi Digital to adapt the audio series into a video series and began discussions in 2022, which were ultimately unfruitful. There was sharing of proprietary information, but no non-disclosure agreement was signed despite Pocket FM's insistence. Instead, a 'release form' was signed, absolving Novi Digital of any liability concerning the content shared during the negotiations.

In June 2024, Pocket FM discovered through advertisements and a YouTube trailer that Novi Digital planned to release a series allegedly identical to "Yakshini." Pocket FM held the copyright to the original works and argued that the new series unlawfully adapts their storyline and characters, such as "Yakshini," "Aghori," and "Blue Sun." The trailer for this video series was launched on YouTube in the last week of May, and the release was scheduled for June 14, 2024. Pocket FM sought an interim injunction to stop the release of the series and have the trailer removed.

The Delhi High Court (DHC) found the plaintiff's claim that they became aware of the video series only in the first week of June 2024 to be implausible. The suit was filed just a day before the scheduled release of the video series without providing concrete facts to establish a prima facie case of rights infringement. The DHC also observed that if Pocket FM makes a case later, monetary compensation could be considered.

The DHC applied the two Copyright Violation Tests established in *R.G. Anand v. Delux Films* (1978): the first Test: There can be no copyright in an idea, subject matter, themes, plots, or historical or legendary facts. The second Test: When the source is common, similarities are bound to occur. The safest test for determining copyright violation is to see if readers, spectators, or viewers, after engaging with both works, unmistakably conclude that the subsequent work is a copy of the original.

The DHC concluded that an interim injunction could not be granted at this stage. The matter is scheduled for the next hearing on July 10, 2024. This judgement underscored the classical limitations placed upon the exercise of copyright laws, especially regarding mythological figures.

[Read More](#)

# PATENTS ACT CASES

## DELHI HIGH COURT AWARDS ERICSSON RS 244 CRORE IN LANDMARK PATENT INFRINGEMENT CASE AGAINST LAVA

**Case: Telefonaktiebolaget LM Ericsson (Publ) v. Lava International Ltd., CS(COMM) 524/2024**

**Lava International Ltd. sued Ericsson for patent infringement, claiming the patents were invalid under the Patents Act, 1970 and unenforceable.** Ericsson claimed Lava infringed on its Standard Essential Patents (SEPs) related to the Adaptive Multi-Rate (AMR) speech codec, Enhanced Data Rates for GSM Evolution (EDGE), and features in 3G. The court found Lava liable for Rs 244,07,63,990 in damages and 5% interest to Ericsson.

The Court held that Ericsson had sufficient material to prove its ownership of the suit patents since they were certified copies of patents issued by the Indian Patents Office. Lava had filed its counter claim along with a written statement seeking the revocation of the suit patents. The Court then questioned whether the suit patents were invalid and liable to revocation based on Lava's counterclaim

The Court ruled that inventions solely directed towards algorithms, mathematical methods, business methods, or computer programs wouldn't be patentable. However, an invention incorporating algorithms, instructions, methods, or systems within a method or system, satisfying all patentability criteria, wasn't inherently non-patentable. The Court also clarified that an invention shouldn't be considered a 'computer program per se' merely because it incorporated algorithms and computer-executable instructions.

The Court used a 'Seven Stambhas Approach' to determine novelty, acknowledging both explicit and implicit novelty within a text. It found that the suit patents lacked sufficient and fair descriptions of the invention or the best method for performing or implementing it. Lava's objection lacked merit, so the Court rejected Lava's claim for patent revocation under Sections 64(1) (h) and 64(1)(i) of the Act.

Lava was held to be an 'Unwilling Licensee' for failing to negotiate with Ericsson in good faith, consistently delaying negotiations, and refusing to respond to offers or counteroffers. The Court awarded damages to Ericsson based on royalties payable at FRAND rates, as the damages were quantified in terms of the patent owner's expected earnings from the licensee. The Court passed the decree in Ericsson's favor for the recovery of damages of Rs 244,07,63,990, along with 5% interest from the judgment date until the full amount is realized. **[Read more](#)**

## DELHI HIGH COURT RULES ON PATENT DISPUTE BETWEEN VIFOR INTERNATIONAL LTD AND CORONA REMEDIES PVT. LTD.

**Case: Vifor (International) Ltd. & Anr. v. Corona Remedies Pvt. Ltd. & Anr., CS(COMM) 448/2022 .**

### Background of the case:

In a landmark judgement, the **Division Bench of the Delhi High Court** clarified the interpretation of **product-by-process** patent claims. The case was presided over by **Justice Yashwant Varma and Justice Dharmesh Sharma**, with the judgment authored by Justice Varma.

### Key Points:

- **Definition of Product-by-Process Claims:** These claims are used when a product cannot be described solely by its structure and must be defined by the process of its manufacture.
- **Court's Ruling:** The court held that patent protection for product-by-process claims extends to the novel and inventive product itself, regardless of the process used to manufacture it.
- **Diversion from Single Judge Order:** The Division Bench's decision diverged from a previous single judge order, which had limited protection to products derived from the described process.
- **Claim Construction:** The court emphasized the importance of claim construction in understanding the patentee's intent. It distinguished between the terms "obtainable by" (indicating a descriptive process) and "obtained by" (indicating a process claim)[1].

**Principles and Guidance:** The court provided detailed guidance on claim construction and set out "cardinal principles" after reviewing numerous case laws and legal commentaries. [Read More](#)

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## DELHI HIGH COURT RULES ON PATENT INFRINGEMENT DISPUTE BETWEEN NOVARTIS AND NATCO PHARMA

**Case: Novartis AG v. Natco Pharma Limited, CS(COMM) 229/2019**

The **Delhi High Court's Division Bench** delivered a significant judgment concerning the extent of participation of pre-grant opponents in amendment proceedings before the Patent Office. The case was presided over by **Justice Yashwant Varma and Justice Dharmesh Sharma**.

### Key Points:

- **Holistic Review:** The court conducted an extensive review of the examination, opposition, and amendment processes under the Patents Act.
- **Controller's Role:** Emphasized the independence of the Controller in evaluating the merits of patent applications, with opposition serving to aid and assist this process.
- **Distinct Processes:** Clarified that examination and opposition processes run on distinct tracks and do not converge, countering a previous single judge's view.



- **Principles on Pre-Grant Opposition:** The court listed several fundamental principles regarding pre-grant opposition, including the opponent's right to be heard.
- **Legal Precedents:** Referenced important precedents such as **UCB Farchim** and **Snehlata C. Gupte** to support its conclusions.

### Impact:

This judgment is noted for its detailed analysis and serves as essential reading for those interested in patent law. It provides clarity on the purpose and functioning of opposition and examination processes within patent law. [Read more](#)

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## DELHI HIGH COURT RULES ON PATENT INFRINGEMENT DISPUTE BETWEEN HOFFMAN LA ROCHE AND ZYDUS LIFESCIENCES.

### Case: F. Hoffmann-La Roche AG & Anr. v. Zydus Lifesciences Limited, CS(COMM) 159/2024

In the case of F-Hoffmann-La Roche AG & Anr. v. Zydus Lifesciences Limited, the Delhi High Court (DHC) granted an interim injunction to Roche until the next date of hearing. The case is intriguing as the DHC may have misgauged the need for such an injunction by focusing solely on Zydus's conduct without first making a prima facie finding on the existence of a triable issue regarding the infringement. Roche alleged that Zydus launched its biosimilar drugs in the market without informing the Court or the Plaintiff while the dispute was still pending before the DHC. The DHC conceded that the defendant's failure to disclose complete and accurate timelines for the subsequent launch of the product amounted to "overreaching the court process." The DHC also noted that the defendant's undisclosed approval and subsequent commercial launch of the product "Sigrima" in partnership with Dr. Reddy's Laboratories was seen as exemplifying a potential unfair advantage and made the DHC inclined to restrain the defendants from marketing "Sigrima" while deciding on the interlocutory application. The DHC held that the balance of convenience favors the plaintiffs, as allowing the defendant to continue sales could alter the market and disadvantage them, especially if an infringement is later established.

Quia timet injunctions have been gaining attention in India, particularly in cases involving pharmaceutical companies. These injunctions are granted to prevent the infringement of a patent by a defendant, which can cause substantial or irreparable damage. However, there are no established standards for granting interim injunctions in India, making the process subjective and speculative. The recent increase in such actions in Indian patent cases is concerning due to India's non-presumption of patent validity, lack of 'clearing the way' principle, and questionable quality of patents from the overburdened IPO.

The rationale for the injunction in the present case diverges significantly from earlier precedents, as it does not seek to establish a prima facie finding on infringement. The court refrained from

granting relief due to a lack of claim mapping for the biosimilars' production process and invocation of Section 104A of the Patents Act to determine the Arguments of process infringement. The court also did not discuss whether these conditions were deemed fulfilled subsequently, though the defendants did present more arguments against patent infringement. Public interest is another critical aspect of quia timet injunctions, as they can negatively impact the pharmaceutical industry by significantly harming generic competitors and burdening patients with expensive drugs like Perzutumab. The DHC has not addressed this issue in the current case, but the rationale behind the injunction may be a concern for the Indian patent system. [Read More](#)

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## **DELHI HIGH COURT AWARDS INR 217 CRORES TO COMMUNICATION COMPONENTS ANTENNA IN PATENT INFRINGEMENT CASE AGAINST MOBI ANTENNA TECHNOLOGIES**

**Case: Communication Components Antenna Inc. v. Mobi Antenna Technologies (Shenzhen) Co. Ltd., CS(COMM) 977/2016**

The Delhi High Court's judgement in Communication Components Antenna v. Mobi Antenna Technologies has resulted in damages of INR 217 Crores on the defendant. The 14-year-old patent infringement dispute between TenXc Wireless Inc. and Mobi Antenna Technologies was resolved by the court, which relied on the plaintiff's estimated loss of profits due to the defendant's presence in the market selling the infringing goods. The court used a 2011 Total Addressable Market Analysis (TAM Analysis) to project the estimated sales by the plaintiff by 2015 in India. The plaintiff submitted that it would have lost a market size of 94,710 antennas from 2011 to 2014, and calculated a lost profit of USD 550/unit in 2011 and USD 1160/unit in 2012-2014. Multiplying this per unit lost profit with the number of units for the relevant time period, the plaintiff demanded USD 96,874,870 as the total lost profit from the defendant.

The decision notes that there was no evidence on the actual lost market share of the plaintiff and refused to accept that the entire market share would have come to the plaintiff. The court granted compensatory damages by slashing the number of units sold by half and multiplying it with the estimated 2011 profit to come to USD 2,60,45,250. However, the decision has neither explained why it applied the current USD rates for damages from 2011-14 nor why the estimate is limited to the 2011-2014 period.

The court justified its decision by relying on Strix v. Maharaja and the defendant's abandonment of the proceedings mid-way. The court has omitted the part where the Strix judgement has identified "notional damages" and "compensatory damages" as different, and has miscategorized them as "compensatory damage" in the present case. The expert witness for the defendant in the present case disagreed with any of the cited prior art.

The court has expressed that the damages are to be calculated on a "reasonable/fair basis". However, the court did not discuss the quantum of antennas actually exported to India for calculation of damages. The expert evidence is based on an "estimate" and does not disclose anything on actuals. The defendant filed affidavits claiming it hasn't sold any goods from 2011 to 2015, which the court dismissed as "surprising".

The court's decision to calculate damages is based on the 2011 TAM Analysis, but the court has not considered the quantum of antennas exported to India. The court's decision to dismiss the defendant's affidavits raises questions about the fairness of the calculation of damages. The court's decision to not consider the defendant's affidavits raises questions about the fairness of the calculation.

The Indian Supreme Court has ruled in a dispute between Communication Components and Mobi Antenna, granting damages to the plaintiff if the infringement was worth it. The decision, which came 14 years after its initiation and was reserved twice, contradicts the Supreme Court's suggestion in Anil Rai vs State of Bihar. The decision sets a strong example for defendants who are not sincere in contesting claims, but may have overlooked the merits of the plaintiff's case. The case may have ended, but the story about the suit patent infringement remains ongoing. The court refused to grant a certificate of validity to the plaintiff, citing the judgement's ex-parte nature and another pending case. [\*\*Read More\*\*](#)

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## **DELHI HIGH COURT RULES ON PATENT DISPUTE BETWEEN THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AND CONTROLLER GENERAL OF PATENTS, DESIGNS & TRADEMARKS**

**Case: The Regents of the University of California v. Controller General of Patents, Designs & Trademarks, C.A.(COMM.IPD-PAT) 143/2022**

The Regents of The University of California appealed the decision of the Controller General of Patents, Designs & Trademarks to refuse their patent application. The application was initially objected to for lack of novelty, inventive step, and non-patentable subject matter. The appellant amended the claims to be more defined and restrictive, incorporating technical features. After a hearing, the application was refused, disallowing the amended claims under Section 59(1) of the Act. The appellant's counsel argued that the impugned order was arbitrary and arose from a wrong interpretation of Section 59(1). The court ruled that the amendment was done by way of correction, explanation, and disclaimer, the scope of amended claims was narrower, and the scope offered by the original description should be read along with the claims and examples. The Controller of Patents failed to apply the test for added matter and allowed additional words from unamended specifications to offer a clear explanation.

The Controller of Patents' counsel supported an order denying amendments under Section 59(1) of the Act, arguing that the scope of amended claims was beyond the scope of claims as originally filed and described matters not in substance disclosed or shown in the specification. The Court interpreted the scope of Section 59(1) and observed that amendments to the original application can only be made through Disclaimer, Correction, or Explanation. The proposed amendments were tested against parameters such as serving the purpose of incorporation of actual facts, not allowing matter not in substance, and falling within the scope of the original claim. The Court found that the appellant was merely reverting to the original expression used in the original claims, which were not outside the scope of the original claims. The Court also held that the amendments made by the appellant only served as an explanation to the original claims, amounting to the incorporation of actual facts and did not disclose any matter not initially disclosed in the claims of specification filed before the amendment. [Read More](#)

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## **DELHI HIGH COURT RULES ON PATENT DISPUTE BETWEEN RICH PRODUCTS CORPORATION AND THE CONTROLLER OF PATENTS**

**Case :Rich Products Corporation v. The Controller of Patents & Anr., LPA No. 257/2024**

In Rich Products Corporation v. The Controller of Patents, the Delhi High Court clarified that under extraordinary writ jurisdiction under Article 226, it can intervene against a Controller's decision rejecting a pre-grant opposition if there is a "jurisdictional or manifest error" with the Controller's finding. This was not present in the current case, and the aggrieved opponent can still file a post-grant opposition under Section 25 (2) and further file an appeal against the Controller's decision under Section 25(4) r/w Section 117A if required. The court emphasized that the powers under Article 226 are discretionary, meaning the Court can determine when a situation falls under the category of "jurisdictional or manifest error" and if not, the petitioner would have to take the alternate remedy under the statute. [Read More](#)

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## **MADRAS HIGH COURT DISMISSES PATENT APPEAL FOR ECO-FRIENDLY LAMP BY THE ZERO BRAND ZONE PVT. LTD.**

**Case: M/s. The Zero Brand Zone Pvt. Ltd v. The Controller of Patents & Designs (T) CMA (PT) No.146 of 2023 [OA/32/2020/PT/CHN]**

M/s.The Zero Brand Zone Pvt. Ltd. appealed a rejected patent application for an "eco-friendly lamp" made from traditional herbal materials. The Court discussed Section 3(p) of the Patents Act, emphasizing its intent to prevent monopolization of traditional knowledge (TK), which it defined based on WIPO and UNESCO definitions. The judgment noted that TK is commonly owned by communities and thus not eligible for exclusive patent rights. The Court concluded that the lamp included known traditional components, like cow dung, making the application inadmissible

under Section 3(p). It highlighted ambiguities in the TK definition and boundaries of innovations under this section, questioning the interpretation of "in effect" TK and the lack of clear guidelines beyond medicinal uses.

Parliament's intention with Section 3(p) was to protect Indian TK from exploitation, especially by foreign entities. Despite this, the decision indicated the need for comprehensive guidelines for examining non-medicinal TK patents to balance protection and innovation. **[Read More](#)**

# DESIGNS ACT CASES



## BOMBAY HIGH COURT GRANTS INTERIM INJUNCTION IN DESIGN DISPUTE BETWEEN PIDILITE INDUSTRIES AND ASTRAL LIMITED

**Case: Pidilite Industries Ltd v. Astral Ltd 2024:BHC-OS:8629, Bombay High Court**

The High Court of Bombay issued an interim injunction in a design infringement complaint filed by Pidilite Industries Limited against Astral Limited. Pidilite claimed that Astral's SOLVOBOND containers copied their unique design, including shape, configuration, and specific cap features. The court rejected Astral's arguments, affirming that Pidilite's design was distinctive and unique. It found Astral's design nearly identical to Pidilite's, with minor differences not constituting significant variations. The court confirmed that Pidilite's design was validly registered and not a mere trade variant. It also ruled that Pidilite's patent application was irrelevant since it was published after the design filing.

The court argued that Pidilite had a strong case for design infringement, with the balance of convenience in its favor. Denying the injunction would harm Pidilite's business, so the Court granted an interim injunction preventing Astral from using the infringing design during the suit. The court cited the Delhi High Court ruling in TTK Prestige Limited, which notes that what appeals to one person may seem strange to another. The issue of mosaicing, which involves rearranging known numbers or combinations, is not applicable in this case. The court failed to provide a reasoned basis for granting an interim injunction, which includes showing (i) a prima facie case, (ii) a balance of convenience, and (iii) irreparable loss or injury. [Read more](#)

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## PUMA CHALLENGES EU INTELLECTUAL PROPERTY OFFICE OVER DESIGN DISPUTE INVOLVING RIHANNA'S DISCLOSURE

**Case: Puma v. European Union Intellectual Property Office case no:- T-647/22**

The case of PUMA SE v. the European Union Intellectual Property Office (EUIPO) and Ors involved a dispute over the registration of a shoe design by PUMA. The design was filed by PUMA on 26 July 2016, with a priority date of 25 July 2016. In July 2019, Handelsmaatschappij J Van Hilst BV filed an intervention application to invalidate the design, arguing that the design had been disclosed to the public more than 12 months before the protection was sought. Rihanna, the singer and creative director of PUMA, had already worn the shoes in an Instagram post on 16 December 2014, invalidating the designs. PUMA argued that the post did not showcase the design clearly, did not reach the European Union's business circle, and the shoes were not on the market at the time. The Board of Appeal dismissed these arguments, concluding that Rihanna's Instagram post created an overall impression of the product, lacked novelty, and was reproduced in several fashion



newsletters and magazines. PUMA appealed the decision, and the General Court upheld the decision, invalidating the design. This case highlights the lack of coordination among stakeholders and how eligible intellectual property became ineligible for statutory protection. [Read More](#)

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## **CALCUTTA HIGH COURT RULES ON DESIGN CANCELLATION IN CASE BETWEEN PARESH AJITKUMAR KAPOOR AND CONTROLLER OF PATENTS AND DESIGNS**

**Case: Paresh Ajitkumar Kapoor v. Controller of Patents and Designs 2024 SCC OnLine Cal 5391, Calcutta High Court**

The Calcutta High Court has ruled that merely showing a design on a foreign unverified website does not amount to prior publication under Section 4(b) of the Designs Act, 2000. The court set aside an order that had cancelled a registered design for an industrial air cooler. The appeal challenged the decision by the Deputy Controller of Patents and Designs to cancel the design on grounds of prior publication. A Single Bench of Justice Ravi Krishan Kapur observed that registration in a foreign country per se is not a ground for cancellation of a design registered in India. An application under section 19(1)(b) of the Act for cancellation of registration of a design in India can only be justified on the ground of prior publication. The court also clarified that mere registration on a foreign website was not the same as prior publication as defined under Section 4(b) of the Act.

The court found that the photographs provided as evidence were insufficient, as they did not offer a clear, three-dimensional view necessary to ascertain the design's novelty and originality. To constitute prior publication, an image or design must be published in such a way that a person possessing ordinary knowledge of the subject can apply the design, to the article, or to see the design to the eye of the mind. Even publication in the form of photographs must be explicitly illustrated so that there is sufficient clarity in such a way that could depict the application of the design on the article. If the illustrations or dimensions, shapes, and patterns are not clear from the pictures provided as evidence, the same does not destroy novelty. [Read More](#)

## DELHI HIGH COURT RULES ON TRADEMARK DISPUTE BETWEEN PARDEEP KUMAR OF T.G. SOLAR AND PRAKASH ENTERPRISES

**Case: Pardeep Kumar, Proprietor Of T.G. Solar v. Prakash Enterprises & Ors FAO (COMM) 65/2024 & CM APPL. 21504-05/2024**

The Delhi High Court has remanded the case of Pradeep Kumar, proprietor of T.G. Solar Pump, versus Prakash Enterprises & Others. Kumar filed an appeal against an order passed by the Commercial Court, which declined his request for an ad interim injunction restraining the respondents from infringing his registered designs. Kumar alleged infringement of his registered designs concerning Solar Panel Trolleys (SPT) by Prakash Enterprises and others. The Commercial Court denied the ad interim order, citing the appellant's failure to demonstrate that the designs of SPTs manufactured and sold by the respondents were not registered. The High Court found the Commercial Court's reasoning insufficient, stating that the appellant had provided details of their registered designs and highlighted the lack of evidence suggesting that the respondents' SPTs were based on registered designs. The High Court set aside the impugned order and remanded the matter to the Commercial Court, directing the Commercial Court to reconsider the appellant's request to appoint a local commissioner without issuing any notice to the respondents. The case is scheduled to be heard again on 23.04.2024. This decision marks a significant development in the ongoing legal battle over alleged design infringement and underscores the importance of procedural fairness in intellectual property disputes. [\*\*Read More\*\*](#)

# SIGNIFICANT IP DEVELOPMENTS



- **DELHI HIGH COURT REINSTATES PEPSICO'S POTATO VARIETY REGISTRATION AMID LEGAL BATTLE WITH KAVITHA KURUGANTI**

**Case: Pidilite Industries Ltd v. Astral Ltd 2024:BHC-OS:8629, Bombay High Court**

**Case:** PepsiCo India Holdings Pvt. Ltd. v. Kavitha Kuruganti, LPA 590/2023 & CM APPL. 42282/2023, Delhi High Court

The Protection of Plant Varieties and Farmers' Rights Act, 2001, establishes a system for protecting plant varieties and the rights of breeders and farmers. Registration under the Act grants exclusive rights to the breeder to manage the variety. The July 5, 2023, judgment by the Delhi High Court in PepsiCo India Holdings Pvt. Ltd. v. Kavitha Kuruganti addresses the revocation of registration for the potato variety FL 2027 based on Section 34 of the Act. The appellant, PepsiCo, originally registered FL 2027 as a 'new variety,' but it was argued that it was actually 'extant' due to a prior commercialization date. The Authority revoked the registration, claiming the appellant provided incorrect information. The appellant contended that any mistakes were inadvertent and did not affect the registration.

The court noted the appellant's application contained multiple deficiencies, including incorrect information about commercialization and missing signatures on essential documents. It upheld the revocation under Sections 34(b) and (c) but found the Authority erred in invoking Section 34(h) regarding public interest. Consequently, the appeal was dismissed, emphasizing that accurate and complete information is crucial when applying for registration under the Act. [Read More](#)

- **DELHI HIGH COURT RULES IN FAVOR OF UPL LTD: CHALLENGES REGISTRAR'S ORDER ON PLANT VARIETY PROTECTION**

**UPL Limited v. Registrar & Anr, C.A.(COMM.IPD-PV) 3/2022, I.A. 16633/2022, Delhi High Court.**

On February 22, 2024, the Delhi High Court made observations in the UPL Limited v. Registrar case that revived Section 24(5) of the Protection of Plant Varieties and Farmers Rights Act, 2001, previously deemed unconstitutional by a Division Bench in 2016. The Supreme Court had stayed this declaration, leaving the provision's status ambiguous. Section 24(5) grants the Registrar broad powers to prevent "abusive acts" against third parties during the registration process, raising concerns about potential arbitrary use without the necessary registration criteria being met.

The court ruled that Section 24(5) must be reconsidered, acknowledging that while the Division Bench's declaration remains, it has no binding effect during the stay. The judgment analyzed the precedential value of stayed judgments, indicating that their underlying rationale may still influence legal discourse despite the stay on enforcement.

However, criticisms of Section 24(5) center on its lack of clear criteria and the broad discretion it allows, which could lead to arbitrary actions, contradicting constitutional principles. The ongoing Supreme Court stay on the unconstitutionality ruling leaves the future of Section 24(5) uncertain, with calls for its reevaluation due to its potential for misuse and rent-seeking behavior. [Read More](#)

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## • 22ND LAW COMMISSION REPORT CALLS FOR NEW FRAMEWORK ON TRADE SECRETS AND ECONOMIC ESPIONAGE

### 22nd law commission report on trade secrets

The LCR has proposed sui generis legislation to protect trade secrets in India, consolidating current principles and considering various stakeholder perspectives. Key points include:

- **Nature of Trade Secrets:** Unlike other IP forms, trade secrets lack monopoly rights and public disclosure.
- **Definition Criteria:** Protection should align with Article 39 of the TRIPS Agreement, focusing on secrecy, commercial value, and reasonable protective measures.
- **Misappropriation:** Liability should only apply to acts of bad faith, avoiding overly strict frameworks.
- **4. Post-Employment Restraints:** Such negative covenants are not permitted under Section 27 of the Contracts Act.
- **Public Interest Exceptions:** Recommendations include whistleblower protection and provisions for compulsory licensing in public interest situations.
- **Remedies:** Proposed remedies for misappropriation encompass injunctive relief, damages, and ancillary reliefs, but criminal actions would fall under existing laws.
- **Procedural Aspects:** The Commercial Courts Act, 2015, applies, with a three-year limitation period for claims. The LCR suggests confidentiality in proceedings and has opted against creating a trade secret registry.

Overall, the draft bill titled 'The Protection of Trade Secrets Bill, 2024,' seeks to delineate the legal framework for trade secrets, aiming to balance the interests of industry, innovators, and the public.

[Read More](#)

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## • PATENT RULES (AMENDMENT), 2024

On March 15, 2024, the Indian Ministry of Commerce and Industry implemented the **Patents (Amendment) Rules, 2024**, aimed at enhancing patent practices to meet international standards, encourage innovation, and protect intellectual property rights. Key amendments include:

- **Form-3 Adjustments:** The timeline for updating Form-3 has been relaxed, allowing submission within three months of receiving the first statement of objections, easing the burden on applicants.
- **Divisional Applications:** New provisions clarify the filing of divisional applications based on previous specifications.
- **Examination Requests:** The request for examination period has been shortened from 48 to 31 months.
- **First Examination Report (FER) Response:** Applicants can now request extensions for responding to FER up to nine months post-issuance.
- **Grace Period:** Inventors can now disclose their inventions at exhibitions and file for patents within 12 months using new Form-31.
- **Opposition Procedures:** Fees for pre-grant and post-grant oppositions have been established to discourage frivolous filings, alongside tighter timelines for responses.
- **Statement of Working:** The frequency for submitting working statements has shifted from annually to every three years.
- **Gender Recognition:** A gender-neutral category has been added to patent applications.

The updated rules include significant changes in fee structures, incentivizing compliance while streamlining the patent process. [Read More](#)

## • SCREENWRITERS RIGHTS ASSOCIATION OF INDIA GET RECOGNITION AS A COPYRIGHT SOCIETY

The Ministry of Commerce & Industry has recognized the Screenwriters Rights Association of India (SRAI) as a registered copyright society under the Copyright Act, 1957, allowing it to manage copyrights for Dramatic and Literary Works in India. This recognition poses important legal implications for producers and production houses:

- **Royalty Compliance:** Producers must route all royalty payments for screenwriters through SRAI, with potential legal penalties for non-compliance.
- **Moral Rights Enforcement:** Producers are required to give proper attribution to screenwriters in all content forms and may face legal action for unauthorized script modifications.
- **Copyright Transaction Transparency:** SRAI aims to provide clarity in copyright transactions, reducing uncertainties in rights assignments.
- **Derivative Works Compensation:** Producers must ensure screenwriters are paid royalties for derivative works, including those on OTT platforms.
- **Dispute Resolution:** SRAI offers a mechanism for settling disputes, which can mitigate litigation risks for producers.

## Action Points for Producers

- Review contracts for compliance with royalty and moral rights.
- Update marketing practices to credit screenwriters adequately.
- Implement transparent royalty payment systems.
- Consult legal experts for contracts aligned with SRAI guidelines.

## Conclusion:

SRAI's recognition marks a pivotal step in bolstering screenwriters' rights in the Indian film industry, necessitating producers to adapt their practices to comply with the new regulatory environment.

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## • AMUL GIVEN WELL KNOWN TRADEMARK STATUS

**Case: Kaira District Cooperative Milk Producers Union Ltd & Anr. v D N Bahri Trading As The Veldon Chemical And Food Product & Anr (2024:DHC:2868)**

In a rectification petition under Sections 47 and 57 of the Trade Marks Act, 1999, the Delhi High Court ruled in favor of the petitioners, removing the trade mark 'AMUL' from the Register, which was registered to Respondent 1. The court recognized that 'AMUL' has acquired significant national reputation and is well-known, with products distributed across various platforms. The petitioners, a co-operative society, asserted that the mark's history traces back to 1946. They highlighted Respondent 1's failure to provide evidence of usage since 1957, making their registration invalid under Section 47 for non-use. The court noted the lack of documentation from Respondent 1 to support their claim and concluded that 'AMUL' was a significant mark coined by the petitioners, well-established prior to Respondent 1's application. The court dismissed Respondent 1's arguments about the differences in mark registration and affirmed the wide recognition and enduring significance of 'AMUL.' The court ordered the removal of the impugned mark from the Register, to be executed within four weeks. [Read more](#)

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## • GIRNAR GIVEN WELL KNOWN TRADEMARK STATUS

**Case: Girnar Food & Beverages Pvt. Ltd. v.TNI Plastics**

The Bombay High Court has recognized the trademark 'GIRNAR' as a well-known mark in India, affirming its reputation and goodwill that transcend specific goods or services. The court's ruling came during a lawsuit by Girnar Food & Beverages Pvt. Ltd. against TNI Plastics for trademark infringement. The court noted that 'GIRNAR' has become synonymous with the company's offerings, which include tea, coffee, and related products. Justice R.I. Chagla concluded that the mark has attained significant recognition across India, meeting the criteria for a well-known



trademark as outlined in the Trade Marks Act. The defendant did not contest this declaration, and the court emphasized the mark's enduring reputation and distinctive nature, warranting strong protection. [Read More](#)

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## • **BHARAT BENZ GIVEN WELL KNOWN TRADEMARK**

**BharatBenz**, the flagship brand of **Daimler India Commercial Vehicles (DICV)**, a wholly-owned subsidiary of **Daimler Truck AG, Germany**, was awarded the prestigious "**Well-Known Trademark**" status by the **Indian Intellectual Property Office** on **November 5, 2024**. This recognition highlights BharatBenz's strong market presence and reputation since its launch twelve years ago.

The "Well-Known Trademark" status provides BharatBenz with enhanced legal protection under the Trademark Act, safeguarding its brand value in India and internationally. This status is significant because it recognizes BharatBenz's wide recognition among consumers and strengthens its position in the Indian commercial vehicle market.

BharatBenz attributes this achievement to its focus on performance, innovation, safety, and customer trust. The brand has introduced advanced safety features, including fully factory-built, air-conditioned metal cabins, prioritizing driver and road safety. BharatBenz was also the first brand in India to introduce Bharat Stage VI (BSVI)-compliant vehicles in 2020, strengthening its commitment to environmental standards and technological advancement.

Satyakam Arya, Managing Director & CEO of DICV, expressed pride in receiving this recognition, emphasizing the brand's impact on the Indian commercial vehicle market and the trust earned from customers and partners. Over the past 12 years, BharatBenz has played a vital role in nation-building, securing a strong market position through an unwavering commitment to performance, innovation, and safety.

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## • **DESIGN LAW TREATY 2024**

The Riyadh Design Law Treaty, approved by WIPO member states, aims to simplify, expedite, and reduce costs associated with protecting designs globally. This Treaty, recognized in Riyadh, marks a significant advancement for designers and encourages international design collaboration.

WIPO Director General Daren Tang hailed the Treaty as historic, emphasizing its importance for designers and multilateralism. Adopted after twenty years of effort and extensive negotiations, the Treaty benefits designers, especially small and medium-sized enterprises (MSMEs), by making design protection more predictable and less complex.

Key provisions include a standardized list of application elements, flexible representation methods (drawings, photographs, video), allowance for multiple designs in one application, minimal filing-date requirements, a 12-month grace period post-disclosure, unpublished design protection for six months, and simplified renewal processes. The Treaty also advocates for e-filing systems and technical assistance for developing countries.

Additionally, the Treaty interfaces design protection with traditional knowledge and cultural expressions, enhancing global collaboration. It requires 15 contracting parties to come into force, positioning Saudi Arabia as a bridge between cultures and a supporter of global initiatives.

The Riyadh Design Law Treaty represents a milestone in empowering designers, fostering innovation, and advancing intellectual property protection worldwide. **[Read More.](#)**

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## • TRADEMARKS (HOLDING, INQUIRY & APPEAL) RULES, 2024

The Ministry of Commerce and Industry released the Trade Marks (Holding Inquiry and Appeal) Rules, 2024, on August 16, 2024, having reviewed comments on the Draft Rules issued on July 1, 2024. The finalized Rules are largely unchanged from the Draft, with a minor modification regarding penalties. They establish procedures for addressing violations of Section 107 of the Trade Marks Act, 1999, which pertains to falsely claiming a trademark as registered, stipulating fines based on sales or a maximum of five lakh rupees. However, the Rules exhibit several deficiencies: they do not clarify whether 'person' includes companies, do not explain the exclusion of the Bharatiya Sakshya Adhiniyam, 2023, in evidence evaluation, and mandate electronic communication, potentially overlooking individuals without internet access. Additional gaps exist regarding the process for replies to show cause notices, deadlines for hearings, limits under Rule 7, and the introduction of new evidence during appeals.