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INTELLECTUAL PROPERTY INDIA
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GEOGRAPHICAL INDICATIONS

सत्यमेव जयते
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Ministry of Commerce & Industry
उद्योग संवर्धन और आंतरिक व्यापार विभाग
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Office of The Controller General Patents, Designs & Trade Marks

“बौद्धिक न्यायवृत्त”
(IP LEX)

MONTHLY COMPILATION OF JUDGEMENTS ON
INTELLECTUAL PROPERTY RIGHTS

AUGUST 2026

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सत्यमेव जयते

"बौद्धिक न्यायवृत्त" (IP LEX) presents significant recent developments in Indian intellectual property jurisprudence across Patents, Copyright, Designs, Trade Marks and GI. This edition brings together important judicial pronouncements interpreting and clarifying key provisions of intellectual property law. These decisions reflect the evolving legal principles and emerging issues shaping the contemporary IP landscape in India.

The IP Lex reflects significant developments across the spectrum of Intellectual Property law. The decisions particularly emphasise reasoned adjudication, principles of natural justice, proper assessment of novelty, inventive step, non-patentability and other patent matters, and evolving standards relating to trademark infringement, deceptive similarity, interim injunctions and procedural fairness. The copyright decisions address important questions concerning ownership, communication of works to the public and protection of creative rights. Collectively, these decisions provide important guidance on both substantive IP rights and their fair and effective administration.

These developments have direct implications for filing strategies, enforcement actions, and risk assessment in intellectual property matters.

Going forward, continued vigilance is required in tracking emerging trends, particularly those relating to artificial intelligence and the digital economy, so that **"बौद्धिक न्यायवृत्त"** (IP LEX) continues to serve as an accessible and evolving reference for IP officials, practitioners, students, and rights holders.

It is expected that this resource will be reviewed and supplemented periodically in light of significant judicial pronouncements, legislative developments, and technological advancements that may affect the interpretation and application of intellectual property law.

Prof. (Dr.) Unnat P. Pandit
Controller General of Patents, Designs & Trade Marks

<u>IP LEX</u>

India's intellectual property jurisprudence has, in recent years, grown in both volume and complexity. Courts across the country, from the Supreme Court to the High Courts and their specialised Intellectual Property Divisions, deliver a steady stream of judgments interpreting the **Patents Act, 1970, the Copyright Act, 1957, the Designs Act, 2000, the Trade Marks Act, 1999**, and the **Geographical Indications of Goods (Registration and Protection) Act, 1999.** These decisions shape how statutory provisions are read, how rights are enforced, and how the balance between innovation, creativity, and public interest is struck in practice. For controllers, registrars, examiners, practitioners, students, and rights holders, keeping track of this evolving body of law is not straightforward. Judgments are scattered across court websites, law reports, and databases, often without a common structure, making it difficult to locate the reasoning on a given provision or to see how a principle has developed across cases and years.

IP Lex is conceived as a consolidated resource bringing together Indian statutes, rules, and judicial decisions relating to Patents, Copyright, Designs, Trade Marks, and Geographical Indications. Each entry is organised around the relevant statutory provisions, enabling users to readily trace the judgments interpreting them. It facilitates easy navigation between the statutory framework and its judicial interpretation, while presenting recurring legal principles emerging from the Courts. The platform serves as an accessible and evolving reference, reflecting significant judicial developments and the continuing evolution of Indian Intellectual Property law.

For the month of **August 2026**, this monthly compilation brings together significant judicial decisions relating to Intellectual Property Rights, covering the areas of Patents, Copyright, and Trade Marks. The compilation highlights key judicial findings and principles emerging from these decisions, providing a consolidated reference to the developments in Indian Intellectual Property law during the month.

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PATENTS

1. M/S. GREEN ENERGY RESOURCES vs. JOINT CONTROLLER OF PATENTS AND DESIGNS, PATENT OFFICE KOLKATA, AND OTHERS[1]

Case No: IPDPTA/9/2026

Court: Calcutta High Court

Bench: Hon'ble Justice Arindam Mukherjee

Key Words

Patent Restoration, Post-Grant Revocation, Infructuous Proceedings, Acquiescence/Waiver, Sequential Adjudication

Facts

M/S. Green Energy Resources ("appellant") held a patent that ceased under the Patents Act, 1970 for default in depositing the license/renewal fee, which fell due by September 2021. Prior to that default's fee-deadline expiry, Respondent No. 4 had already filed a post-grant application seeking revocation of the patent on merits. The appellant later obtained an order from the Orissa High Court (dated 12.02.2026) permitting it to file a restoration application within 30 days, with a direction that the application be considered within two months of filing. The appellant filed the restoration application on 24.02.2026. While it was pending, and after Respondent No. 4 filed objections to it, both parties consented before the Controller to adjourn the revocation hearing pending the restoration outcome. The Controller proceeded towards revocation of the patent on merits by order dated 29.07.2026 and did not consider restoration of the patent application, and didn't give the appellant notice or a hearing opportunity.

Provisions

Section 53(2) & 53(4), 60(1)

Judgment

[1] **M/S. GREEN ENERGY RESOURCES vs. JOINT CONTROLLER OF PATENTS AND DESIGNS, PATENT OFFICE KOLKATA, AND OTHERS, IPDPTA/9/2026**

The Calcutta High Court set aside the Controller's revocation order dated July 29, 2026, holding that deciding the revocation while the restoration application. The Court directed that the restoration application be decided first, followed by the revocation proceedings after giving the patentee a proper hearing. It observed that deciding revocation first would have rendered the restoration proceedings infructuous and undermined the Orissa High Court's direction. The Court directed that both matters be heard by the Controller or by a single neutral officer, before whom neither proceeding is pending, thereby ensuring an impartial and orderly adjudication.

Ratio:

Where an application for restoration of a ceased patent is pending pursuant to a subsisting order of a competent High Court directing its consideration within a specified period, the Controller ought to consider and decide the restoration application before proceeding with a pending post-grant revocation application concerning the same patent, particularly where deciding the revocation application first would render the restoration application infructuous. A party that consented to adjournment pending restoration cannot later seek revocation before restoration is decided.

Issues Framed by the Court

- Whether the Controller could decide the post-grant revocation application on merits while the restoration application concerning the same patent remained pending?
- Whether deciding revocation first thereby rendering the pending restoration application infructuous was legally permissible?
- Whether Respondent No. 4's consent to adjourn the revocation hearing amounted to acquiescence/relinquishment of its right to have revocation decided first?
- Whether the Controller's decision-making process, including the provision of adequate notice and an opportunity of hearing to the appellant, particularly in view of the subsisting High Court direction to decide the restoration application?

Points to be considered

- Priority to restoration over revocation: The restoration application should be decided first where the Orissa High Court has directed its consideration within a specified period, as revocation first may render restoration infructuous.

- Respect for High Court timelines: Statutory/administrative authorities must strictly comply with timelines fixed by a High Court order, irrespective of which High Court issued it, and cannot act in a manner that renders such an order nugatory.
- Consent as estoppels: A party that consents to an adjournment pending a connected proceeding cannot later contend that deciding the adjourned matter out of turn was proper.
- Unified adjudication for connected matters: Where interlinked applications (like restoration and revocation of the same patent) are pending before different officers of the same department, they should be decided sequentially by one authority/officer to avoid conflicting outcomes and procedural friction.

2. ESTEVE PHARMACEUTICALS S.A. v. CONTROLLER OF PATENTS AND DESIGNS[2]

Case No: C.A.(COMM.IPD-PAT) 118/2022

Court: Delhi High Court

Bench: Hon'ble Justice Tushar Rao Gedela

Key Words

Co-crystals; Tramadol; Celecoxib; Active Pharmaceutical Ingredient (API); Inventive Step; Person Skilled in the Art (PSITA).

Facts

With precedence from October 16, 2009, Esteve Pharmaceuticals S.A. filed Indian National Phase Patent Application No. 1435/DELNP/2012, titled "Co-crystals of Tramadol and Coxibs." The allegations were modified during the case to expressly address a 1:1 molecular co-crystal of celecoxib and tramadol. Based on prior-art papers D1–D7, the Controller objected under Sections 2(1)(ja) for lack of inventive step and Sections 3(d) and 3(e) for non-patentability. On February 12, 2020, the application was denied due to non-patentability and lack of inventive step, even if the novelty objection was not upheld in the final ruling. In accordance with Section

[2] ESTEVE PHARMACEUTICALS S.A. v. CONTROLLER OF PATENTS AND DESIGNS

117A of the Patents Act, 1970, Esteve Pharmaceuticals S.A. appealed the denial to the Delhi High Court.

Provisions: Section 2(1)(ja), Section 3(d), Section 3(e)

Judgment

The Delhi High Court dismissed the appeal and upheld the Controller's refusal of the patent application on the ground of lack of inventive step under Section 2(1)(ja). The Court found that D5 disclosed the use of tramadol with celecoxib for pain treatment, while D7 disclosed pharmaceutical co-crystals and specifically listed both tramadol and celecoxib as suitable APIs, along with methods for preparing such co-crystals. Court also found that D7 teaches that this co-crystallization improves solubility, dissolution, bioavailability, dose-response, and stability compared to the API alone. Considering D5 and D7 together, the Court held that a Person Skilled in the Art (PSITA) would have been motivated to prepare the claimed 1:1 co-crystal, making the invention obvious. Since the lack of inventive steps was sufficient to refuse the application, further relying on Kroll Information Assurance, LLC v. The Controller General of Patents, C.A.(COMM.IPD-PAT) 439/2022, the Court found it unnecessary to examine the objections under Sections 3(d) and 3(e) of Patent Act.

Ratio

As per the Patent act of 1970, a pharmaceutical co-crystal composition lacks an inventive step and is considered obvious if the one prior art already explicitly teaches the therapeutic combination of two known active pharmaceutical ingredients (APIs), and other prior art provides both the direct technical pathway and the explicit motivation to synthesize those same APIs in a co-crystalline form to achieve predictable enhancements in solubility, stability, or dosage response. The implementation of a known co-crystallization process on a known combination of APIs to achieve predicted benefits does not constitute a patentable technological advancement.

Issues Framed by the Court

Whether, in light of the disclosures in prior-art documents D5 (US 2008/0031950 A1) and D7 (WO 2004/078163 A2), the claimed invention, restricted to a "1:1 co-crystal of tramadol and celecoxib," involves an inventive step under Section 2(1)(ja) of the Patents Act, 1970, or would it have been obvious to a Person Skilled in the Art.

After determining the threshold of inventive step, was it essential to decide on the additional non-patentability objections submitted under Sections 3(d) and 3(e) of the Act?

Points to be considered

- Combining Prior Arts (Mosaic Objection): Patent offices can successfully establish obviousness by combining a document that teaches a therapeutic combination of two drugs (D5) with a document that provides a blueprint and motivation for preparing those exact same drugs in a co-crystal form (D7)
- Predictable Benefits Do Not Establish Inventive Step: Demonstrating improvements like enhanced efficacy or reduced dosage (e.g., lower ED50) is insufficient to support an inventive step if the prior art generically teaches that these exact parameters (bioavailability, dose-response, stability) are the anticipated advantages of co-crystallization
- Procedural Economy in Adjudication: If a Court or Controller finds that a patent application fails the foundational requirement of inventive step under Section 2(1)(ja), it is procedurally sound to reject the application on that ground alone without expending judicial resources on additional exclusions under Sections 3(d) and 3(e).

3. 9449710 CANADA INC. v. DEPUTY CONTROLLER OF PATENTS AND DESIGNS[3]

Case No: C.A.(COMM.IPD-PAT) 69/2024

Court: Delhi High Court

Bench: HON'BLE MS. JUSTICE JYOTI SINGH

Keywords: Polyethylene Terephthalate (PET) Depolymerization, Dimethyl Terephthalate (DMT), Mono Sodium Glycoxide, Inventive Step, Known Process.

Facts: The Appellant, 9449710 Canada Inc., filed PCT National Phase Application No. 202117002258 on 18.01.2021 for an invention titled "TEREPHTHALIC ACID ESTERS FORMATION". The invention claims an efficient, low-energy, high-yield, and cost-effective

[3] 9449710 CANADA INC. v. DEPUTY CONTROLLER OF PATENTS AND DESIGNS

process for depolymerizing PET to form terephthalate (such as DMT) using a first solvent comprising methanol mixed with PET, to which a mono sodium glycoxide suspension and a second solvent are added.

The Respondent refused the grant of patent vide impugned order dated 31.03.2024 on three grounds:

a. lack of clarity under Section 10(5) based on the claim phrase 'as claimed in any one of the claims';
b. lack of inventive step under Section 2(1)(ja) in view of cited prior arts D1–D6; and
c. non-patentability under Section 3(d) as a mere new use of a known process without improved efficacy data over D1–D6.

Provisions: Sections 2(1)(ja), 3(d), and 10(5) of the Patents Act, 1970.

Judgment

The Court observed that the impugned order gave no reasoning for why the claims were unclear — a bare, unreasoned finding. The court finds that the respondent has not followed the five-step test in *F. Hoffmann-La Roche Ltd. & Anr. v. Cipla Ltd., 2015,* never identified the PSITA, and merely tabulated extracts from D1–D6 without analysis or reasoning on motivation to combine— contrary to *Agriboard International LLC v. Deputy Controller of Patents and Designs, 2022*. Further, Court observed that the respondent failed to address the threshold question of whether efficacy data was even required for a process claim (per *Tapas Chatterjee v. Assistant Controller of Patents and Designs and Another, 2025*, efficacy enhancement is required only for "new form of known substance" claims, not "mere use of known process" claims, which need only a new reactant or new product). The High Court of Delhi set aside the impugned order dated 31.03.2024 and remanded the patent application back to the Respondent for de novo consideration afresh after granting an opportunity of hearing to the Appellant.

Ratio: The Court held that when assessing an inventive step under Section 2(1)(ja), the Patent Office must follow the established five-step test (including identifying the person skilled in the art and evaluating how they would move from existing knowledge to the claimed invention); mechanically copying and tabulating differences between prior arts and claims without reasoning is impermissible. Furthermore, regarding Section 3(d), a process claim cannot be rejected for lack of "improved efficacy data" as required for product/substance claims, because Section 3(d) treats "mere use of a known process" differently (requiring a new product or at least one new reactant) and does not mandate efficacy enhancement data for processes.

Issues Framed by the Court:

- Whether the scope of the claims lacks clarity and conciseness under Section 10(5) merely due to the drafting terminology used?
- Whether the claimed process lacks an inventive step under Section 2(1)(ja) when compared to the prior art references D1 to D6?
- Whether the rejection under Section 3(d) as a mere new use of a known process is legally sustainable, particularly in demanding enhanced efficacy data for a process claim?

Points to be Considered:

- The Court observed that the Respondent provided no analytical reasoning explaining how the dependency phrase 'as claimed in any one of the claims' rendered the scope of the claims unclear or failed to meet Section 10(5) requirements.
- The Court noted that the Controller failed to perform the mandatory five-step test for inventive step under Section 2(1)(ja) as laid down in *F. Hoffmann-La Roche* and *Agriboard International*, omitting even the fundamental step of identifying the person skilled in the art and failing to explain how such a person would be motivated to arrive at the claimed process from prior arts D1–D6.
- The Court observed that Section 3(d) treats process claims and substance/form claims under distinct standards. For a process, patentability under Section 3(d) requires employing at least one new reactant or producing a new product; it does not require providing enhanced efficacy data, which applies only to new forms of known substances.
- The Court emphasized that the Controller ignored specific technical distinctions presented by the Appellant showing that prior arts D1–D6 either addressed different technical problems, taught away from the claimed methanolysis route, or used entirely different reaction parameters and catalysts. An unreasoned, non-speaking order cannot be sustained in law.

4. ENVIRO AMBIENT CORPORATION. V. ASSISTANT CONTROLLER OF PATENTS[4]

Case no.: C.A.(COMM.IPD-PAT) 74/2024

Court: High Court of Delhi

Bench: HON'BLE MS. JUSTICE JYOTI SINGH

Keywords

Patent, Novelty, Inventive Step, Prior Art, Patent Examination, FER, Speaking Order, Reasoned Order, Remand

Facts

Appellant (i.e. Enviro Ambient Corporation) filed a national phase application titled "Carbon Dioxide Capture Device and Method". The Controller refused the application with objections, after hearing, on the grounds of lack of novelty and inventive step under Section 2(1)(j) and Section 2(1)(ja) respectively.The Appellant appealed before the Delhi High Court under Sections 116 and 117(A) of the Indian Patents Act, 1970, stating that the rejection of the application is unreasonable and non-speaking and that the Controller had not properly considered its detailed response to the FER and written submissions explaining the differences between the claimed invention and the cited prior art.

Provisions

Section 2(1)(j) and Section 2(1)(ja) of the Patents Act, 1970

Judgment

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[4] ENVIRO AMBIENT CORPORATION. V. ASSISTANT CONTROLLER OF PATENTS

The Court found that the rejection order was unreasoned and did not properly analyze the objections of novelty and inventive step or the Applicant's submissions. The Court held that the finding on lack of novelty was unsupported by any analysis or discussion, the objection having been sustained merely based on a bald reference to D1. The Court mentioned to follow a five-step test as explained in the judgment of the Divisional Bench in *F. Hoffmann-La Roche Ltd. & Anr. v. Cipla Ltd., 2015,* or the three-element framework from *Agriboard International LLC v. Deputy Controller*, 2022, while determining the inventive step of a patent. The order was therefore set aside, and the matter was remanded to the Controller for fresh consideration after considering the Applicant's submissions and giving an opportunity of hearing.

Ratio

The Controller must give proper reasons while deciding objections of novelty and inventive step and must analyze the claimed invention against the cited prior art. A patent application cannot be rejected through a bare or unexplained conclusion and must follow the five-step test while determining the grant of a patent. The Court held that the Controller had not properly determined novelty and inventive step and therefore directed a fresh examination.

Issues Framed by the Court

1. Whether the Controller had properly examined the claimed invention against prior art D1 for novelty?
2. Whether the Controller had properly examined inventive step in light of D1-D6?
3. Whether the rejection order adequately considered the Applicant's submissions and gave sufficient reasons for rejecting the patent application?

Points to be Considered

A patent application cannot be rejected merely by referring to prior art. The Controller must clearly explain how the prior art affects novelty or inventive step and must consider the applicant's submissions and reasoning.

5. UPL CORPORATION LIMITED & ANR. V. ASSISTANT CONTROLLER OF PATENTS AND DESIGNS[5]

[5] UPL CORPORATION LIMITED & ANR. V. ASSISTANT CONTROLLER OF PATENTS AND DESIGNS

Case No. : C.A. (COMM.IPD-PAT) 6/2025

Court: High Court of Delhi

Bench: HON'BLE MS. JUSTICE JYOTI SINGH

Keywords

Patent, Novelty, Inventive Step, Prior Art, Natural Justice, Hearing Notice, Patent Examination, Reasoned Order, Remand

Facts

Appellant (i.e. UPL Corporation Ltd.) and its sister company filed a patent application for an invention titled “Herbicidal Combination and Method of Controlling Herbicide Resistant Weeds”. The Respondent (i.e. Controller) raised objections in the FER relating to novelty, inventive step, industrial applicability and non-patentability. The appellant filed responses and amended its claims.

In the second Hearing Notice, the objection of lack of novelty under Section 2(1)(j) was dropped. However, the Controller later relied on the same novelty objection while rejecting the patent application. The Controller also relied on seven new documents which had not been cited in the FER or the earlier Hearing Notices. The appellant challenged the rejection, stating that it had not been given an opportunity to respond to these objections and documents.UPL also argued that the Controller had not properly analyzed inventive step or explained how the cited prior art D1-D3 would lead a skilled person to the claimed invention.

Provisions

Sections 2(1)(j), 2(1)(ja) and 3(n) of the Patents Act, 1970

Judgment

The High Court set aside the rejection order and remanded the matter to the Controller for fresh consideration. The Court found that the revival of the dropped novelty objection, reliance on new documents without giving an opportunity to respond, and inadequate inventive-step analysis violated proper procedure and principles of natural justice. The Court mentioned that the respondent has not followed the five-step test laid down by the Division Bench in *F. Hoffmann-La Roche Ltd. & Anr. v. Cipla Ltd.* (2015) while assessing the inventive step of a patent. The Controller was directed to reconsider the application after giving UPL an opportunity of hearing.

Ratio

An applicant must be given a fair opportunity to respond to every objection and material relied upon for rejecting a patent application. A Controller cannot revive a dropped objection or rely on new documents for the first time in the final order without giving the applicant an opportunity to respond. The inventive-step analysis must also explain how the cited prior art leads to the claimed invention.

Issues Framed by the Court

1. Whether the Controller could rely on a novelty objection in the final order after that objection had been dropped in the second Hearing Notice?

2. Whether the Controller could rely on new documents in the final rejection order without giving the Applicant an opportunity to respond to them?

3. Whether the Controller had properly examined the inventive step objection by comparing the prior art with the claimed invention?

4. Whether the rejection order followed the principles of natural justice and gave proper reasons for rejecting the patent application?

Points to be Considered

Patent objections should be clearly communicated before rejection. The Controller cannot rely on a dropped objection or new prior-art material without giving the applicant an opportunity to respond.

Trademarks

1. AYU LIFESCIENCE INDUSTRIES FZE. vs. THE CONTROLLER GENERAL OF TRADEMARKS, THROUGH THE TRADEMARK OFFICE[6]

Citation: C.A.(COMM.IPD-TM) 74/2025

Court: Delhi High Court

Bench: HON'BLE MS. JUSTICE JYOTI SINGH

Keywords

Anti-dissection rule, unregistered mark citation, dominant mark test

Facts

The Appellant applied on 12.06.2025 for registration of a device mark, comprising the word AYU, a tree device, and the word LIFESCIENCE, in Class 05 for pharmaceutical goods. The Examination Report objected under Section 11 of the Trade Marks Act, 1999, citing three marks: an AYU device mark, an AYU18 device mark, and an AYU SHAKTI word mark. By order dated 10.10.2025, the Registrar refused registration, holding the applied mark deceptively similar to the cited marks and the goods identical in description.

Provisions

Sections 11(1) and 17 of the Trade Marks Act, 1999.

Judgment

The Court set aside the refusal and remanded the application for fresh consideration. The AYU device mark cited by the Registrar had remained unprosecuted since 2020 following an objection, and the AYU SHAKTI mark was under pending opposition; neither could be treated as a valid, subsisting citation without the Registrar addressing this. As for the third mark, AYU18, which was validly registered, the Registrar had not compared it with the applied mark on the correct footing: the overall impression created by each mark as a whole, including the Appellant's device elements and the word LIFESCIENCE. The refusal appeared to rest only on the shared word AYU, which is dissection, not comparison.

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[6] AYU LIFESCIENCE INDUSTRIES FZE. vs. THE CONTROLLER GENERAL OF TRADEMARKS, THROUGH THE TRADEMARK OFFICE

Ratio

A cited mark that is objected to and unprosecuted, or under pending opposition, cannot be treated as a valid basis for refusal under Section 11(1) without the Registrar recording why it is nonetheless being relied upon.

Comparison under Section 11(1) must proceed on the overall impression of the marks as composite wholes, per the anti-dissection rule in Section 17. The dominant mark test does not excuse the Registrar from this exercise; a shared word alone cannot justify refusal without weighing the marks' distinguishing elements.

Issues Framed by the Court

1. Whether two of the three cited marks, being objected to and unprosecuted, or under pending opposition, could be relied on to refuse registration under Section 11(1).
2. Whether the applied mark was correctly compared against the validly registered cited mark, AYU18, by reference to the overall impression of both marks under Section 17, or whether the refusal wrongly turned on the common word AYU alone.

Points to be considered

The Appellant's suggestion that registration could have proceeded with a disclaimer against exclusive use of AYU was noted but not decided. The appeal was disposed of without any finding on the merits of similarity; the Registrar is to decide the application afresh within three months, after hearing the Appellant, bearing in mind the status of the two questioned citations.

2. HAHNEMANN SCIENTIFIC LABORATORY INDIA PVT. LTD. vs. MEERA RASTOGI TRADING AS HAHNEMANN MEMORIAL LABORATORY[7]

Citation: FAO (COMM) 182/2026, CM APPL. 43491/2026, CM APPL. 43489/2026

Court: Delhi High Court

Bench: HON'BLE MR. JUSTICE V. KAMESWAR RAO, HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

Keywords

[7] HAHNEMANN SCIENTIFIC LABORATORY INDIA PVT. LTD. vs. MEERA RASTOGI TRADING AS HAHNEMANN MEMORIAL LABORATORY

Trademark, Passing Off, Deceptive Similarity, Prior Use, Descriptive Marks, Limitation, Condonation of Delay, Interlocutory Injunction, Scope of Appeal (Wander Ltd. principle)

Facts

The Appellant, Hahnemann Scientific Laboratory India Pvt. Ltd., manufactures and sells homoeopathic medicines. It claimed to have adopted the mark HASLAB'S DIGESTO in 1971 and had obtained a trademark registration in 1986, which lapsed in 1993 and was never renewed. The Respondent, Meera Rastogi trading as Hahnemann Memorial Laboratory, also sells homoeopathic medicines and used a device mark reading DIGESTO PLUS, for which she had a pending registration application filed in 2024. In May 2024, when the Appellant found out the Respondent was using the name "DIGESTO," they went to court and got a temporary order to stop them (interim injunction). However, a Trial court later lifted that order because the person couldn't prove that the other side was misleading anyone or that customers were likely to get confused. While the appeal against that vacating order was pending, the Appellant obtained a fresh registration for HASLAB'S DIGESTO and cited this as justification for its delay of 76 days in filing the appeal.

Provisions

Section 13 of the Commercial Courts Act, 2015; Order XXXIX Rules 1 and 2 and Order XLIII Rule 1(r) read with Section 151 of the Code of Civil Procedure, 1908; Article 5 of the Limitation Act, 1963, Trade Marks Act 1999.

Judgment

The Delhi High Court rejected the appeal and agreed with the Trial court's decision to deny the temporary ban. The High Court said the lower court handled the claim correctly; its rulings on who had the better reputation, whether anyone was misled, and who would suffer more from a ban were all reasonable. On top of that, the appeal was thrown out simply because it was filed 76 days late, and the filer didn't have a good enough excuse for the delay.

Ratio

An appellate court reviewing a discretionary interlocutory order in a trademark or passing-off matter must exercise restraint; interference is warranted only where the trial court's discretion was exercised arbitrarily, capriciously, perversely, or in disregard of settled legal principles, and not merely because the appellate court might have reached a different conclusion on the same material.

A claimed date of first use stated in a trademark application is only an assertion and not proof of actual, continuous commercial use; contemporaneous documentary evidence such as invoices, bills, and advertisements is required to establish the claimed user date. A word that is common to the trade, and in respect of which the applicant itself accepted a disclaimer at the time of an earlier registration, is not entitled to monopolistic protection merely because the applicant later secures a fresh registration incorporating that word as part of a composite mark.

Where the competing marks and trade dress, viewed as a whole, are visually and conceptually distinguishable, the mere presence of a shared descriptive or common word is insufficient to establish deceptive similarity for the purposes of passing off. The mere occurrence of a subsequent, favourable event, such as the grant of a fresh trademark registration after the impugned order, does not by itself constitute sufficient cause for condoning delay in filing an appeal, since condonation of delay in commercial matters is the exception and not the rule.

Circumstances surrounding a disclaimer accepted by an applicant in an earlier registration, and the material considered by the Registrar in accepting a claimed user date in a later registration, are matters requiring examination through evidence at trial rather than at the interlocutory stage.

Issues Framed by the Court

1. Whether the Appellant established a prima facie case of passing off, including goodwill, misrepresentation, and likely damage, so as to warrant interference with the Trial Court's refusal of an interim injunction?Whether the Appellant's claimed date of first use since 1971 was supported by cogent contemporaneous documentary evidence?

2. Whether the word DIGESTO is common to the trade and publici juris, such that the Appellant cannot claim exclusivity over it?

3. Whether the rival marks HASLAB'S DIGESTO and DIGESTO PLUS, and their respective trade dress, are deceptively similar?

4. Whether the appeal, filed with a delay of 76 days beyond the statutory period, could be entertained, and whether the subsequent grant of a fresh trademark registration constituted sufficient cause for condonation of that delay?

Points to be considered

- The Court reiterated that its appellate jurisdiction under Section 13 of the Commercial Courts Act, read with Order XLIII Rule 1(r) CPC, is narrow, relying on the Supreme Court's decisions in Wander Ltd. v. Antox India (P) Ltd., Pernod Ricard India (P) Ltd. v. Karanveer Singh Chhabra, and a Co-ordinate Bench decision, all affirming that an appellate court will not substitute its own view for that of the Commercial Court unless the exercise of discretion is shown to be arbitrary, capricious, perverse, or contrary to settled principles.

- On the facts, the Trial Court had found that the Appellant produced no invoices, bills, or advertisements evidencing continuous use of its mark between 1981 and 2007, whereas the Respondent produced invoices and a Drugs Controller approval indicating use of DIGESTO PLUS since 1980. The Appellant did not point to any document before the High Court that contradicted these findings.

- The Court noted that the Appellant had itself accepted a disclaimer on the word DIGESTO when its earlier registration was granted in 1986, and had not disclosed in its plaint the reasons for that disclaimer or the prosecution history behind it. A search report produced by the Respondent showed several third-party DIGESTO-formative marks dating back to 1946, supporting the Trial Court's prima facie finding that the word is common to the trade.

- The Court held that the Appellant's later, unconditional registration of HASLAB'S DIGESTO in 2026 did not retrospectively cure these evidentiary gaps, since that registration covered the composite mark and not the word DIGESTO alone, and the circumstances of its grant would require examination at trial.

- On limitation, the Court held that the fresh registration obtained after the impugned order could not, by itself, amount to sufficient cause under Article 5 of the Limitation Act for condoning a 76-day delay, and reaffirmed that condonation of delay in commercial suits is an exception rather than the norm, citing *Government of Maharashtra v. Borse Brother Engineers and Contractors Private Limited*.

- Having upheld the impugned order on both merits and limitation, the Court clarified that it had not gone into the merits of the underlying suit, and directed the Trial Court to proceed with the pending trial in a time-bound manner, leaving the effect of the subsequent trademark registration to be considered there.

3. BAIT AL TAMUR CO v. INSIYA GLOBAL & ANR.[8]

Citation: CS(COMM) 1145/2024

Court: Delhi High Court

Bench: HON'BLE MS. JUSTICE JYOTI SINGH

Keywords: Trademark Infringement, Passing Off, Trade Dress, Consent Decree, Order XXIII Rule 3 CPC, Refund of Court Fees.

Facts: The Plaintiff, Bait Al Tamur Co, filed the present suit for decree of permanent injunction against the Defendants, Insiya Global & Anr., and all others acting on their behalf, from procuring, selling, offering for sale, advertising or otherwise dealing in any goods or services under the impugned trademark/trade dress 'DATE'S CROWN' and its packaging, on the ground that the mark was identical or deceptively similar to the Plaintiff's own 'DATE CROWN' trademark and trade dress, to amount to infringement and passing off. During the pendency of the suit, the parties amicably settled their inter se disputes and jointly moved I.A. 22704/ 2026 under Order XXIII Rule 3 read with Section 151 CPC for recording the settlement. As per the agreed terms, the Defendants had undertaken to "cease all use of impugned trademark/packaging as also impugned domain name" and not to use any mark or trade dress deceptively similar to that of the Plaintiff. It was also agreed that Defendant No. 2 shall change its name and the changed name was recorded for the sake of convenience as 'Al Qaswa Crown Dates Private Limited' and the packaging would be changed, to which the Plaintiff had no objection. It was also agreed that the Defendants shall file an application for withdrawal or abandonment of the trademark application no. 5360614 before the Trade Marks Registry.

Provisions: Order XXIII Rule 3 read with Section 151 of the CPC, 1908; Trade Marks Act, 1999; and Court Fees Act, 1870

Judgment: The Delhi High Court found the terms of settlement to be lawful and allowed I.A. 22704/2026. The terms were directed to *"form part of the decree and ... bind the parties thereto"* in terms of the settlement, the suit CS(COMM) 1145/2024 was decreed. Registry was directed to prepare the decree sheet, suit is disposed of along with the pending injunction

[8] BAIT AL TAMUR CO v. INSIYA GLOBAL & ANR.

application I.A. 48717/2024. The Court held that the Plaintiff was entitled to a refund of the entire court fee paid, in accordance with the Court Fees Act, 1870.

Ratio: Where the parties to a trademark suit arrive at a lawful settlement, the Court may, being satisfied of its legality, record the terms and decree the suit under Order XXIII Rule 3 CPC and the recorded terms bind the parties as a part of the decree itself. The resolution of the dispute over trade mark infringement and passing off by a consent order which involves a change by the defendant of its trade name and packaging, and an undertaking to withdraw a conflicting application for a trade mark pending before the Registry, is a legitimate and enforceable way of resolving the dispute without adjudication on the merits. It follows that a plaintiff who obtains a decree by way of settlement and not by contestation of the suit at the trial is entitled to a refund of the entire court fee paid in conformity with the object of the Court Fees Act, 1870 to promote an early and amicable settlement of commercial disputes.

Issues Framed by the Court:

1. Whether the terms of settlement entered into in I.A. 22704/2026 were legal and proper to be incorporated in a decree under Order XXIII Rule 3 of CPC?

2. Whether the Suit filed for injunction on account of trademark infringement and passing off can be decided upon based on such terms of settlement?

3. Whether the Plaintiff being satisfied with the settlement, who did not contest the case to the stage of trial, is entitled to get his court fees refunded?

Points to be Considered:

- The Court pointed out that the issue related to the impugned mark and packaging of the product 'DATE'S CROWN', claimed by the Plaintiff to be deceptively similar to their mark of 'DATE CROWN' and trade dress, inclusive of the colour and packaging of the dates in question.

- The Court pointed out that the terms of the settlement included not only cessation of use of the impugned mark, but also of the impugned domain name, in order to ensure that no scope remained for confusion in the market.

- It was clarified that the name change and new packaging of the Defendants as recorded in evidence as 'Al Qaswa Crown Dates Private Limited', was not objected to by the

Plaintiff, and that the image of the same was also produced for the record in order to establish compliance with the settlement terms.

- Further, the Court considered the promise made by the Defendants to file an application for withdrawal or abandonment of the trademark application pending at the Trade Marks Registry no. 5360614 to be part of the settlement and essential to avoid any possibility of registration of a similar mark.
- Finally, the Court reiterated the established practice as per the provisions of the Court Fees Act, 1870, that a plaintiff who is able to resolve a commercial dispute via a settlement and not via trial, is entitled to a complete refund of the court fees paid.

4. RITES LIMITED (FORMERLY RAIL INDIA TECHNICAL AND ECONOMIC SERVICE LIMITED) vs. THE REGISTRAR OF TRADE MARKS[9]

Citation: C.A.(COMM.IPD-TM) 19/2026

Court: Delhi High Court

Bench: HON'BLE MS. JUSTICE JYOTI SINGH

Keywords

Abandonment of Application, Notice of Default, Natural Justice, Statutory Mandate

Facts: The Appellant, RITES Limited (formerly Rail India Technical and Economic Service Limited), had commenced use of the trademark "RITES" in relation to construction, infrastructure consultancy and allied services. It filed a Trademark Application in Class 37 for the mark. A hearing notice was issued, and a hearing was conducted, at which the Hearing Officer informally indicated that additional documents be filed, though no written direction or timeline was fixed. The Appellant uploaded the additional documents, but due to a technical/clerical error, the documents were inadvertently uploaded against a related application instead of the present one. The Respondent passed the impugned order treating the application as 'abandoned' under Section 132 of the Trade Marks Act, 1999, on the ground that the supporting

[9] RITES LIMITED (FORMERLY RAIL INDIA TECHNICAL AND ECONOMIC SERVICE LIMITED) vs. THE REGISTRAR OF TRADE MARKS

documents of use were not filed within the two days' time sought, despite 12 days having elapsed. The Appellant challenged this order by way of an appeal under Section 91 of the 1999 Act.

Provisions: Sections 91 and 132 of the Trade Marks Act, 1999.

Judgment: The Delhi High Court allowed the appeal and set aside the impugned order. It held that the Respondent's action in treating the application as 'abandoned' was passed in violation of, rather than in compliance with, Section 132 of the 1999 Act, since no notice of default had been given to the Appellant before the application was treated as abandoned. The Respondent was directed to grant the Appellant an opportunity to furnish the requisite supporting documents substantiating its claim of user, within a stipulated timeline, and thereafter proceed in accordance with law. The appeal was disposed of along with the pending application, without any expression on the merits of the underlying trademark claim.

Ratio

Section 132 of the Trade Marks Act, 1999 is not a punitive provision; it merely enables the Registrar to treat an application as 'abandoned' where, in his opinion, the applicant defaults in prosecuting the application. Before an application can be treated as 'abandoned', the Registrar is under a statutory mandate to issue a notice to the defaulting applicant calling upon it to remedy the default within a specified time, and, if desired, to afford an opportunity of hearing. Only if the applicant fails to remedy the default within that specified time can the application be treated as abandoned.

Notice under Section 132 to the defaulting applicant is a sine qua non before any action treating an application as abandoned can be taken; an abandonment order passed without such notice is arbitrary and legally untenable. Prior grant of multiple registrations for the same mark in other classes to the same applicant is a relevant statutory recognition of longstanding use and distinctiveness, reinforcing the applicant's legitimate expectation of consistent treatment by the Registry.

Issues Framed by the Court:

1. Whether the Respondent erred in treating the Appellant's trademark application as 'abandoned' under Section 132 of the Trade Marks Act, 1999?

2. Whether a notice to remedy the default is mandatory before an application can be treated as abandoned under Section 132?

3. Whether the inadvertent uploading of supporting documents against a wrong (related) application, due to technical/clerical error, could justify abandonment of the correct application without notice?

Points to be Considered:

- The Hearing Officer had only informally indicated, at the hearing dated 12.11.2025, that additional documents be filed, without passing any written direction or fixing any timeline; the impugned order nonetheless proceeded on the basis that a two-day timeline had been fixed and breached.
- The Appellant did in fact upload the supporting documents on the very next day after the hearing, i.e., 13.11.2025, but they were inadvertently uploaded against a related application (No. 515449) rather than the application in question, due to clerical oversight.
- The Trade Marks Registry had itself already recognised and affirmed the Appellant's proprietary rights in the mark "RITES" by granting multiple registrations for the same mark in other classes, including Classes 37 and 42, which the Court treated as relevant to the Appellant's legitimate expectation of consistent treatment. The Respondent's counsel defended the impugned order solely on the ground that the Appellant had failed to furnish the requisite documents despite being granted time, without addressing the absence of any notice of default as required under Section 132.
- The Court found that even assuming a default in prosecution had occurred, the Registrar was bound to issue a notice calling upon the Appellant to remedy the default and upload the correct documents before treating the application as abandoned; the complete absence of such notice rendered the impugned order legally untenable. The Court set aside the order dated 25.11.2025, and directed the Respondent to grant the Appellant a further opportunity, with a defined timeline, to furnish the supporting documents substantiating its claim of use, and thereafter to proceed in accordance with law, without expressing any opinion on the merits of the Appellant's underlying claim to the mark.

5. **M/S PRAKASH INDUSTRIES LTD. v. THE REGISTRAR OF TRADE MARK & ORS. (AND CONNECTED MATTER)**[10]

Citation:CONT.CAS(C)1437/2022 & CONT.CAS(C) 16/2023

Court: Delhi High Court

Bench: HON'BLE MS. JUSTICE MINI PUSHKARNA

Keywords

Trademark, Settlement/Consent Decree, Renewal of Registration, Third Party Rights, Void Transfer.

Facts

The Petitioner, Prakash Industries Limited, is the registered proprietor of the trademarks “PRAKASH” and “PRAKASH GOLD” in Classes 6, 9 and 17, and the registered owner of the artistic work/copyright in “PRAKASH”. In earlier suit proceedings, the parties arrived at a settlement, whereby the defendants (Respondents) acknowledged the Petitioner's proprietary rights, undertook not to use the marks “PARKASHDEEP”/“PRAKASHDEEP” and/or “PRAKASH” or any deceptively similar mark, undertook to destroy all offending material, to not file any fresh trademark applications for these marks, to withdraw any pending applications, and to surrender all existing registrations for these marks.

This Court passed a consent decree on the basis of this settlement. Separately, based on the same settlement, a rectification petition filed by the Petitioner in respect of the mark ‘PRAKASHDEEP’ registered by Respondent No. 1 under Class 35 was allowed, and the Intellectual Property Appellate Board (‘IPAB’), by order directed cancellation/removal of the said registration. Despite this, the Respondents subsequently renewed the registration of ‘PRAKASHDEEP’ under Class 35, and Respondent Nos. 1 and 2 further created a third-party right (by transfer) in the said registration in the year 2020. Alleging wilful disobedience of the IPAB order and the consent order, the Petitioner filed the present contempt petitions.

Provisions

[10] M/S PRAKASH INDUSTRIES LTD. vs. THE REGISTRAR OF TRADE MARK & ORS.

Contempt of Courts Act, 1971 (wilful disobedience of court/tribunal orders); Trade Marks Act, 1999; Order XXIII Rule 3 read with Section 151, Code of Civil Procedure, 1908 (recording of settlement/consent decree).

Judgment

The Delhi High Court held that after the settlement between the parties and the consequential order dated 30.11.2018 passed by the IPAB, there was no occasion for the Registrar of Trade Marks to have renewed the registration of the mark 'PRAKASHDEEP' under Class 35 in favour of Respondent Nos. 1 and 2. The Court further held that the subsequent transfer of the mark to a third party in 2020 was contemptuous in nature, since no third-party right could have been created by the Respondents in view of the binding settlement and the IPAB's order, and that any such transfer was accordingly void. Learned counsel for Respondent Nos. 1 and 2 tendered an unconditional apology before the Court, which was accepted. Noting the removal of the impugned registration by the Registry (recorded as having occurred on 19.12.2022) and the apology tendered, the Court disposed of the contempt petitions without imposing further punitive action.

Ratio

A settlement/consent decree recorded by a court, followed by a consequential cancellation order passed by a competent tribunal (such as the IPAB) pursuant to that settlement, binds the parties; any subsequent renewal of the cancelled registration by the Registry, or dealing with the mark by the party bound by the undertaking, is impermissible.

Once a trademark registration has been ordered to be removed pursuant to a settlement, there is no occasion for the Registrar of Trade Marks to renew that very registration in favour of the party who had undertaken to surrender it.

A transfer or creation of third-party rights in a mark by a party who is bound by a settlement undertaking not to use or register that mark is void, since the transferor itself possesses no subsisting right to deal in the mark; such a transfer, made in breach of a recorded settlement and consequential court/tribunal order, is contemptuous in nature.

Where contumacious conduct is demonstrated but an unconditional apology is tendered and accepted, and the offending registration has already been corrected/removed by the authority concerned, the Court may dispose of the contempt petition on that basis without further punitive action.

Issues Framed by the Court:

1. Whether the Respondents committed wilful disobedience of the IPAB order dated 30.11.2018 and the consent order dated 27.02.2017 by renewing and/or creating third-party rights in the mark 'PRAKASHDEEP' under Class 35?

2. Whether the Registrar of Trade Marks was justified in renewing the registration of 'PRAKASHDEEP' under Class 35 after its cancellation pursuant to the settlement between the parties?

3. Whether the transfer of the mark 'PRAKASHDEEP' to a third party by Respondent Nos. 1 and 2 in 2020, in breach of the settlement, created any valid right?

Points to be Considered:

- Under the settlement terms recorded in I.A. 2537/2016 in CS(OS) 1562/2015, the Respondents had acknowledged the Petitioner as registered proprietor of 'PRAKASH' and 'PRAKASH GOLD', undertaken not to use or register 'PARKASHDEEP'/'PRAKASHDEEP' or 'PRAKASH' or any deceptively similar mark, undertaken to destroy offending material, and undertaken to surrender all existing registrations of these marks.

- Pursuant to this settlement, the IPAB, by its order dated 30.11.2018, allowed the rectification petition and directed cancellation/removal of trademark registration No. 1800087 ('PRAKASHDEEP', Class 35) from the Register, with a copy to be sent to the Trade Marks Registry for necessary action.

- Despite this cancellation, the Respondents subsequently renewed the registration of the very same mark under Class 35, and Respondent Nos. 1 and 2 further created a third-party right in the mark by way of a transfer effected in 2020, prompting the present contempt petitions.

- Counsel for the Registrar of Trade Marks informed the Court that the registration under Class 35 had in fact been removed on 19.12.2022, a fact also recorded in the Court's earlier order dated 18.04.2023, where counsel for Respondent No. 1 had stated that registration No. 1800087 had been removed by the Registry.

- The Court recorded the Petitioner's submission that, notwithstanding the IPAB order and the settlement, Respondent Nos. 1 and 2 had created a third-party right in

‘PRAKASHDEEP’ under Class 35, and the Respondents' own admission that such transfer had been made in the year 2020.

- On this basis, the Court held that the transfer in favour of the third party was contemptuous, since no valid third-party right could have arisen given the binding settlement and the IPAB's cancellation order, and that any such transfer was void.
- Learned counsel for Respondent Nos. 1 and 2 tendered an unconditional apology, which the Court accepted, and the contempt petitions were accordingly disposed of.

6. DR. REDDY’S LABORATORIES LIMITED vs M/S RAZENTA PHARMACEUTICALS PRIVATE LIMITED AND ANR[11]

Citation: C.O. (COMM.IPD-TM) 122/2025

Court: Delhi High Court

Bench: HON'BLE MS. JUSTICE JYOTI SINGH

Keywords

Anti-dissection rule, dominant mark test, deceptive similarity, pharmaceutical trademarks, *publici juris*, common to trade, exacting judicial scrutiny, initial interest confusion

Facts

The Petitioner, one of India's largest pharmaceutical companies (established 1984), coined and adopted the mark DAPLO in 2020 for a drug used to treat Type-2 Diabetes Mellitus, with the active ingredient Dapagliflozin. DAPLO is registered in Class 05 in India and in Singapore, Vietnam, Malaysia and the Philippines. Respondent No.1 obtained registration No.5208898 dated 14.11.2021 for the mark DAPLOGIN in Class 05 on a "proposed to be used" basis, for a drug with the same salt/composition treating the same disease. The mark was published in the Trade Marks Journal on 17.06.2024 and, no opposition being filed, proceeded to registration on 01.11.2024. The Petitioner discovered DAPLOGIN in early March 2025 on the Tata 1MG

[11] DR. REDDY’S LABORATORIES LIMITED vs M/S RAZENTA PHARMACEUTICALS PRIVATE LIMITED AND ANR

website and filed this petition under Section 57 of the Trade Marks Act, 1999 seeking cancellation.

Provisions

Sections 9(1)(a), 9(2)(a), 11(1)(b), 11(10), 17(2), 18(1) and 57 of the Trade Marks Act, 1999.

Judgment

The Court allowed the petition and cancelled the registration of DAPLOGIN. Comparing the marks as a whole, DAPLOGIN subsumes all five letters of DAPLO in entirety and the suffix "GIN" is insufficient to diminish the similarity. Phonetically, DAP-LO is prominently pronounced within DAP-LO-GIN, and even on the dominant mark test the dominant part of DAPLOGIN is DAPLO, identical to the Petitioner's mark. Applying the initial interest confusion doctrine and the *Parle Products (P) Ltd. v. J.P. And Co.,Mysore, (1972)* test, an average purchaser with imperfect recollection would perceive DAPLOGIN as another variant from the Petitioner's house, a confusion heightened by identical goods, shared API and common trade channels. Respondent No.2/Registrar was directed to rectify the Register within six weeks.

Ratio

DAPLO is a coined, distinctive mark — neither *publici juris* nor generic — conceived by combining "DAP" and "LO"; it is not, as a whole, the prefix, suffix, abbreviation or short name of the API Dapagliflozin, and a rival could have used "DAP" with other letters rather than subsuming DAPLO in entirety. The *Sun Pharma v. Hetero* / *Panacea Biotec* line (LETROZ, NIMULID), where the mark was itself a short name of the ingredient, therefore does not aid the Respondent.

A "common to trade" defence requires proof of substantial third-party *use*, not mere citation of registrations; "common to register" is qualitatively different from "common to the trade". Citing four DAPLO-prefixed marks without a shred of evidence of actual use cannot divest DAPLO of distinctiveness. Having itself used DAPLO within DAPLOGIN, the Respondent cannot claim the element is generic.

Where rival goods are pharmaceutical products with the same API for the same disease, exacting judicial scrutiny applies, and a lesser quantum of proof of confusing similarity suffices; the fact that both are Schedule H prescription drugs does not dispel the likelihood of confusion.

Registration of DAPLOGIN falls foul of Sections 9(1)(a), 9(2)(a) and 11(1)(b), and its adoption, sailing as close as possible to the senior mark, was dishonest and *mala fide*.

Issues Framed by the Court

1. Whether the marks DAPLO and DAPLOGIN are deceptively similar when compared as a whole, applying the anti-dissection rule read with the dominant mark test?
2. Whether DAPLO is *publici juris* / generic (being derived from the API Dapagliflozin) such that the Petitioner cannot assert exclusive rights over it?
3. Whether the "common to trade / common to register" defence, based on citation of four DAPLO-prefixed registered marks, was made out on the evidence?
4. Whether the prescription-drug nature of the goods (Schedule H, Type-2 Diabetes Mellitus) was sufficient to rule out likelihood of confusion?

Points to be considered

The identity of the rival goods was not in dispute; the sole live question was deceptive similarity. The Petitioner's status as prior adopter, user and registered proprietor from 2020, together with sales figures supported by a CA certificate and continuous use, established goodwill and reputation in DAPLO. The bad-faith finding turned on the Respondent operating in the same sector with notice of the Petitioner's prior use, and on the implausibility of its "coined by modifying Dapagliflozin" explanation given that DAPLO was subsumed as the dominant leading element.

7. NUGENESYS PHARMACEUTICALS PVT. LTD. AND ANR. v. CELAGENEX RESEARCH (INDIA) PVT. LTD.[12]

CITATION - FAO(OS) (COMM) 167/2026 & CM APPL. 43226/2026

COURT - Delhi High Court

Bench: HON'BLE MR. JUSTICE V. KAMESWAR RAO J., HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA J.

Keywords

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[12] NUGENESYS PHARMACEUTICALS PVT. LTD. AND ANR. v. CELAGENEX RESEARCH (INDIA) PVT. LTD.

Trademark Infringement, Ex-Parte Ad-Interim Injunction, Suppression of Material Facts, Unclean Hands, Uberrima Fides, Local Commissioner, Pre-Institution Mediation, NUREWIRE, RewireX.

Facts

The Respondent, Celagenex Research (India) Pvt. Ltd. is the registered proprietor of the mark "NUREWIRE" (Trade Mark No. 4525594, Class 5). Mr Shoyeb Abdul Gafoor Mandlekar, Appellant No. 2, had signed the power of attorney for that mark in his own name, when he was the Founding Director, Vice President and Chief Financial Officer of the Respondent with 99% of the founding shareholding, before he resigned on 09.10.2024. Two months later, Appellant No. 1 was incorporated as Taibachem Healthcare Private Limited and later renamed Nugenesys Pharmaceuticals Pvt. Ltd. It applied to register the mark "RewireX" on 06.03.2025, and the products were commercially launched in March 2026. The Respondent's plaint stated that it came to know of this launch only in the first week of May 2026 and, on this basis, obtained an ex-parte ad-interim injunction and appointment of a Local Commissioner from the Single Judge, who found that the manner of adoption of "RewireX" "did not inspire confidence." What was not disclosed in the plaint was that the Respondent had already issued a cease and desist notice on 29.10.2025 and filed a formal opposition to the Appellants' trademark application on 27.01.2026 - both almost seven months prior to the date it claimed to have first become aware of the mark.

Provisions

Section 13(1A) of the Commercial Courts Act, 2015; Order XLIII Rule 1(r), Order XXXIX Rules 3 and 3A, and Order XXIII Rule 3 of the Code of Civil Procedure, 1908; Section 12A of the Commercial Courts Act, 2015, Section 29(1) Trademark Act.

Judgment

The Delhi High Court allowed the appeal and set aside in entirety the impugned ex-parte ad-interim injunction dated 20.05.2026. The connected interim application before the Single Judge was dismissed; the seized products were released from superdari and the Respondent, having signed the Statement of Truth despite the concealment, was directed to deposit costs of Rs. 2,00,000/- with the Delhi High Court Legal Services Committee within two weeks.

Ratio: A plaintiff seeking an ex-parte injunction owes the Court a duty of "uberrima fides" the fullest possible disclosure of every material fact, and cannot obtain or retain a discretionary remedy by pleading a convenient, later date of knowledge while sitting on a notice and an opposition that fix an earlier one. Simply tucking such documents in a bundle of annexures marked "colly" without disclosing it in the plaint or listing them separately in the index does not amount to disclosure. Once such suppression is established, the consequence is not merely that the order obtained on its strength is vacated the interim application itself must fail, for, as the Court held, a litigant who "comes to court with unclean hands is not entitled to any discretionary relief."

Issues Framed by the Court:

1. Whether the Respondent's omission, in the plaint, of the Notice dated 29.10.2025 and the Objections dated 27.01.2026 amounted to suppression of material facts?
2. Whether such suppression vitiated the exercise of discretion by the Single Judge in dispensing with notice to the Appellants under Order XXXIX Rule 3 CPC?
3. Whether the exemptions granted to the Respondent from pre-institution mediation under Section 12A of the Commercial Courts Act, 2015, and from advance service of the paper-book, could survive the finding of suppression?
4. Whether the conduct formed part of a broader pattern of non-disclosure by the Respondent's filing counsel across earlier suits?

Points to be Considered:

- The Court held that the Respondent had suppressed material facts. Although paragraph 17 of the plaint mentioned the Appellants' trademark application dated 06.03.2025, it only stated that the Respondent "reserved its right to oppose" it, creating the impression that no opposition had been filed, when in fact one had been filed months earlier. The notice and opposition were also missing from the synopsis and list of dates, and the Court rejected the explanation as not bona fide. The Court further held that under Order XXXIX Rule 3 CPC, reasons were required for granting an injunction without notice, and fixing 05.11.2026 as the returnable date violated the 30-day limit under Rule 3A. These issues were linked to the main problem that the Single Judge was unaware of the notice and opposition because of the Respondent's suppression. The Court did not interfere with the exemption from pre-institution mediation, as no appeal lies against it under Novenco Building and Industry A/S v. Xero Energy Engineering Solutions Private Ltd., though it noted that the exemption too was obtained by suppression.

- Applying the clean hands principle from R. v. Kensington Income Tax Commissioner, Oswal Fats and Oils Ltd. and Amar Singh v. Union of India, the Court stated that a party suppressing material facts has no right to be heard on the merits. It also noted that the Respondent's filing counsel had faced findings of similar suppression in CS(COMM) 328/2022 and CS(COMM) 283/2023 and, referring to Ian Fleming's "Once is happenstance. Twice is coincidence. Three times is enemy action," held that the third instance could not be treated as mere inadvertence. However, the Court limited its finding to suppression of facts and left for trial the authenticity of Appellant No. 2's 2019 appointment letter, the API composition dispute, and the correctness of the Single Judge's observation that the two products' trade dress was not deceptively similar.

8. UNICORN SNACKS PRIVATE LIMITED v. ISHAN SNACKS AND NAMKIN PRIVATE LIMITED & ANR.[13]

CITATION - FAO (COMM) 167/2026, CM APPL. 39262/2026 & CM APPL. 39263/2026

COURT - Delhi High Court

Bench: HON'BLE MR. JUSTICE V. KAMESWAR RAO J., HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA J.

Keywords

Trademark Infringement, Passing Off, Trade Dress, Copyright, Ex-Parte Ad-Interim Injunction, Consent Decree, Superdari.

Facts

Unicorn Snacks Private Limited, the Appellant, has appealed against the *ex-parte ad-interim* injunction issued on 21.05.2026 by the Learned Trial Court in case number C.S. (COMM) No. 561/2026, entitled Ishan Snacks and Namkin Pvt. Ltd. v. Unicorn Snacks Pvt. Ltd. and Anr., on the ground that a prima facie case of infringement and passing off had been established, and as a result of this the Appellant, together with its associates, agents, directors, distributors and franchisees, was restrained from using any mark, label or colour combination which was identical to or deceptively similar to the Respondents' registered marks or trade dresses. The

[13] [UNICORN SNACKS PRIVATE LIMITED v. ISHAN SNACKS AND NAMKIN PRIVATE LIMITED & ANR.]()

packaging in question bore the names CHAT CHATORI, Unicorn Chaat Chatori and CHIKU, all of which were stated to be deceptively similar to the registered marks of Respondent No. 1, namely CHATORI, MODI'S CHATORI, CHIKU and MODI'S CHIKU. On 10.08.2026, the Appellant had already indicated its willingness to settle and to adopt new packaging while retaining the words "PASTA" and "KATORI". At the final hearing, counsel for both parties stated that, without in any way prejudicing their respective rights and contentions, they had arrived at an amicable settlement.

Provisions

Trade Marks Act, 1999 and the Copyright Act, 1957.

Judgment

The Division Bench recorded the settlement between the Appellant and Respondent No. 1 and, in terms thereof, decreed C.S. (COMM) No. 561/2026, pending before the District Judge (Commercial Court)-11, Tis Hazari Courts, Delhi. No further relief remained for adjudication between them, and the appeal, with all pending applications, stood disposed of.

Ratio: An appeal against an *ex-parte ad-interim* injunction in a commercial trade mark suit can be finally closed by the Appellate Court itself recording a consent settlement and decreeing the underlying suit, without remanding for trial, so long as the terms are accepted by the contesting parties *"without prejudice to their rights and contentions."* Where a defendant acknowledges the plaintiff's ownership of specific marks/trade dresses *"to the extent recognised in law,"* the Court need not independently adjudicate infringement, provided the defendant undertakes never to use the offending packaging again. Words merely descriptive of the goods here PASTA and KATORI cannot be monopolised by one trader and must be carved out for continued use even within a settlement restraining a composite trade dress.

Issues Framed by the Court

1. Whether the Appellant's impugned marks/labels/packaging CHAT CHATORI, Unicorn Chaat Chatori, CHIKU and the allied packaging were identical or deceptively/confusingly similar to Respondent No. 1's registered marks and trade dresses CHATORI, MODI'S CHATORI, CHIKU and MODI'S CHIKU, to sustain the ex-parte ad-interim injunction?

2. Whether the words “PASTA” and “KATORI” could be validly monopolised by Respondent No. 1, or whether the Appellant was entitled to continue using these words along with its own distinct labels/packaging?

3. What terms of settlement would adequately protect Respondent No. 1's trademark and copyright interests while permitting the Appellant to continue its business, including the treatment of the goods already seized on superdari by the Local Commissioner?

Points to be considered

- The Division Bench noted that the Trial Court had granted an ex-parte injunction based on a prima facie finding that the Appellant’s packaging was deceptively similar to Respondent No. 1’s registered trade dress and could cause irreparable loss of goodwill. However, the parties later settled the dispute without prejudice to their rights, so the Bench decreed the suit on the basis of their consent instead of deciding the merits. Under the settlement, the Appellant acknowledged Respondent No. 1’s rights in CHATORI, MODI’S CHATORI, CHIKU, MODI’S CHIKU and related packaging, “to the extent recognised in law,” and agreed not to use CHAT CHATORI, Unicorn Chaat Chatori, or any deceptively similar mark for snacks, namkeen or related goods.
- The settlement also allowed the Appellant to continue using its distinct “Katori” and “Pasta” labels and the words KATORI and PASTA per se, recognising that descriptive terms cannot be exclusively monopolised. The Appellant agreed to pay Rs. 4,00,000/- within 15 days as full and final settlement. Seized goods were to be de-branded and donated, with their packaging destroyed or recycled on video in the presence of Respondent No. 1’s representatives and never used commercially again. These undertakings were binding on the parties, their directors, legal heirs, representatives and assigns for all time to come. The suit was accordingly decreed, a decree sheet was ordered, and the appeal and pending applications were disposed of.

9. SAMRIDDHI RICE MILL PRIVATE LIMITED vs. SAMRIDDHI AGRO FOODS PRIVATE LIMITED & ANR.

Citation: Commercial Appeal No. 11 of 2026

Court: High Court of Judicature at Patna

Bench: Hon'ble Mr. Justice Rajeev Ranjan Prasad and Hon'ble Mr. Justice Sunil Dutta Mishra

Keywords

Trademark, Passing Off, Interim Injunction, Order XXXIX Rules 1 & 2 CPC, Goodwill, Persona Designata, Companies Act, Commercial Courts.

Facts

The appellant, Samriddhi Rice Mill Private Limited, is engaged in the business of rice milling and claimed to have coined and adopted the trademark "Rajaji" in a distinctive stylised form since April 1, 2010, along with its household name "Samriddhi". Respondent No. 1, Samriddhi Agro Foods Private Limited, was incorporated in 2012 by family members of the appellant's promoters and was originally engaged only in manufacturing wheat flour (Aata) for ITC Limited under ITC's own "Aashirvaad" brand, and was never in the rice business. Following an internal family settlement in 2019, control of the appellant passed exclusively to the Sekhsaria group while control of Respondent No. 1 passed exclusively to the Chirania group. A dispute subsequently arose when Respondent No. 1 began selling rice under the mark "Rajaji", which the appellant alleged infringed its trademark and amounted to passing off, since the artistic work/label was registered in the appellant's favour under the Copyright Act. The appellant filed Commercial Suit No. 1 of 2023 before the Commercial Court, Vaishali at Hajipur, along with an application under Order XXXIX Rules 1 & 2 read with Section 151 CPC seeking an ad-interim injunction. The Commercial Court, by order dated 08.04.2026, rejected the injunction application, holding that the appellant had failed to explain how goodwill was distributed between the two shareholder groups upon interchange of directorship, and that no prima facie case or balance of convenience was made out. The appellant challenged this order in the present Commercial Appeal.

Provisions

Order XXXIX Rules 1 & 2 read with Section 151, Code of Civil Procedure, 1908; Trade Marks Act, 1999; Copyright Act, 1957 (registration of artistic work).

Judgment

The Patna High Court allowed the appeal to the extent indicated. It set aside the Commercial Court's order dated 08.04.2026 and remitted the application under Order XXXIX Rules 1 & 2 for fresh consideration, noting that the parties themselves jointly agreed to such remand. Pending fresh adjudication, the Court directed Respondent No. 1 to maintain complete accounts of sales made under the "Rajaji" trademark using the disputed artistic work and style, subject to the outcome of the injunction proceedings. The Court clarified that it had not entered into the merits of the case and that its observations were confined to the context of the present order.

Ratio

- A company incorporated under the Companies Act is a persona designata — a distinct legal person in the eyes of law — and its properties, including trademarks and goodwill, cannot be treated as the properties of its shareholders, even where the shareholders were once common or related (relying on Bacha F. Guzdar v. Commissioner of Income Tax, Bombay, (1954) 2 SCC 563).
- A Commercial Court considering an ex parte application under Order XXXIX Rules 1 & 2 ought not to introduce, on its own motion, an issue such as the unresolved distribution of goodwill between former common shareholders as a ground to deny a prima facie case, particularly where the defendant has not entered appearance and no such plea has been raised.
- Where the plaintiff's documents show prima facie similarity between competing labels, marks, and packaging, denial of interim injunction on an extraneous ground not pleaded by either side is liable to be set aside on appeal.
- Appellate courts may remit injunction applications for fresh consideration where both parties agree, while granting interim protective directions (such as maintenance of sales accounts) to preserve the position pending final adjudication.

Issues Framed by the Court

1. Whether the Commercial Court erred in rejecting the interim injunction application by treating the unresolved question of "distribution of goodwill" between the erstwhile common shareholders as a bar to a prima facie case, despite this issue not having been raised by either party?

2. Whether the properties, including the trademark, of a company incorporated under the Companies Act can be treated as the properties of its shareholders?

3. Whether the impugned order dated 08.04.2026 warranted interference, and whether the matter ought to be remitted to the Commercial Court for fresh consideration of the injunction application?

Points to be considered

- The Commercial Court itself acknowledged that a comparison of the labels and packaging annexed by the plaintiff prima facie indicated similarity with those used by the defendants, yet went on to deny injunction on the ground that the distribution of goodwill between Binod Kumar Sekhsaria and Rishu Chirania (equal shareholders) was unclear.
- Counsel for Respondent No. 1 conceded before the High Court that the goodwill-distribution issue appeared to have been raised by the Commercial Court suo motu, since Respondent No. 1 had not even entered appearance at that stage and had taken no such plea.
- By its earlier order dated 07.07.2026, the High Court had already prima facie agreed with the appellant, relying on Bacha F. Guzdar, and had stayed the impugned order while restraining the respondents from using the "Rajaji" mark pending final hearing.
- Subsequently, on Respondent No. 1 entering appearance and filing a counter-affidavit, both sides jointly agreed that the impugned order be set aside and the matter remitted for fresh consideration, with an expedited timeline: response by Respondent No. 1 within three weeks, rejoinder by the appellant within one week thereafter, and final disposal of the injunction application within two months, on a day-to-day hearing basis.
- As an interim safeguard during remand, the High Court directed Respondent No. 1 to maintain complete accounts of sales made under the "Rajaji" mark using the disputed artistic work, subject to the final outcome before the Commercial Court.
- The High Court expressly clarified that it had not adjudicated the merits of the trademark dispute, and that all observations were confined to disposal of the present appeal.

COPYRIGHTS

1. LAHARI FILMS LLP & ORS. v. L MANOHAR KRISHNA & ORS.[14]

Citation: MFA No. 5130 of 2026 (CPC)

Court: High Court of Karnataka at Bengaluru

Bench: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

Keywords

Copyright Co-ownership, Cinematographic Film, Ex-parte Ad-interim Injunction, Reasoned Order, Remand.

Facts

The respondents Nos. 1 and 2 have filed O.S. No. 4705/2026 before the VII Additional City Civil and Sessions Judge, Bengaluru, as plaintiffs, seeking declaration that they are co-owners of copyright in the suit schedule cinematographic film "Graamaayana" to the extent of an undivided two-thirds share, as Class I legal heirs and successors-in-interest of the late N. Lakshminarasimha Murthy and for consequential reliefs. The plaintiffs also moved I.A.No.1 under Order XXXIX Rules 1 and 2 CPC for ad-interim injunction restraining the defendants from releasing, screening or exhibiting the film in theatres or cinema halls pending disposal of the suit and I.A. No.2 for ex-parte temporary injunction restraining the defendants from creating any third party rights in the film. The first plaintiff and the documents on record, the trial Court, on the basis of the sworn testimony of the first plaintiff and the documents on record, partly allowed I.A.No.2 ex parte restraining defendant Nos.1 to 4 from creating third-party rights in the film till they filed objections and issued notice returnable in due course. It is this order dated 3.7.2026 against which the appellants/defendant Nos. 1 to 3 challenged it before the High Court.

Provisions

Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908; Order XLIII Rule 1(r) CPC (appeal from order)

Judgment

[14] LAHARI FILMS LLP & ORS. v. L MANOHAR KRISHNA & ORS

The Karnataka High Court allowed the appeal filed by the appellants/defendants and set aside the impugned order dated 03.07.2026 passed by the VII Additional City Civil & Sessions Judge, Bengaluru, on I.A. No.2. The High Court held that the trial court had not given sufficient reasons for granting the ex parte temporary injunction and had merely referred to the existence of a prima facie case, balance of convenience and hardship without properly explaining its judicial reasoning. The matter was therefore remanded to the trial Judge to reconsider I.A. No.2 afresh and decide it within fifteen days from the date of receipt of a copy of the High Court's order. The High Court clarified that it had not expressed any opinion on the merits of I.A. No.2 or the main suit. It further held that the parties were free to raise the grounds urged in the present appeal before the trial court, and that both parties must be given an opportunity to be heard before fresh orders are passed on I.A. No.2.

Ratio

An *ex-parte* ad-interim injunction granted under Order XXXIX, Rules 1 and 2 of the CPC must include the trial court's actual reasons for finding that a prima facie case exists, that the balance of convenience favours the applicant, and that there is irreparable hardship; merely stating these three phrases without explaining on the basis of the facts why each of them is satisfied does not constitute a reasoned order and therefore cannot justify the grant of relief. Since the failure to give notice to the other side is an exception to the general rule of audi alteram partem, an order made in this way is subject to more rigorous judicial examination than one passed after hearing both parties, and because it lacks proper reasoning, it is unsustainable and can be set aside on appeal.

Issues Framed by the Court

1. Was the interim injunction granted by the challenged ex-parte order under CPC Rules 1 and 2, Order XXXIX, supported by adequate judicial reasoning?

2. Whether a bare recital of ‘prima facie case’, ‘balance of convenience’, and ‘hardship’, without discussion, satisfies the requirement of a reasoned order for the grant of ex parte relief?

3. Whether, in the circumstances, the matter warranted remand to the trial Court for fresh consideration of I.A. No. 2, rather than a decision on the merits by the Appellate Court?

Points to be Considered

- The Court noticed, from a mere reading of the impugned order, that the trial court had simply made mention of the fact that there was a prima facie case established by the plaintiff, balance of convenience was in favor of the plaintiff and that they would face hardships if the application was not taken into account, without providing any reasoning in support of such decision, why an ex parte order can be passed without issuing any notice to the defendants.
- It may be pointed out that Senior Counsel for the appellants relied on the decision in Morgan Stanley Mutual Fund v. Kartick Das, (1994) 4 SCC 225, which laid down that an ex parte order, passed under exceptional circumstances in view of the normal rule of notice and hearing, has itself to record the reasons why notice should not be given.
- It was reiterated that as held by the Supreme Court in the case of Ramakant Ambalal Choksi v. Harish Ambalal Chokshi (a case which traced the settled law in Dalpat Kumar v. Prahlad Singh), prima facie case, balance of convenience and irreparable injury are separate ingredients and have to be satisfied separately. Moreover, satisfaction of the first ingredient does not in any way suffice to pass an order of injunction.
- The court further clarified that in disposing of an application under Order XXXIX Rules 1 and 2, a trial Judge is not required to conduct a mini trial but has to record proper reasoning in support of his decision in grant or refusal of interim relief, especially when such order is passed without hearing the other side.

2. SUN PHARMACEUTICAL INDUSTRIES LIMITED vs. EMAMI LIMITED AND OTHERS[15]

Citation: F.M.A.T. No. 56 of 2026 with CAN 1 of 2026

Court: High Court at Calcutta (Civil Appellate Jurisdiction, Appellate Side)

Bench: HON'BLE MR. JUSTICE SABYASACHI BHATTACHARYYA and HON'BLE MR. JUSTICE SUPRATIM BHATTACHARYA

Keywords

[15] **SUN PHARMACEUTICAL INDUSTRIES LIMITED vs. EMAMI LIMITED AND OTHERS**

Disparagement, commercial dispute, Commercial Courts Act, generic disparagement, ex parte ad interim injunction, prima facie case, Section 29(8) Trade Marks Act, trademark infringement vs. disparagement

Facts

Emami filed a suit alleging a video advertisement by Sun Pharma disparaged its ayurvedic pain-relief products sold as Zandu Balm, Mentho Plus Balm and Zandu Ultra Power Balm. The suit was valued at Rs.50 crore and referred to Emami's trademark, copyright and design registrations, while reserving under Order II Rule 2 CPC the right to sue separately for infringement and passing off. The Trial Court granted an ex parte ad interim injunction. Sun Pharma appealed, arguing the suit was really a "commercial dispute" that should have gone to a Commercial Court, and that no disparagement was shown.

Provisions

Section 2(1)(c)(xvii), Commercial Courts Act, 2015; Sections 29(8) and 134, Trade Marks Act, 1999; Order II Rule 2, CPC, 1908.

Judgment

The appeal was allowed and the injunction set aside. The suit was held not to be a "commercial dispute," so it was maintainable before the ordinary Civil Court. On merits, no prima facie case of disparagement was made out: the advertisement did not show Emami's brand or any distinctive container linked to its registrations, and only criticised balms as a generic category. The Trial Court was directed to decide the injunction application afresh, preferably within six weeks.

Ratio

Items listed under Section 2(1)(c) of the Commercial Courts Act are exhaustive, or must at least be the source of the dispute. Cause of action cannot be read apart from the reliefs claimed. A suit for disparagement, being tortious in nature like defamation, does not turn into a commercial dispute merely because the plaintiff mentions IP registrations to show goodwill. Disparagement and infringement/passing off are opposites: disparagement denigrates a product, while infringement copies and thereby honours it. Section 29(8) of the Trade Marks Act applies only if the registered mark itself appears in the advertisement. A generic container with no brand reference does not attract it. Market leadership alone does not let a generic term be presumed exclusive to one company's products. Claims of generic disparagement must actually be pleaded, not argued for the first time in court.

Issues Framed by the Court

1. Whether the suit is barred under Section 2(1)(c)(xvii) of the Commercial Courts Act, 2015 (i.e., whether it is a "commercial dispute" cognizable only by a Commercial Court).
2. Whether the plaintiff/respondent no.1 made out a prima facie case for grant of injunction.

Points to be considered

At the ad interim stage, only the plaint, injunction application and documents referred to therein are considered as true. The plaintiff's core grievance was disparagement of "Balm," with IP references used only to show goodwill, not as the basis of relief. "Balm" was found to be a generic term describing texture and function, not exclusive to Emami. All findings were declared tentative, with the Trial Court free to decide the suit independently; Sun Pharma was directed to file its written objection within a fortnight.

3. THE INDIAN PERFORMING RIGHT SOCIETY LIMITED v. HOTEL APPOLO & TOURS PRIVATE LIMITED[16]

Citation: FMA 322 of 2025 with CAN 1 of 2025

Court: High Court at Calcutta

Bench: HON'BLE JUSTICE DEBANGSU BASAK and HON'BLE JUSTICE MD. SHABBAR RASHIDI

Keyword

Communication to the public, broadcast, cable television network, subscriber, copyright infringement, royalty, temporary injunction

Facts

[16] **THE INDIAN PERFORMING RIGHT SOCIETY LIMITED v. HOTEL APPOLO & TOURS PRIVATE LIMITED**

The appellant, a copyright society, held assigned rights of communication to the public and public performance in the literary and musical works of its members. The respondent operated a hotel and had installed TV sets in each room, connected through cable connections subscribed from a cable operator, through which its members' works were made available to hotel guests. The respondent had not obtained any licence from the appellant, contending that the cable operator already held a licence and that the respondent, having merely subscribed to the cable service and paid connection charges, was not separately liable. The appellant filed a suit for injunction, rendition of accounts and damages, along with an application under Order XXXIX Rules 1 and 2 CPC. The Trial Court dismissed the injunction application, holding that the plaintiff had no right to challenge broadcasting rights under

Provisions

Sections 2(dd), 2(ff), 13(4), 14, 17, 18, 19(9), 19(10), 30, 37, 39A, 51 and 52(1)(k) of the Copyright Act, 1957; Sections 2(a), 2(aa), 2(b), 2(c) and 2(i) of the Cable Television Networks (Regulation) Act, 1995; Order XXXIX Rules 1 and 2 CPC.

Judgment

The appeal was allowed and the Trial Court's order set aside. The injunction as prayed was granted. The Court held that the guests staying in the hotel rooms were not "subscribers" within the meaning of Section 2(i) of the Cable Television Networks (Regulation) Act, 1995, since a subscriber receives signals without further transmitting them to any other person. The respondent's dissemination of cable content to guests through TV sets in each room fell within "communication to the public" under Section 2(ff), whose Explanation expressly deems communication to residential rooms of a hotel as communication to the public. The cable operator's licence, being limited to its own subscriber (the respondent), could not be stretched to cover onward transmission to guests as a commercial amenity. This amounted to infringement under Section 51, and the appellant made out a strong prima facie case with balance of convenience in its favour.

Ratio

A licence obtained by a cable operator for supplying cable service to its subscriber does not extend to that subscriber's own onward, commercial dissemination of the content to third parties (here, hotel guests). The definition of "subscriber" under the Cable Television Networks (Regulation) Act, 1995 requires that the person receiving the signal not further transmit it to any other person; a hotel receiving cable service and distributing it via in-room TV sets to guests does not fit this definition and instead independently "communicates to the public" within Section 2(ff) of the Copyright Act, whose Explanation specifically includes residential rooms of hotels.

Broadcast reproduction rights under Section 37 and copyright under Sections 14/51 are distinct and independently enforceable; a broadcaster's or cable operator's rights do not subsume or extinguish the underlying copyright owner's separate entitlement to royalty for communication to the public, and payment of cable subscription charges to an operator is not equivalent to payment of licence fee to the copyright society.

Section 52(1)(k), which exempts causing a recording to be heard in an enclosed room for residents, expressly excludes hotels and similar commercial establishments from this exemption, and distinguishes activities carried on for profit from those not for profit, indicating a deliberate legislative intent to keep hotels outside the "not infringement" carve-out. Even without a separate charge for cable viewing, provision of such a facility adds commercial value to a hotel's business and constitutes commercial exploitation of the underlying works.

Issues Framed by the Court

The judgment does not frame issues in a separately numbered list, but the substantive questions addressed were:

1. Whether the respondent's provision of cable connections carrying the appellant's members' literary and musical works to television sets in individual hotel rooms amounts to "communication to the public" under Section 2(ff) of the Copyright Act, 1957, constitutes infringement under Section 51.
2. Whether a licence obtained by the cable operator absolves the respondent hotel of the obligation to separately obtain a licence and pay royalty to the appellant.
3. Whether the appellant made out a prima facie case, with balance of convenience in its favour, for grant of temporary injunction under Order XXXIX Rules 1 and 2 CPC.

Points to be considered

The Court relied on *Vodafone Idea Limited v. Indian Performing Right Society Limited* to reaffirm that copyright in underlying literary and musical works survives independently of rights in the sound recording or cinematograph film, and that authors are entitled to royalty on commercial exploitation of such works other than exhibition in cinema halls. The Court also drew on *Super Cassette Industries v. Nirula Corner House* for the "proportion" test, that is, whether the impugned use is so integrally connected to the establishment's commercial activity as to constitute infringement, distinguishing, for instance, a television at a hotel reception accessible to all from a set placed individually in each hotel room. The Trial Court's reasoning conflating broadcasting rights under Section 37 with the copyright owner's independent rights, and treating cable subscription payment as equivalent to licence fee, was found to be erroneous.

This month's compilation includes a matter of particular significance: The first reasoned determination by the Registrar of Copyrights on whether an autonomous AI system may be named "author" of a work under Section 2(d)(vi) of the Copyright Act, 1957. The proceeding, concerning Dr. Stephen L. Thaler's application (Diary No. 9356/2022-CO/A) for the artistic work "A Recent Entrance to Paradise," naming his AI system DABUS as author, came before the Delhi High Court in W.P.(C)-IPD 15/2026 by way of a writ petition, pursuant to which the Registrar was directed to expedite disposal of the pending application. Pursuant to the direction of Hon'ble Delhi High Court, the Registrar's pronounced the final order dated 31.08.2026.

IN THE MATTER OF: "A RECENT ENTRANCE TO PARADISE" (Applicant: DR. STEPHEN L. THALER)[17]

Citation: Diary No. 9356/2022-CO/A

Forum: The Copyright Office, Government of India, Before the Registrar of Copyrights

Presiding Officer: Prof. (Dr.) Unnat P. Pandit, Registrar of Copyrights (with Ms. Rajeshwari Hariharan, Senior Advocate, as Amicus Curiae)

Keywords

AI generated works, computer generated work, authorship, originality, first ownership, mastermind test, DABUS, juristic personality

Facts

Dr. Stephen L. Thaler applied for copyright registration of an artistic work titled "A Recent Entrance to Paradise," naming the author as "DABUS" (Device for the Autonomous Bootstrapping of Unified Sentience), an AI system he had created, and claiming ownership for himself. The application, filed on 29.03.2022, drew a discrepancy letter from the Registrar on 31.07.2023, to which the Applicant responded on 25.08.2023. A hearing notice was issued for 05.03.2024, but following an adjournment request, no further hearing date was fixed for some time thereafter.

[17] **IN THE MATTER OF: "A RECENT ENTRANCE TO PARADISE" (Applicant: DR. STEPHEN L. THALER)**

Dr. Thaler subsequently filed W.P.(C)-IPD 15/2026 before the Delhi High Court under Article 226 of the Constitution, seeking a writ of mandamus directing the Registrar to decide the pending application. By order dated 09.04.2026, Justice Tushar Rao Gedela disposed of the writ petition on being informed that the Registrar had already issued a fresh hearing notice for 27.04.2026, and directed that the hearing be concluded within eight weeks of that date. The Court did not express any view on the merits of the underlying application.

Pursuant to this direction, the Registrar took up the matter. Given the novel questions of statutory interpretation involved, particularly whether Section 2(d)(vi) permits authorship to be attributed to a non-human AI system, the Registrar, by order dated 13.05.2026, appointed Ms. Rajeshwari Hariharan, Senior Advocate, as Amicus Curiae to assist the Office on a pro bono basis. Through the subsequent proceedings, the Applicant maintained DABUS as author and declined an opportunity to amend the entry to name Dr. Thaler as author.

Provisions

Sections 2(d)(v), 2(d)(vi), 2(uu), 13, 17, 18, 19, 22, 45 and 57 of the Copyright Act, 1957; Rule 70 of the Copyright Rules, 2013.

Order

The application was rejected. The Registrar held that the work satisfied the minimal threshold of originality under Section 13, but that DABUS could not be entered as author under Section 2(d)(vi). On the Applicant's own facts, Dr. Thaler, who conceived, configured, trained and supplied inputs to the system, was the person who caused the work to be created and was therefore the person capable of being named statutory author, but the Applicant declined to amend the particulars to reflect this. Since the application continued to identify DABUS as author and Dr. Thaler merely as owner, a combination inconsistent with Sections 2(d)(vi) and 17 to 19, it could not be registered as framed.

In arriving at this conclusion, the Registrar substantially adopted the framework proposed by the Amicus Curiae, who distinguished between originality (a question about the work as expressed) and authorship (a question about the legally recognised person to whom the Act attributes creation), and cautioned that recognising DABUS as author would amount to creating a new category of legal personality through administrative interpretation, a step reserved for Parliament.

Ratio

1. Originality under Section 13 is independent of authorship. It requires only independent creation and a minimal, non-trivial degree of creative expression (following *Eastern Book Co. v. D.B. Modak*); it does not require a human to have consciously selected the final expressive form. A computer generated output is not disqualified merely because algorithmic processes produced it.
2. Section 2(d)(vi) is a rule of legal attribution, not a factual inquiry into which mechanism executed the final output. The phrase "the person who causes the work to be created" identifies the "mastermind" or "effective cause" behind the work as a whole (drawing on *Burrow-Giles Lithographic Co. v. Sarony* and *Aalmuhammed v. Lee*), not the instrument that performed the last computational step. Autonomy of execution does not equate to authorship; a system operating independently after being configured remains within the causative responsibility of the person who designed, trained and activated it.
3. The analogy to Section 2(d)(v) (producer as author of a cinematograph film) is misconceived. Each clause of Section 2(d) is a self-contained legislative allocation of authorship for a distinct category of work, and the rationale of one clause cannot be transplanted into another.
4. Since Section 2(d)(vi) requires the identification of a legally recognised person, and DABUS possesses no juristic personality, no capacity to own, assign or enforce rights, and no statutory recognition, it cannot be entered as author. Representation analogies (minors, companies, deities) fail because legal personality must precede representation, not follow from it.
5. Sections 17 to 19 form a continuous statutory chain: the author is ordinarily the first owner, and any departure requires either a Section 17 exception or a valid written assignment under Sections 18 and 19. Naming a legally incapable entity as author while claiming ownership in another person, without any statutory route of vesting, leaves the chain of title incomplete and cannot be entered on the Register, which serves a public function of ensuring traceable ownership.
6. Whether legal personhood or authorship should ever be extended to autonomous AI is a matter of legislative policy for Parliament, not something that can be introduced through administrative reinterpretation of existing provisions.

Issues Framed by the Registrar

1. Whether "A Recent Entrance to Paradise" satisfies the requirement of originality under Section 13?
2. Who, on the facts disclosed, is "the person who causes the work to be created" within the meaning of Section 2(d)(vi)?
3. Whether Dr. Thaler's claim of ownership is consistent with the authorship particulars furnished and the scheme of Sections 17 to 19?
4. Whether DABUS may be referred to merely as the technological system through which the work was generated, without being accorded the legal status of author?

Points to be considered

- The Registrar clarified the decision was confined to this application and did not purport to rule on every form of AI assisted creation, since the degree of human involvement varies across systems and works. The Applicant's alternative and conditional request, to name Dr. Thaler as author with a remark noting DABUS as generator, was not accepted as it was not presented as an unconditional, properly formulated amendment; that option was left open for a future, separately framed request. The rejection was stated not to preclude Dr. Thaler from pursuing registration afresh with corrected particulars. The order referred to a reply to a Rajya Sabha question (PIB, 9 February 2024) only to confirm that the existing framework can protect AI assisted works, not that AI systems themselves qualify as authors.
- The Amicus Curiae's submissions shaped the outcome in several respects: distinguishing originality from authorship, proposing the "mastermind"/"effective cause" test for Section 2(d)(vi), cautioning against recognising software as an author, and emphasising the Register's function in maintaining a traceable chain of title from author to owner.

Prepared by :

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आनो भद्राः क्रतवो यन्तु विश्वतः

- ऋग्वेद – 1.89.1

Let noble thoughts come to us from all directions.

- Rig Veda 1.89.1

सत्यमेव जयते

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