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GOVERNMENT OF INDIA
वाणिज्य और उद्योग मंत्रालय
Ministry of Commerce & Industry
उद्योग संवर्धन और आंतरिक व्यापार विभाग
Department for Promotion of Industry and Internal Trade
कार्यालय महानियंत्रक एकस्व, अभिकल्प और व्यापार चिह्न
Office of The Controller General Patents, Designs & Trade Marks

INTELLECTUAL PROPERTY INDIA
PATENTS | DESIGNS | TRADE MARKS
GEOGRAPHICAL INDICATIONS

“बौद्धिक न्यायवृत्त”
(IP LEX)

MONTHLY COMPILATION OF JUDGMENTS ON
INTELLECTUAL PROPERTY RIGHTS

JULY 2026

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<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 July 2026, this monthly compilation brings together significant judicial decisions relating to Intellectual Property Rights, covering the areas of Patents, Copyright, Designs, 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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Table 1

Table 2

Serial No.	Case Title	Citation	Page No.
Patents			
1	ARRAY BIOPHARMA INC v. DEPUTY CONTROLLER OF PATENTS AND DESIGNS	C.A.(COMM.IPD-PAT) 37/2023	2
2	DEEPAK NITRITE LIMITED v. THE ASSISTANT CONTROLLER GENERAL OF PATENTS AND DESIGNS	Commercial Miscellaneous Petition No. 107 of 2025	4
3	INTRA-CELLULAR THERAPIES, INC. v. THE CONTROLLER OF PATENTS	C.A.(COMM.IPD-PAT) 24/2023	6
4	SULZER MIXPAC AG v. ASSISTANT CONTROLLER OF PATENTS AND DESIGNS	LPA 545/2024	8
5	T-MOBILE INTERNATIONAL AG AND CO. KG. v. THE CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADEMARKS AND ANR.	C.A.(COMM.IPD-PAT) 149/2022	10
Copyrights			
1	ANI MEDIA Pvt. Ltd. vs. OPEN AI OPCO LLC	CS(COMM) 1028/2024	14
2	OPELLA HEALTHCARE GROUP v. PURECA LABORATORIES PVT LTD	CS(COMM) 552/2024 & I.A. 32616/2024 (arising from I.A. 4622/2025)	16
3	PREITY G. ZINTA v. GOOGLE LLC & ORS.	Interim Application (L) No.20703 of 2026 in Commercial IP Suit No.245 of 2026	19
4	SAREGAMA INDIA LTD. V. BLACK MADRAS FILMS & ORS.	CS(COMM) 1310/2025 & CS(COMM) 143/2026	22
5	DR. ASHOK M. BHAT v. HARICHAND NAGPAL & ORS.	IA (L) No. 9324 of 2025 with NOM No. 1269 of 2016 in Commercial IP Suit No. 378 of 2021	24

		33885/2024	

Patents

1. **ARRAY BIOPHARMA INC v. DEPUTY CONTROLLER OF PATENTS AND DESIGNS**[1]

Citation: C.A.(COMM.IPD-PAT) 37/2023
Court: Delhi High Court
Bench: Hon'ble Justice TUSHAR RAO GEDELA

Keywords: Pharmaceutical Combination, Method of Treatment, Synergistic Interaction.

Facts: The Appellant, Array BioPharma Inc., applied for a patent for a "pharmaceutical combination" consisting of specific cancer drugs: (a) Encorafenib (a B-Raf inhibitor), (b) Cetuximab or Erlotinib (EGFR inhibitors), and optionally (c) Alpelisib (a PI3K-α inhibitor). They provided data from Phase Ib and Phase II clinical trials showing that this specific combination was significantly better at stopping tumor growth than using the drugs alone. The controller rejected the application on several grounds: first, that it was a non-patentable "method of treatment" under Section 3(i); second, that it was a mere derivative of known substances under Section 3(d); and third, that it was obvious based on four earlier patents (D1 to D4).

Provisions: Sections 2(1)(ja), 3(d), 3(i), and 10(4) of the Patents Act, 1970 (as amended).

Judgment: The Delhi High Court remanded the patent application back to the Controller for *de novo* consideration. The Court found that a pharmaceutical combination claim, being a product claim, is not barred by Section 3(i) merely because the specification discloses its administration schedule. It further held that inventive step must be assessed against the specific combination and technical advancement, while Section 3(d) cannot be invoked for combinations of independent active drugs or without identifying the relevant known substance.

Ratio: The Court established that a combination of distinct and independent active drugs (each with its own chemical identity and mechanism) does not fall under the Section 3(d) bar for *"derivatives"* of known substances. Furthermore, the Court held that using phrases like *"for*

[1] ARRAY BIOPHARMA INC v. DEPUTY CONTROLLER OF PATENTS AND DESIGNS, C.A.(COMM.IPD-PAT) 37/2023

simultaneous, separate or sequential administration" in a claim does not turn a physical product into a prohibited *"method of treatment"* under Section 3(i). Such terms are simply *"functional descriptors"* that explain how the product works.

Issues Framed by the Court:

1. Is the claimed combination a *"known process"* or a derivative excluded under Section 3(d)?
2. Does the claim for a pharmaceutical combination amount to a prohibited "method of treatment" under Section 3(i)?
3. Does the invention involve an inventive step considering the prior art documents D1 to D4?

Points to be Considered:

The Court observed that Section 3(i) rejections must focus on the *"pith and marrow"* of the claim. It was clarified that if the invention is a physical combination of drugs, it is a patentable product. The controller cannot reject a product just because the instructions explain the schedule for taking the doses. The court also observed that the application does not claim a process, protocol, dosing schedule, or treatment regimen, and the provision of section 3(i) bars only a process, not a product and a combination.

The Court noted that the prior art (D1 to D4) was insufficient. It was observed that while D1 mentioned certain inhibitors, it did not specify the exact PI3K-α inhibitor used in Array's invention. The Court clarified that to reject a patent for being *"obvious",* the Patent Office must show that the *exact* combination of the *specific* chemicals was already suggested, rather than just general classes of drugs.

The Court emphasized the importance of technical advancement. It was observed that clinical trial data showing a reduction in tumor progression (e.g., from 95% down to 12% in Group 6) is strong evidence of an inventive step that the Patent Office is legally required to consider.

The Court observed that Section 3(d) is inapplicable to combinations of two separate active drugs, as such combinations cannot be treated as derivatives of each other. Further, where the

Controller fails to identify a specific known substance in the cited prior art and the objection under Section 2(1)(ja) is unsustainable, a rejection under Section 3(d) cannot be legally sustained.

2. DEEPAK NITRITE LIMITED v. THE ASSISTANT CONTROLLER GENERAL OF PATENTS AND DESIGNS[2]

Citation: Commercial Miscellaneous Petition No. 107 of 2025
Court: Bombay High Court
Bench: Hon'ble Justice ARIF S. DOCTOR

Keywords: Food Grade Sodium Nitrite, Free-Flowing, Impurity Profile, Integrated Process, Non-speaking Order.

Facts: The Petitioner, Deepak Nitrite Limited, applied for a patent for an invention titled *"A Free-Flowing Food Grade Sodium Nitrite and Production Method Thereof"*. The invention involved a multi-step integrated process to create a specific type of sodium nitrite that is safe for food use and doesn't clump together. The Controller rejected the application because it lacked an "inventive step". The Controller refused the application on the ground that the product was basically just a version of a known chemical with fewer impurities, without demonstrating an unexpected technical effect or other inventive contribution, and that the process was just a collection of standard lab steps like filtration. Deepak Nitrite appealed to the High Court, arguing that the officer ignored how the specific sequence of their process worked together as a synergistic unit and failed to provide any real scientific reasoning for the rejection.

Provisions: Sections 2(1)(ja) and 15 of the Patents Act, 1970 (as amended).

Judgment: The Bombay High Court allowed the petition and set aside the rejection order. The Court found that the Controller's decision was a *non-speaking order,* The Court remanded the case for a fresh review, directing the Patent Office to issue a new, properly reasoned decision. Further, court observed that *"A bald assertion of 'common general knowledge' without setting*

[2] DEEPAK NITRITE LIMITED v. THE ASSISTANT CONTROLLER GENERAL OF PATENTS AND DESIGNS, COMMERCIAL MISCELLANEOUS PETITION NO. 107 OF 2025

out the identifiable source/s and/or basis on which such 'common general knowledge' is asserted is not only impermissible but is also wholly arbitrary and contrary to the principles of natural justice."xaminer of Trade Marks
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Ratio: The Court held that it is "wholly impermissible" for the Controller, while exercising quasi-judicial powers under Section 15, to rely upon "common general knowledge" as a self-sufficient ground for refusing a patent application without setting out and substantiating the sources of such common general knowledge. The Court further held that the source of such knowledge must be identified and shown to have been published before the priority date. The Court further observed that reliance on undisclosed common general knowledge or personal knowledge, without recording reasons, would deprive the affected party of a meaningful opportunity to understand and effectively challenge the decision. A valid assessment of an inventive step requires looking at the integrated process as a unit to see if the specific combination and sequencing of steps provide a technical advancement. Furthermore, a rejection order must contain a discernible chain of reasoning that connects the facts to the conclusions, or it is legally unsustainable.

Issues Framed by the Court:
1. Was the Patent Office order a *"non-speaking order"*that failed to provide a reasoned analysis of the integrated process?
2. Did the Controller err by refusing the process claims based only on a single step rather than considering the invention as a whole?
3. Was the rejection of the product claims valid when it failed to address the specific controlled impurity profile required for food-grade quality?

Points to be Considered: The Court observed that the Patent Office's approach was fundamentally flawed because it failed to follow the established legal tests for "inventive step".
The Court emphasized that laconic orders cause avoidable delays and expense for applicants. It was clarified that a proper order must include a discussion of the prior art, an analysis of the applicant's arguments, and objective findings supported by the material on record.

The Court held that a proper order must provide a clear and reasoned link between the facts, evidence, and the conclusions reached.

Finally, the Court reminded the Patent Office that every applicant has the right to a reasoned decision.. The Court held that the Controller must pass a reasoned and speaking order based on independent application of mind, considering the objections, responses, and prior art, rather than merely reproducing the record.

3. INTRA-CELLULAR THERAPIES, INC. v. THE CONTROLLER OF PATENTS[3]

Citation: C.A.(COMM.IPD-PAT) 24/2023
Court: Delhi High Court
Bench: Hon'ble Justice TUSHAR RAO GEDELA

Keywords:Deuterated Compounds, Heterocycle-fused Gamma-carbolines, Section 3(d), Parent Drug Exposure, Pharmacological Activity, Metabolite X.

Facts: The Appellant, Intra-Cellular Therapies, Inc., applied for a patent for an invention titled "ORGANIC COMPOUNDS", which involved specific deuterated versions of chemical structures called heterocycle-fused gamma-carbolines. These compounds are designed for the treatment of diseases involving receptor signaling systems in the brain (such as the 5-HT2A, SERT, and dopamine receptors). The Appellant argued that their invention was a significant improvement because, in a study the deuterated version stayed in the blood much longer (providing 72% higher parent drug exposure) and produced less of a specific byproduct called "Metabolite X" compared to the original, non-deuterated drug. However, the controller rejected the application, ruling that it was a mere derivative of known substances and lacked novelty and an inventive step based on earlier patents (D1 and D7).

Provisions: Sections 2(1)(j), 2(1)(ja), and 3(d) of the Patents Act, 1970 (as amended).

[3] INTRA-CELLULAR THERAPIES, INC. v. THE CONTROLLER OF PATENTS, C.A.(COMM.IPD-PAT) 24/2023

Judgment: Referring the judgment of the Supreme Court in ***Novartis AG vs. Union of India & Ors.: (2013) 6 SCC 1***, the Delhi High Court emphasised that, in the pharmaceutical context, efficacy means therapeutic efficacy, and merely demonstrating improved physicochemical properties or bioavailability is not sufficient unless the applicant establishes a corresponding enhancement in therapeutic efficacy through appropriate research data.

The Court upheld the Controller's objection under Section 3(d), holding that the appellant had failed to establish enhanced therapeutic efficacy and was therefore unable to overcome the statutory prohibition under Section 3(d) of the Patents Act, 1970.

Ratio: The Court analyzed that although the deuterated compound demonstrated approximately 72% higher parent-drug exposure in the blood, the comparative studies showed substantially similar pharmacological activity between the deuterated and non-deuterated compounds. The Court held that such increased bioavailability or exposure, without evidence demonstrating a corresponding improvement in therapeutic efficacy, was insufficient to satisfy the requirement of Section 3(d).

Issues Framed by the Court:

1. Does the claimed deuterated compound qualify as a "new product" or is it a mere derivative disclosed in prior art?.
2. Is an increase in the amount of intact drug in the blood (higher parent exposure) enough to satisfy the requirement of enhanced therapeutic efficacy under Section 3(d)?.

Points to be Considered: The Court clarified that the deuteration process, replacing hydrogen atoms with deuterium, is a known technique used to slow down how fast the body breaks down a drug.

The Court observed that while the Appellant showed that their version produced less of a specific byproduct (Metabolite X), they also had to prove that this change actually led to a better medical outcome for the patient.

It was noted that if two compounds have similar binding strengths to their targets (pharmacological activity), a longer-lasting presence in the blood may not be enough to justify a new patent if the core function remains the same.

4. SULZER MIXPAC AG v. ASSISTANT CONTROLLER OF PATENTS AND DESIGNS[4]

Citation: LPA 545/2024

Court: Delhi High Court

Bench: Hon'ble Justice C. HARI SHANKAR J and Hon'ble Justice OM PRAKASH SHUKLA

Keywords: Static Mixer, Installation Body, Common Bar Element.

Facts: The Appellant, Sulzer Mixpac AG, applied for a patent for an invention titled "Static Mixer". This device is used to mix molten polymers by pushing them through a series of "installation bodies" (mixing parts) inside a tube. Because the pressure of these fluids is extremely high, the mixer parts couldn't function at all. Sulzer claimed their invention was a major improvement because it used a common bar element to connect more than five installation bodies together, which supposedly made the mixer stiffer, longer, and less prone to breakage . However, the Controller rejected the application, ruling that it lacked an "inventive step". The office argued that the idea was"obvious" because prior art, including Sulzer's own older patents, already showed how to connect parts using bars to increase strength. A Single Judge of the High Court dismissed Sulzer's first appeal, leading to this current case before a Division Bench.

Provisions: Sections 2(1)(j) and 2(1)(ja), of the Patents Act, 1970 (as amended).

Judgment: The Divisional bench of Delhi High Court examined the technical evidence to determine if Sulzer had truly created something new or just a routine variation. The Court focused on comparing Sulzer's invention with "prior art" (documents D1 to D4) to see if the "common bar" was a unique technical advance. The Division Bench clarified that the five steps laid down in ***Hoffmann-La Roche Ltd. v. Cipla Ltd., 225 (2015) DLT 391 (DB),*** are guiding principles and not mandatory commandments, and strict adherence to their sequence is not essential in every case. The Court upheld the decision of the controller.

[4] SULZER MIXPAC AG v. ASSISTANT CONTROLLER OF PATENTS AND DESIGNS, LPA 545/2024

Ratio: The Court ruled that '*Adjudication, under the Patents Act, has to be guided by the statute*' rather than a mechanical, step-by-step application of judicial formulas. Specifically, a patent decision cannot be overturned or deemed invalid solely because it did not strictly list or execute the five-step sequential ***Hoffmann-La Roche Ltd v. Cipla Ltd., 225 (2015) DLT 391 (DB)*** obviousness test in exact order, provided that the substance of the inventive step inquiry has been substantively and properly evaluated. The Division Bench clarified that the five steps are **guidelines and not mandatory commandments**.

Issues Framed by the Court:

1. Did the use of a common bar element to connect more than five installation bodies involve a real inventive step?
2. Was the invention already "anticipated" or made obvious by the technical features found in prior art documents D1 to D4?
3. Does simply increasing the number of parts connected by a known strengthening technique constitute a patentable advancement?

Points to be Considered: The Court observed that prior art (D1) specifically taught that connecting adjacent installation bodies increases "bending stiffness". It was noted that D1 even mentioned mixers made up of 12 installation bodies, which suggested that Sulzer's "new" idea was already part of existing technical knowledge.

The Court noted that standardizing a known component (like the bar) to perform the same function it did in older designs is not enough for a patent. An invention must offer a technical advance that is not obvious to a scientist in that field.

Finally, The Court held that the claimed arrangement constituted a mere modification of the disclosures and teachings already available in the prior art, and that replacing the reinforced strip with a bar element to connect multiple installation bodies would have been obvious to a person skilled in the art. The Court clarified that a mere modification based on prior-art teachings does not constitute an inventive step.

5. T-MOBILE INTERNATIONAL AG AND CO. KG. v. THE CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADEMARKS AND ANR.[5]

Citation: C.A.(COMM.IPD-PAT) 149/2022
Court: Delhi High Court
Bench: Hon'ble Justice TUSHAR RAO GEDELA

Keywords: Mental Act, Method of Playing Game, Technical Implementation.

Facts: The Appellant, T-Mobile International AG and Co. KG, applied for a patent titled *"Method and Arrangement for optimising the Operational Times and Cell Change Performance of Mobile Terminals"*. The application was refused by the controller on grounds under Sections 3(k) and 3(m) of the Patents Act, 1970. On merits, the Court had earlier remanded the appeal for de novo consideration. However, during arguments, counsel for the parties fairly conceded that no guidelines existed on how objections under Section 3(m) ought to be evaluated by the Patent Office. The Court therefore kept the appeal pending for the limited, public-interest purpose of formulating such guidelines, and appointed *Mr. Adarsh Ramanujan* as *Amicus Curiae* to assist in the exercise.

Provisions: Sections 3(k) and 3(m) of the Patents Act, 1970 (as amended)

Judgment: The Delhi High Court proposed a set of guidelines for examining objections under Section 3(m) and directed that these be placed before the Controller General of Patents and Designs for appropriate steps within six weeks. Since the appeal itself had already been disposed of on the merits and was kept pending only for framing these guidelines, the appeal was finally disposed.

Ratio: The Court held that Section 3(m) contains four disjunctive exceptions: a mere scheme, rule, or method of performing a mental act, and a method of playing a game, and that the word "mere" qualifies the first three limbs, confining the exclusion to claims that amount solely to a mental act. The Court further held that Section 3(m) is an independent statutory bar, distinct from and not to be conflated with the tests for novelty or inventive step under Sections 2(1)(j)/2(1)(ja),

[5] T-MOBILE INTERNATIONAL AG AND CO. KG. v. THE CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADEMARKS AND ANR., C.A.(COMM.IPD-PAT) 149/2022

and that a claim must be assessed as a whole rather than dissected into individual steps to isolate a mental-act component.

Issues Framed by the Court:

1. What is the proper construction of the provision of Section 3(m)?
2. Whether objections under Section 3(m) can be assessed using the same framework as novelty and inventive step?
3. What test should govern whether a claim, read as a whole, is excluded as a "mere" mental act or method of playing a game?
4. How should Section 3(m) be distinguished from Section 3(k) in respect of computer-implemented methods?

Points to be Considered: The Court traced the legislative history of Section 3, noting it was introduced via the Patents Bill of 1953 and refined by the Justice Ayyangar Committee to codify categories of inventions excluded in the interest of national economy, health, or well-being. Section 3(m), inserted in 2002, was noted to be pari materia with Article 52(2)(c) of the EPC, and the Court drew on EPO Board of Appeal decisions (General Electric, Quest International, and Philips) to hold that the exclusion targets purely abstract or conceptual implementations, not methods involving physical activities or technical effects. Further, The Court order defines '*mental' act is an act of the mind like calculation, reasoning, evaluation, cognition, discriminative faculties, logic, judgement etc."*

The Court laid down a seven-step examination framework: (1) construe the claim in light of the specification without importing limitations; (2) recognise that genuine product claims cannot be objected to under Section 3(m); (3) identify what the claim, as a whole, monopolises; (4) apply the exclusion by asking whether the claim could be infringed by a person doing nothing but thinking, reasoning, calculating, judging or deciding , and by checking whether the claim recites physical means integral to performance, hardware-software interaction, or a tangible output; (5) disregard token or post-solution physical steps (such as mere printing or displaying) that do not alter the substance of a mental-act monopoly; (6) avoid conflating Section 3(m) with novelty/inventive-step analysis, since a claim is not excluded merely for being obvious; and (7) treat computer-implementation as a matter for separate examination under Section 3(k) rather than a ground for exclusion under Section 3(m).

The Court illustrated the framework with six hypotheticals spanning excluded claims (a Sudoku-solving method, its variant with a mere printing step, and a nuclear fuel-bundle arrangement method modelled on the facts of T 914/02) and non-excluded claims (a fuel-preheating method using sensors and an engine control unit, a signal-modulation method using tangible circuitry, and a computer-implemented circuit-board layout method referable to Section 3(k)). The Court recorded its appreciation for the assistance rendered by the Amicus Curiae and counsel for both parties in finalising the guidelines.

COPYRIGHT

1. ANI MEDIA Pvt. Ltd. vs. OPEN AI OPCO LLC[6]

Citation: I.A. 45300/2024 IN + CS(COMM) 1028/2024, I.A. 45301/2024 & I.A.26192/2025

Court: Delhi High Court

Bench: Hon'ble Justice Amit Bansal

Keywords: Copyright Fair Dealing, Copyright Infringement, Training data, Artificial Intelligence

Facts: The ANI is a news agency that produces and syndicates news articles and interviews. It sued Open AI, the company behind ChatGPT, for copyright infringement. ANI made two claims. First, Open AI copied and stored ANI's articles to train its language models, without permission (the training claim). Second, that ChatGPT reproduced ANI's copyrighted content while answering user prompts (the output claim). ANI sought an interim injunction to stop this use. Open AI's servers are located in the United States. Several industry bodies, publishers, and AI companies intervened, some supporting ANI and some supporting Open AI. Two Amici Curiae also assisted the Court.

Provisions: Section 52(1)(a) of the Copyright Act, 1957

Judgment

The Delhi High Court dismissed ANI's application for interim injunction. It held, on a prima facie basis, that Open AI's storage of ANI's works for training its LLMs falls under the fair dealing exception in Section 52(1)(a) of the Copyright Act and does not amount to infringement. It also held that ChatGPT's responses were not a substantial reproduction of ANI's works.

Ratio

The Indian Court has jurisdiction if a) the plaintiff's principal place of business is in India, or b) if the defendant targets Indian users, even when the defendant's servers are located abroad.

Even temporarily storing a copyrighted work, during LLM training counts as reproduction under Section 14(a)(i). But this storage can still be protected if it qualifies as fair dealing under Section

[6] ANI MEDIA Pvt. Ltd. vs. OPEN AI OPCO LLC, I.A. 45300/2024 in CS(COMM) 1028/2024, I.A. 45301/2024 & I.A.26192/2025

52(1)(a).

Section 52 is not merely an exception to Section 51. It is an integral part of the Copyright Act that protects user rights, and must be read liberally, since LLM training data stays internal and is never disclosed to the public, it counts as private use.

To reflect technological advancements, the term 'research' needs to be redefined. It is not restricted to human research; it can also include machine learning, as long as the process benefits people.

Fair dealing under Section 52(1) (a) depends on three factors: limited use for training, economic harm or unfair competition to the copyright owner, and serving the public interest.

If an LLM memorizes and regurgitates a copyrighted work for the public, it is considered infringement. However, ANI was unable to demonstrate memorization in this case since its examples were provided after Open AI's training deadline. The Copyright protects expression of news, not the underlying facts.The interests of ChatGPT's numerous users and the public interest weighed against issuing an injunction. Damages were considered a suitable remedy alternative since ANI's claim could be measured in monetary terms (it had offered Open AI a license for USD 7.5 million).

Issues Framed by the Court

1. Whether Open AI's storing of ANI data for training ChatGPT violates copyright.
2. Is ChatGPT infringing on ANI's copyrighted data by using it to create user responses?
3. Whether Open AI's use of ANI's copyrighted data constitutes fair dealing under Section 52 of the Copyright Act, 1957.
4. Do Indian courts have jurisdiction over the complaint, given Open AI's servers are in the United States?

Points to be considered

The Court described that training the model to predict the raw data from the internet is divided into tokens, and transformed into vectors for providing practical responses.

The Court determined that the training of ChatGPT's models had ceased before ANI's quoted articles were published. Hence, the responses ANI complained about could not have been derived from memorized training data.

The Court rejected ANI's argument that only individual humans can claim 'private' or 'research' use under Section 52(1)(a). It held these terms can extend to a company like Open AI, since the training data is never made public and the process itself resembles research.

The Court noted that ANI never blocked its website from web crawlers or opted out of scraping, an option that was available to it. Open AI, on its part, had already blocked ANI's website from both training and RAG search.

ANI had itself offered Open AI a license for its content for USD 7.5 million. The Court treated this as proof that ANI's claim was capable of being valued and compensated in money, which weighed against granting an injunction.

2. OPELLA HEALTHCARE GROUP v. PURECA LABORATORIES PVT LTD[7]

Citation: CS(COMM) 552/2024 & I.A. 32616/2024 (arising from I.A. 4622/2025)

Court: Delhi High Court

Bench: Hon'ble Justice JYOTI SINGH

Keywords

Artistic Work, Trade Dress, Copyright Rectification, Colourable Imitation, Label Design, Summary Judgment.

Facts

Since 1954 the Plaintiff, Opella Healthcare Group, a company within the Sanofi Group, has marketed its PHENSEDYL cough syrup in packaging featuring a distinctive combination of blue and pink, which the company regards as an original 'artistic work' under the Copyright Act, 1957. This type of packaging has remained substantially unchanged throughout its use in India—first under Rhone Poulenc India Ltd. from 1995 and then under Abbott Healthcare Pvt. Ltd. from 2010—and in order to show how widely the packaging has been exposed over the years the Plaintiff has filed annual sales figures for the Sanofi Group from 2014 to 2023 together with the India revenues specifically from PHENSEDYL for the years 2020 to 2023.

In March 2024 the Plaintiff found that the Defendant, Pureca Laboratories Pvt. Ltd., had a copyright registration, number A-130319/2019, for the artistic work contained in the label of its

[7] OPELLA HEALTHCARE GROUP v. PURECA LABORATORIES PVT LTD, CS(COMM) 552/2024 & I.A. 32616/2024 (arising from I.A. 4622/2025)

own product, PHENSERYL — a label which also has a dark blue background and white lettering as does the Plaintiff's packaging. The Plaintiff then brought the present action, among other things under Section 51 of the Copyright Act, 1957, asking for an order to prevent the Defendant from selling its products using that label, and obtained an ex parte interim injunction on 09.07.2024 with respect to the trade dress and packaging in question, this injunction remaining in force throughout the trial.

Together with the suit, the Plaintiff filed a petition for rectification, C.O.(COMM.IPD-CR) 9/2024, based on Section 50 of the 1957 Act in conjunction with Rule 71(1) of the Copyright Rules, 2013, asking for the Defendant's copyright registration to be removed from the Register of Copyrights. This petition was granted by a judgment dated 12.11.2024; the registration was cancelled and the Registrar of Copyrights was ordered to correct the entries — a decision which the Defendant did not appeal. In its written statement submitted in November 2024, the Defendant defended the suit exclusively on the basis of its copyright registration for the label, a registration which had already been cancelled by the time the case reached its final hearing. The Defendant then ceased to appear and was consequently set ex parte on 20.07.2026, after which the Plaintiff applied for summary judgment under I.A. 4622/2025, pursuant to Order XIII-A of the Commercial Courts Act, 2015 together with Rule 27 of the Delhi High Court Intellectual Property Rights Division Rules, 2022, on the ground that no valid defence remained following the cancellation.

Provisions: Sections 50 and 51 of the Copyright Act, 1957; Rule 71(1) of the Copyright Rules, 2013

Judgment

The Delhi High Court allowed I.A. 4622/2025 and granted summary judgment in favor of the Plaintiff, decreeing the suit as set out in paragraph 38(a) to (e) of the plaintiff. The Court restrained the Defendant from reproducing or using the Plaintiff's artistic work, or any colourable imitation, in its trade dress and packaging. The Plaintiff waived the claims for damages and rendition of accounts in paragraph 38(f) to (h). The Registry was directed to prepare the decree sheet.

Ratio

A defendant cannot defend a copyright infringement suit based on a registration that has been cancelled by an unchallenged rectification order, which found the artistic work to be a copy of the plaintiff's pre-existing get-up. Such a defendant has no real prospect of success, making the suit suitable for summary disposal under Order XIII-A CPC. If the dominant features of two labels, including colour scheme, layout, and lettering, are deliberately replicated, this constitutes copyright infringement. The pharmaceutical context further increases the public interest in granting an injunction.

Issues Framed by the Court

1. Was there a realistic chance for the Defendant to defend against a charge of copyright infringement after the cancellation of the registration on account of which the impugned label became the subject-matter of the dispute?
2. Is the artistic work depicted on the PHENSERYL label of the Defendant similar or even a colourable imitation of the artistic work on PHENSEDYL package of the Plaintiff?
3. Does the substantial similarity of the two labels coupled with the absence of the Defendant at the hearing amount to grant of the final injunction without recording evidence?

Points to be considered

Issues to be Noted: In this case, the Court has taken the findings contained in the 12.11.2024 rectification order as conclusive of the copyright matter at hand. This was because the court found out that the dark blue coloring of the packaging as well as the white lettering on the packaging which shows the product name were prominent and dominant features of the artistic works. It was also stated that the defendant tried very much to make its label similar to that of the plaintiff. It also noted that the defendant managed to get copyright for its label despite the existence of a materially similar label used by the plaintiff since 1995.

The Court found that the sole reasonable objective of such imitative conduct could be nothing but the creation of an illusion of connection in the minds of consumers with the product of the Plaintiff which is widely known – an issue in itself being sufficient to damage the reputation of the Plaintiff as well as the distinctiveness of its packaging irrespective of any case made under

Section 51 of the 1957 Act. The invoices, promotional literature, and annual reports produced by the Plaintiff in 2018-2023 were referred to as evidence of the extent of goodwill enjoyed by the Defendant.

Using the rules previously established in the Su-Kam Power Systems Ltd. v. Kunwer Sachdev, 2019 SCC OnLine Del 10764 case, the Court ruled that where the defence of the party is extinguished because of an order made against the party and that defence is not challenged, there is no issue left for trial. The recording of evidence in such a situation would be "no useful purpose" and will merely result in "undue delay" for the Plaintiff who was clearly entitled to some relief.

3. PREITY G. ZINTA v. GOOGLE LLC & ORS.[8]

Citation: Interim Application (L) No.20703 of 2026 in Commercial IP Suit No.245 of 2026
Court: Bombay High Court
Bench: Hon'ble Justice MADHAV J. JAMDAR.

Keywords: Moral rights of performers, AI deepfakes, unauthorised digital content.

Facts

The plaintiff, a well known Indian actress with a career of over 25 years and 42 films, went to court against Google and several other platforms. She said that people had been using her name, photos, and voice without her permission to create AI generated deepfake videos, morphed photographs, chatbot personas pretending to be her, and even merchandise carrying her image. Her lawyer pointed out roughly 275 links across YouTube, Facebook, Instagram, and X where this kind of content had been posted. Along with her personality and publicity rights, she argued that this kind of tampering with her image also hurt her moral rights as a performer under Section 38-B of the Copyright Act, 1957.

Provisions: Section 38-B of the Copyright Act, 1957

Judgment

[8] PREITY G. ZINTA v. GOOGLE LLC & ORS., INTERIM APPLICATION (L) NO.20703 OF 2026 IN COMMERCIAL IP SUIT NO.245 OF 2026

The Court agreed that the plaintiff had made out a strong prima facie case and granted ad interim relief, to continue until further orders. It held that the material on record clearly showed her personality rights, publicity rights, and moral rights were being violated through morphed, deepfake, and superimposed content built from her images, photographs, and videos, and that this had also prejudicially affected her moral rights under the Copyright Act. Specific defendants were restrained from exploiting her name, image, voice, and other personality traits through any technology, including AI chatbots, deepfakes, and face morphing. Google, Instagram, and other named platforms were directed to take down the identified infringing links within 72 hours, and also to act on any further similar links the plaintiff notifies them of. A few other defendants were separately directed to remove specific chatbot characters, GIFs, and images identified in the plaintiff, and one defendant was directed to block the creation of new AI characters using the plaintiff's name and image going forward. Domain registrars were directed to disclose registrant details for infringing domains on request.

Ratio

When someone uses AI to create deepfakes or morphed content that distorts or alters how a performer's actual performance looks or sounds, without her consent, this violates her moral rights under Section 38-B of the Copyright Act. This is true even if the same conduct also amounts to a violation of her personality or publicity rights. Moral rights protection stands on its own, it does not need the personality rights claim to succeed first.

Issues Framed by the Court

1. Whether the Plaintiff's name, signature, image and likeness, voice, mannerisms, caricature and persona constitute protectable "Personality Traits" flowing from her personality and publicity rights.
2. Whether such personality and publicity rights are grounded in Article 19(1)(a) (freedom of speech and expression) and Article 21 (right to life and personal liberty, including the right to privacy and the right to live with dignity) of the Constitution of India, together with her moral rights under Section 38-B of the Copyright Act, 1957.
3. Whether the unauthorised creation and dissemination of AI-generated deepfakes, morphed images, voice simulations, chatbot personas, GIFs and merchandise using the Plaintiff's identity, across the platforms and services operated by the Defendants, amounts

to misappropriation of her personality and publicity rights and infringement of her moral rights.

4. Whether a strong prima facie case, balance of convenience and irreparable injury (given the unlimited and permanent replicability of deepfake content once disseminated online) are made out to justify ad-interim injunctive relief pending the suit.
5. Whether the intermediary Defendants (Google/YouTube, X, Instagram/Facebook and the AI chatbot, image-generation, merchandising and GIF-hosting Defendants) can be directed, consistent with the due diligence obligations under Rule 3(1)(b) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, to take down or block identified infringing content and to act on future notifications of similar content.
6. Whether the domain name registrar Defendants can be directed to disclose registrant details of platforms hosting infringing content, on a written request supported by affidavit.

Points to be Considered

The Court found a strong prima facie case had been made out on the material and exhibits placed before it, including several sets of images and screenshots showing AI generated, morphed, and deepfake content. It was also concerned about how fast and far such content can spread once it is online. Unlike a single defamatory statement, this kind of content can be copied endlessly, so money alone cannot really fix the damage. This was central to why the Court granted urgent, ad interim protection rather than waiting for a full hearing.

On the question of intermediary obligations, the plaintiff's counsel relied on Rule 3(1)(b) of the IT Rules, 2021, pointing out that this rule had already been noted by the same High Court in Akshay Hari Om Bhatia v. John Doe and Ors. It was also submitted that this rule was inserted by an amendment on 28 October 2022, after the Supreme Court's judgment in Shreya Singhal v. Union of India.

None of the defendants opposed the reliefs sought. Counsel for the defendants said they would have no difficulty complying with the order as far as the specific YouTube, Facebook, Instagram, and X links already listed in Exhibit K to the plaint were concerned, and with the other reliefs granted. However, they flagged one practical difficulty for the future: if the plaintiff later sent them further links to take down, some of that content might turn out to be genuine, authentic photographs and material rather than fake or infringing content. In such cases, they said they would communicate detailed objections to the plaintiff's advocates, and the plaintiff would then be free to approach the Court for further orders. The Court accepted this arrangement and also granted the defendants liberty to approach the Court themselves if such objections arose, noting that this fits with the due diligence intermediaries are expected to exercise under Rule 3 of the IT Rules, 2021.

4. SAREGAMA INDIA LTD. V. BLACK MADRAS FILMS & ORS.[9]

Citation: CS(COMM) 1310/2025 & CS(COMM) 143/2026
Court: Delhi High Court
Bench: Hon'ble Justice TUSHAR RAO GEDELA

Keywords: Copyright, Literary and Musical Works, Musical Composition, Composer, Copyright Infringement, Sound Recording, Cinematograph Film, Producer, Ownership, Assignment of Rights

Facts

Saregama India Limited (Plaintiff) claimed copyright over the sound recordings and certain underlying works in songs from several cinematograph films, based on assignment agreements executed with the original producers of those films. Ilaiyaraaja (Defendant), composer of the musical works in several of these songs, was alleged to have made the disputed works available through online platforms such as Amazon Music, Apple iTunes and JioSaavn without Saregama's authorisation. Saregama accordingly sought an injunction restraining such use.

Ilaiyaraaja challenged the validity and scope of the assignment agreements relied upon by Saregama. He contended, inter alia, that agreements contemplating older modes of exploitation such as gramophone records and cassettes could not extend to newer modes such as online streaming platforms that did not exist when the agreements were executed.

In the connected matter, the dispute concerned the song *"Naguva Nayana"* from the film *Pallavi Anupallavi*, which was used in the film *Mask*. Ilaiyaraaja had licensed the song for its use in

[9] SAREGAMA INDIA LTD. V. BLACK MADRAS FILMS & ORS., CS(COMM) 1310/2025 & CS(COMM) 143/2026

Mask. Saregama contended that the original producer, Venus Pictures, had already assigned rights in the film and its sound recordings to Saregama under an agreement dated 27 December 1980. It therefore challenged Ilaiyaraaja's authority to license rights in the sound recording.

Provisions: Sections 2(d), 2(f), 2(p), 14(a), 14(d), 17, 17(b) and 18 of the Copyright Act, 1957.

Judgment

At the interim stage, the Court held that the Plaintiff had established a strong prima facie case in both suits. Accordingly, the interim injunctions were granted/continued.

Ratio

Copyright in a musical composition is distinct from copyright in the sound recording and cinematograph film in which the composition is incorporated. The composer, as author of the musical work, retains copyright in the musical composition; however, such ownership does not, by itself, confer ownership of the lyrics or the sound recording incorporating that composition.

Issues Framed by the Court

1. Whether music composer's (Ilaiyaraaja's) copyright of the musical work also give him rights over the lyrics and the sound recordings of the songs?

Points to be Considered

Copyright in a cinematograph film or sound recording does not affect the separate copyright subsisting in the underlying works. Copyright in the film/sound recording and copyright in the underlying musical and literary works can coexist independently.

5. **DR. ASHOK M. BHAT v. HARICHAND NAGPAL & ORS.[10]**

Citation: IA (L) No. 9324 of 2025 with NOM No. 1269 of 2016 in Commercial IP Suit No. 378 of 2021

Court: Bombay High Court

Bench: Hon'ble Mr. Justice Arif S. Doctor

Keywords: Contempt of Injunction, Registered Artistic Work, Safe Distance Rule, Exemplary

[10] DR. ASHOK M. BHAT v. HARICHAND NAGPAL & ORS., IA (L) No. 9324 of 2025 with NOM No. 1269 of 2016 in Commercial IP Suit No. 378 of 2021

Costs

Facts

The Plaintiff owns the mark NOVA and a registered artistic label for brilliantine hair cream (copyright Nos. A-13658/75 and A-13659/75). On finding Respondent No. 1 selling counterfeit NOVA goods, he sued, and by order dated 24 November 2010 obtained an injunction in terms of prayer clauses (a) to (c), restraining use of NOVA, any deceptively similar mark, and any label infringing his copyright in the artistic work.

In 2013 the Plaintiff found the same product sold as NONI, carrying substantially his artistic work, and filed the first contempt application. In 2025 a Court Receiver found NOVA MINI and NONI goods at Respondent No. 1's premises, where his son, Respondent No. 3, called himself proprietor. A second contempt application followed.

The defence was that NONI is Respondent No. 1's own registered mark (No. 235004, 1966, user from 1958), that the injunction covered only the NOVA label, that the IPAB had dismissed the Plaintiff's rectification in 2012, and that NOVA MINI labels were affixed by an employee by mistake.

Provisions

Order XXXIX Rule 2A, Sections 35 and 151 CPC, 1908, read with the Commercial Courts Act, 2015; Sections 12, 28(3), 29, 30(2)(e) and 124(4), Trade Marks Act, 1999; Section 45, Copyright Act, 1957.

Judgment

The Court held the breach wilful, deliberate and calculated. An enquiry under Order XXXIX Rule 2A asks only whether a subsisting order was disobeyed; the Respondents offered only pleas of justification, which are impermissible. On comparison, the NONI label reproduced the same green scheme and geometric design as the registered artistic work.

Awareness was established by the Respondents' own conduct: they had sought a clarification from the Division Bench that the injunction did not cover NONI, which was refused on 16

January 2014, and the injunction was never modified. The plaintf explained that NONI was found on the Register but not in the market, so its omission from the prayers was not a conscious exclusion. The IPAB order and the NONI registration were no shield against a later injunction.

The "mistaken employee" explanation was disbelieved. Respondent No. 1 admitted sales of about Rs. 83.46 lakhs from 2019 but withheld earlier figures, though he had filed sales of about Rs. 1,31,67,485 for 1993-2006 before the Registry. Respondent No. 3 never appeared or denied the allegations and was held complicit.

The application was allowed in terms of prayers (a), (b) and (d). Imprisonment was declined given Respondent No. 1's age. Costs of Rs. 32,42,868 and exemplary costs of Rs. 50,00,000 were awarded, with full disclosure of sales on oath in four weeks, failing which the defence stands struck off. Stay refused.

Ratio

An injunction against use of a registered artistic work follows the artistic work onto any label, not merely the one impugned in the plaint.

In Order XXXIX Rule 2A proceedings justification is no defence. So long as an order stands, it binds, and its legality is not examinable. Neither the defendant's own registration nor the dismissal of a rectification petition permits disobedience.

A party who sought and was refused a clarification that the injunction did not cover a label cannot later plead bona fide belief.

An enjoined party must keep a safe distance, and cannot rely on changing only the word element while retaining colour scheme, device and get-up.

Issues Framed by the Court:

1. Whether the order of injunction dated 24 November 2010 relates only to the impugned label mark NOVA, or whether it also covers the NONI label.
2. Whether use of Respondent No. 1's registered mark NONI (Registration No. 235004 dated 29 April 1966) amounts to wilful disobedience of the order of injunction.

3. Whether the Applicant is entitled to claim that use of the registered label mark NONI is infringement of copyright, trade mark, or passing off, having regard to Sections 28(3), 29 and 30(2)(e) of the Trade Marks Act, 1999.
4. Whether the Applicant is stopped from alleging that use of the registered label mark NONI amounts to infringement, given the IPAB order dated 4 May 2012 and Section 124(4) of the Trade Marks Act, 1999.
5. Whether rights under the Copyright Act, 1957 are to be read de hors the Trade Marks Act, 1999 and binding orders of the IPAB, having regard to Section 45 of the Copyright Act, 1957.

Points to be Considered

Scope was read from the prayer clauses the injunction was granted in, particularly the copyright prayer, rather than from the product name. Selective disclosure fed directly into the finding of mala fides and the quantum of exemplary costs. Age mitigated the penal consequence but not the monetary or disclosure directions. A separate undenied finding of counterfeit VASELINE sales weighed in treating Respondent No. 1 as a habitual counterfeiter.

<u>Designs</u>

1. CROCS INC USA V. M/S BATA INDIA LTD AND ORS.[11]

Citation: CS(COMM) 625/2018

Court: High Court of Delhi at New Delhi

Bench: Hon'ble Justice PRATIBHA M. SINGH.

Keywords: Industrial Design, Design Infringement, Novelty, Prior Publication, Cancellation of Design, Commercial Litigation, Litigation Costs, Actual Costs

Facts

Crocs Inc. USA (Plaintiff) filed a suit against Bata India Ltd.(Defendant) alleging infringement of its registered footwear Design No. 197685 and sought an injunction and damages.
Initially, an ex-parte interim injunction was granted and Local Commissioners were appointed, who seized allegedly infringing products from the Defendants' premises.

In 2018, the interim injunction was vacated after the Court found that the Plaintiff's design of footwear was not novel and that similar footwear design was already in the public domain.

In 2019, Deputy Controller of Patents & Designs cancelled Crocs' registered design on the ground of lack of novelty and prior publication. The design infringement suit was disposed of in 2023.

Bata thereafter sought reimbursement of the actual costs incurred in defending the litigation.

Provision

Section 2(g) of the Designs Act 2000, Section 35 and 35A of the CPC

Judgment

The Court allowed Bata's application for the reimbursement and directed Crocs to pay ₹24,63,400 within three months.

Ratio

[11] CROCS INC USA V. M/S BATA INDIA LTD AND ORS., CS(COMM) 625/2018

In commercial litigation, costs ordinarily follow the outcome of the case, and the successful party is awarded actual and reasonable litigation expenses.
Parties pursuing commercial disputes must bear the financial consequences of unsuccessful litigation.

Issues Framed by the Court

1. Whether Bata, having successfully defended the design infringement proceedings, was entitled to recover its actual litigation costs?
2. Whether costs could still be awarded when the earlier order disposing of the suit did not specifically mention costs?

Points to be considered

Commercial parties need to assess the strength of the case before pursuing prolonged litigation, as an unsuccessful claim results in payment of the successful party's actual litigation costs.

<u>Trade Marks</u>

1. COLUMBIA PICTURES INDUSTRIES, INC v. REGISTRAR OF TRADE MARKS & ANR[12]

Citation: C.A.(COMM.IPD-TM) 44/2025

Court: Delhi High Court

Bench: Hon'ble Justice MS. JUSTICE JYOTI SINGH

Keywords: Well-known Trademark, Bad Faith Adoption, Cross-class Protection.

Facts

Columbia Pictures, the studio behind the Ghostbusters film franchise and registered proprietor of the GHOSTBUSTERS mark in India across Classes 9, 25, 28, and 41, opposed a Class 5 application for the mark GHOST BUSTER, filed by a company dealing in HPLC chromatography products, on grounds of deceptive similarity and bad faith. The Registrar of Trade Marks rejected the opposition and allowed the impugned mark to proceed to registration, reasoning that the goods were entirely dissimilar and that the respondent's explanation for adopting the mark was plausible. Columbia Pictures appealed, arguing that the Registrar had never engaged with its core contention: that GHOSTBUSTERS was a well-known mark entitled to cross-class protection under Section 11(2), regardless of how different the two parties' goods were.

Provisions

Section 11(2), Section 11(5), Section 11(6), Section 11(7), Section 2(1)(zg) of the Trade Marks Act, 1999; Rule 43 and Rule 124 of the Trade Marks Rules, 2017.

Judgment

The Delhi High Court set aside the Registrar's order and remanded the matter for fresh consideration. It held that the Registrar had, in effect, decided the case on the wrong footing, treating dissimilarity of goods as dispositive without ever asking whether GHOSTBUSTERS qualified for well-known-mark protection, a status that, if established, would have made the goods' dissimilarity beside the point. The Registrar was directed to examine both the

[12] COLUMBIA PICTURES INDUSTRIES, INC v. REGISTRAR OF TRADE MARKS & ANR, C.A.(COMM.IPD-TM) 44/2025

well-known-mark claim and the allegations of bad faith afresh, and to decide within three months after hearing both sides.

Ratio

Section 11(2) does not require a mark to have been formally declared "well-known" before its proprietor can invoke that status to oppose a similar or identical mark on dissimilar goods, it is enough that the mark is, in substance, entitled to such protection under Section 2(1)(zg) read with Sections 11(6) and 11(7). Reading the provision to require a prior formal declaration would make the Explanation to Section 11 and Section 11(5) redundant, since both speak of a mark "entitled to protection" rather than one already "declared" well-known. Where an opponent pleads well-known status and produces evidence to that effect, the Registrar cannot resolve the opposition solely by pointing to a difference in goods or trade classes, since that inquiry only becomes relevant once the well-known-mark claim has been addressed one way or the other.

Issues framed by the court

1. Whether the Registrar could reject the opposition solely on the ground that the Appellant had registrations only in Classes 09, 25, 28 and 41 and none in Class 05, without considering the Appellant's pleaded ground under Section 11(2) that GHOSTBUSTERS was an earlier well-known mark entitled to protection across classes.
2. Whether the proprietor of an earlier mark must first obtain a formal declaration of well-known status, either from a Court or through Rule 124 of the 2017 Rules, before invoking Section 11(2) in opposition proceedings, or whether it is enough that the mark is entitled to such protection under Section 2(1)(zg) read with Sections 11(6) and 11(7).
3. Whether the Registrar's finding that the Appellant could not claim monopoly over the whole of Class 05 could be treated as an implied rejection of the Section 11(2) ground, so that the absence of express reasoning was not fatal to the order.
4. Whether the Registrar was required to consider the Appellant's plea of bad faith adoption under Section 11(10)(ii), including the material relating to the earlier USPTO proceedings against Respondent No.2's sister concern, Welch Materials Inc.
5. Whether the matter ought to be decided by the Court itself or remanded to the Registrar for fresh consideration.

Points to be Considered

The Court traced the statutory history of the well-known-mark concept to India's TRIPS obligations, and noted that Rule 124, introduced only in 2017, created a dedicated non-adversarial route to seek a declaration, but did not thereby foreclose the older route of establishing the same status evidentially within opposition proceedings themselves. On the facts, the Court found the Registrar's silence particularly hard to justify given that Columbia Pictures had placed on record extensive evidence bearing on recognition, use, promotion, and enforcement history, including a near-identical mark's rejection by the USPTO involving a sister concern of the respondent, none of which the impugned order addressed. The Court declined to determine the well-known-mark question itself, leaving it to the Registrar on remand, and expressly did not express any view on the ultimate merits.

2. **Parle Products Pvt. Ltd. v. The Registrar of Trade Marks & Anr.**[13]

Citation: LPA 316/2026 & CM APPL. 27819-20/2026

Court: Delhi High Court

Bench: Hon'ble Justice V. KAMESWAR RAO and Hon'ble Justice MANMEET PRITAM SINGH ARORA

Keywords: Trade Marks Prior Registration, Trade Marks Infringement

Facts: Parle Products (the well-known biscuit company) tried to stop another company from registering the trademark "20-20". That other company had applied for the "20-20" trademark on September 27, 2007, saying they planned to use it in the future.

Parle had applied for the exact same name just 8 days later, on October 4, 2007. Parle argued that it should get the rights to "20-20" because it was the one actually using the name selling biscuits under "20-20" since around 2007-2008 and had already gotten its own registrations for "20-20,""TWENTY-20," and "T20." Parle had conducted a preliminary search before adopting the mark and stated that it had not identified any conflicting mark in the Trade Marks Registry at that time.

The other company's trademark application was rejected. The other company had to file a Right-to-Information (RTI) request just to find out what had happened. In 2019, an appeals

[13] **Parle Products Pvt. Ltd. v. The Registrar of Trade Marks & Anr.,** LPA 316/2026 & CM APPL. 27819-20/2026

tribunal overturned the rejection, and the application was finally made public in August 2020 Trade Marks Journal.

Parle's filed an opposition to the other company's application. This opposition was rejected by the Trademark Registrar. Parle then appealed to a Single Bench Judge, but that Single Bench Judge also ruled against Parle. The Single Bench Judge's reasoning was simple: since the other company filed first (by just over a week), they were legally considered the "prior adopter or senior applicant" of the name and it didn't matter that Parle started actually selling products under that name sooner.

Parle then took the case further, to a Divisional Bench, arguing that the earlier ruling was wrong. Parle cited a well-known Supreme Court case (Neon Laboratories), which had said that actually using a trademark in the real world should count for more than just filing paperwork for it. Parle said this same logic should apply here real-world use should beat a paper filing that was never even acted on.

Provisions: Sections 18 (1) of the Trade Marks Act, 1999

Judgment: The Divisional Bench rejected Parle's appeal and agreed with the earlier Single Judge's decision. Here's their reasoning:

The "Neon Laboratories" case didn't apply here. The court explained that this earlier case was about a very specific situation, a dispute where both companies were already selling products under similar names, and the fight was over who could stop whom (called "passing off"). It doesn't create a blanket rule that "whoever uses a name first automatically wins" in every situation. Since the other company hadn't even started selling anything under "20-20" yet, there was no dispute about actual marketplace use to begin with. The court clarified that Neon Laboratories is not authority for a defence under Section 34 of the Trade Marks Act in a pure registration dispute.

Filing date matters more than usage date, in this kind of dispute. Instead, the court followed older, well-established cases (like Mohan Goldwater Breweries) which say: when it comes to registering a trademark, what matters is who filed their application first not who started using the name first. If someone files second but starts selling their product sooner, that doesn't let them jump ahead of the person who filed earlier.

Applying that here: since the other company filed on September 27, 2007 just 8 days before Parle's filing on October 4, 2007 the court said the other company was the senior applicant and prior adopter for registration purposes. The fact that Parle started selling biscuits under "20-20" earlier didn't matter or change anything.

Back in 2008, when Parle was trying to get its own "20-20" trademark approved, it told the trademark office: "Our mark looks and sounds different from theirs and there's no real conflict." Now, years later, Parle was arguing the opposite, that the two marks were actually confusingly similar. The court said you can't have it both ways: you can't tell the trade marks office one thing to get what you want, then argue the opposite later when it's convenient.

Finally, the court noted that the other company to get its registration late wasn't their fault, it happened because of the Trade Mark office procedure. The other company had done everything right filing RTI requests, going to court to get answers so this delay couldn't be used against them.

Ratio: Where two parties file competing applications for registration of an identical or deceptively similar trade mark on a 'proposed to be used' basis, priority for registration under Section 18 of the Trade Marks Act, 1999 is determined by the date of application, not by which party first commences actual commercial use; subsequent use by the junior applicant in the interregnum does not defeat the senior applicant's priority. The 'first in the market' principle in Neon Laboratories Ltd. v. Medical Technologies Ltd. is confined to passing off/injunction disputes involving actual competing use, and is not authority for displacing Section 18 priority, or for a defence under Section 34, in a pure registration/rectification dispute where the earlier applicant has not commenced use. Further, a party that has represented to the Trade Marks Registry that its mark is distinct from a cited mark, in order to secure its own registration, cannot later assert that the same mark is deceptively similar so as to defeat the registration of the party whose mark it had earlier disclaimed similarity with; such approbation and reprobation is impermissible and independently defeats the claim.

Issues Framed by the Court:

1. Whoever filed the trademark application first — did that party automatically get the stronger legal claim to the Trade Mark name, even though they hadn't actually used it yet?

2. Does actually selling products under a name first (real-world use) count for more than simply filing the filing first, when it comes to deciding who gets to register a trademark?
3. Since Parle earlier told the trademark office that the two Trade Marks were different (to get its own registration approved), can Parle now argue the opposite — that the marks are actually confusingly similar — to block the other company's registration?

Points to be Considered: The main issue before the Division Bench was whether Parle, having applied for '20-20' only eight days after respondent no.2 but having actually used the mark commercially since 2007-2008, was entitled to defeat respondent no.2's registration or whether respondent no.2's earlier filing date alone was sufficient to give it priority, regardless of its long delay in actually using the mark.

Parle argued that Trade Mark rights flow from actual use in the market and the goodwill generated by it, not merely from filing an application. Relying on Neon Laboratories Ltd. v. Medical Technologies Ltd., Parle contended that the 'first in the market' test has always enjoyed primacy in Indian Trade Mark law, and that a party which merely files an application on a 'proposed to be used' basis, without any genuine intention to use the mark for years, should not be allowed to defeat a party that has built real goodwill through continuous commercial use. Parle also argued that respondent no.2's mark had lain dormant and unused for close to two decades, and that allowing such a dormant applicant to prevail would encourage trade mark squatting.

Respondent no.2, on the other hand, argued that it filed its application eight days before Parle. It contended that the long delay in its registration was entirely attributable to the Trade Marks Registry's procedure, and that it had pursued the matter diligently at every stage through an RTI application, repeated reminders, and ultimately a successful writ petition compelling the Registry to act. It argued that this administrative delay could not be used to penalise it or to reward Parle, who was admittedly the later applicant.

The Court agreed with respondent no.2. It held that Neon Laboratories was authority only in the context of a passing off action, where both competing parties were actually using their marks in the market and the dispute was over consumer confusion between live, competing businesses.

Since respondent no.2 had not commenced use of '20-20' at all, no question of passing off or marketplace confusion arose, and the 'first in the market' test had no application to the facts of this case. The Court held that neither Neon Laboratories nor the cases following it were authority for a defence under Section 34 of the Trade Marks Act in a dispute purely about registration.
The Court instead applied the principle laid down in Mohan Goldwater Breweries Pvt. Ltd. v. Khoday Distilleries Pvt. Ltd. and later Delhi High Court decisions following it, holding that under Section 18 of the Act, the rights of competing applicants for registration are to be determined as on the date of application. Use of the mark by a junior applicant in the period between the two filing dates does not confer any special priority over a senior applicant who filed earlier, even on a 'proposed to be used' basis. Applying this principle, the Court held that respondent no.2, having applied on 27.09.2007 eight days before Parle's application of 04.10.2007 was the senior adopter, and Parle's subsequent use of the mark from 2007-2008 onward was legally inconsequential to that priority.

The Court also rejected Parle's case on an independent ground. It noted that in 2008, when Parle's own application faced an objection on account of respondent no.2's earlier-filed mark, Parle had told the Registrar that the two marks were visually, phonetically and conceptually distinct, and used this representation to secure its own registration. The Court held that Parle could not now be permitted to argue the opposite that the marks were in fact deceptively similar in order to defeat respondent no.2's registration. This amounted to impermissible approbation and reprobation, and was, by itself, sufficient to defeat Parle's claim for equitable relief.

The judgment reinforces the principle that, in a dispute confined to Trade Mark registration (as opposed to a passing off action involving actual competing use), priority is governed by the date of application under Section 18 of the Trade Marks Act, 1999, and not by which party first commences commercial use. It also illustrates that administrative delay by the Trade Marks Registry cannot be held against a diligent applicant, and that a party cannot approbate and reprobate by taking inconsistent positions before the Registrar to suit its convenience at different points in time.

3. OPELLA HEALTHCARE GROUP v. PURECA LABORATORIES PVT LTD[14]

[14] **OPELLA HEALTHCARE GROUP v. PURECA LABORATORIES PVT LTD,** CS(COMM) 552/2024 & I.A. 32616/2024 (arising out of I.A. 4622/2025)

Citation: CS(COMM) 552/2024 & I.A. 32616/2024 (arising out of I.A. 4622/2025)

Court: Delhi High Court

Bench: Hon'ble Justice JYOTI SINGH

Keywords: Deceptive Similarity, Passing Off, Prior Use, Trademark Rectification, Pharmaceutical Marks, Summary Judgment.

Facts

The Plaintiff, Opella Healthcare Group, is a corporation organised under the laws of France and is a member of the Sanofi Group. Since 1954, it has been using the mark PHENSEDYL for a cough syrup used to treat running nose, watery eyes, sneezing and throat irritation. The product was launched internationally in the 1950s and in India in 1995. The word mark is registered as No. 165059 dated 21.07.1954 in Class 5 and renewed upto 31.07.2030. The plaintiff also has subsisting registrations of the Devanagari equivalent फेन्सिडिल and a composite label mark in the same class. In India, the product has been continuously marketed by Rhone Poulenc India Ltd. as licensee since 1995 and from 2010 through Abbott Healthcare Pvt. Ltd. under a sub-license from Piramal Healthcare (now Piramal Pharma Limited). To demonstrate the goodwill generated around the mark, the Court was shown the Sanofi Group net sales from 2014 to 2023 and the PHENSEDYL-specific India revenues from 2020 to 2023.

In March 2024, the Plaintiff discovered a trademark registration, No. 3791026, for the mark PHENSERYL in Class 5 for an identical cough syrup in the name of the Director of the Defendant, Pureca Laboratories Pvt. Ltd. The application was for user from 01.12.2016 and did not have any supporting documents. Significantly, the Plaintiff's own marks PHENSEDYL and फेन्सिडिल were cited as conflicting marks during prosecution but the mark proceeded to registration. The Plaintiff has filed the present suit under Sections 134 and 135 of the Trade Marks Act, 1999 for permanent injunction against the use of PHENSERYL and any mark deceptively similar to PHENSEDYL and obtained ex parte ad interim injunction on 09.07.2024 which continued to remain in force during the trial.

At the same time, the Plaintiff filed a rectification petition, C.O.(COMM.IPD-TM) 92/2024, under Sections 47(1)(A) and 57 of the 1999 Act on the ground that the impugned registration was phonetically and visually deceptively similar to its own marks. The petition was allowed on 12.11.2024 and the Defendant's registration was cancelled and the Registrar of Trade Marks was directed to rectify the register. The Defendant never appealed against the decision. After service of summons, the Defendant filed its written statement in November 2024, pleading no defence other than its own registration in PHENSERYL, a registration which at the time of final hearing had been cancelled. Thereafter, the Defendant did not appear at all and was proceeded ex parte on 20.07.2026 and the Plaintiff filed I.A. 4622/2025 under Order XIII-A of the Commercial Courts Act, 2015 read with Rule 27 of the Delhi High Court Intellectual Property Rights Division Rules, 2022 seeking summary judgement.

Provisions

Section 29, and Sections 134 and 135, of the Trade Marks Act, 1999; Sections 47(1)(A) and 57 of the Trade Marks Act, 1999 (rectification of register); Order XIII-A of the Commercial Courts Act, 2015 read with Rule 27 of the Delhi High Court Intellectual Property Rights Division Rules, 2022.

Judgment

The Delhi High Court allowed I.A. No. 4622 of 2025 and passed a summary judgement in favour of the Plaintiff decreeing the suit in terms of para 38 (a) to (e) of the plaint. A permanent injunction was granted prohibiting the Defendant, its directors and all persons acting on its behalf from manufacturing, selling or otherwise dealing in products under the mark PHENSERYL, or any mark deceptively similar to PHENSEDYL. The Plaintiff abandoned the monetary reliefs claimed in paragraphs 38(f) to (h) and the Registry was directed to prepare the decree sheet.

Ratio

In the case of a coordinate bench which, following a rectification order that has not been challenged, has found that the mark in question is deceptively similar to the plaintiff's registered trademark and has at the same time cancelled the defendant's registration, that finding becomes final with regard to the related infringement action and it is not possible for the defendant to set aside a summary judgement by simply pointing to a registration which no longer exists. The

Court also stressed again that, after the decision in Cadila Health Care, the standard for determining confusion in the case of pharmaceutical marks must be more rigorous than that applied to ordinary goods, since confusing one medicine with another involves risks which go well beyond simple consumer inconvenience.

Issues Framed by the Court:

1. After the order cancelling its registration in PHENSERYL had been accepted without challenge, did the Defendant have any real chance of defending the action for infringement?
2. Did the competing trademarks PHENSERYL and PHENSEDYL, when viewed together with their respective trade dress, appear deceptively similar in a way that would cause confusion among consumers and members of the trade?
3. Did the Plaintiff's position as the previous adopter and registered owner since 1954 entitle it to obtain a decree of permanent injunction without the Court taking oral evidence, in the light of the Defendant's unparticularised claim of use from 2016?

Points to be Considered:

The Court on several occasions, mentioned the judgment dated 12.11.2024 and held that the conclusions reached therein effectively settled the issue of deceptive similarity in the present case for all practical purposes. In that judgment, it was determined that the Plaintiff had been using the mark continuously since 1995, that there was no evidence to show that the Defendant had been using it since 2016, and that the two marks were visually and phonetically similar, the dark blue background with white lettering being the most prominent feature of both labels. It was noted that the Defendant had apparently intentionally made its packaging as similar as possible to that of the Plaintiff so as to create in the mind of an ordinary buyer the impression of a trade association.

The case of Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., (2001) 5 SCC 73, was referred to in support of the view that "public interest would justify a lower standard of proof in cases involving confusing similarity" regarding medicinal products, on the grounds that "drugs are poisons, not sweets" and that confusion between them "may... be life threatening, not merely inconvenient". When this higher standard was applied, together with the fact that the goods in question were identical, the shared distribution channels, and the close visual similarity of the two labels, there was no possibility for the Defendant to achieve success even if the case went to trial.

With regard to procedure, the Court referred to its previous remarks in Su-Kam Power Systems Ltd. v. Kunwer Sachdev, 2019 SCC OnLine Del 10764, whereby it stated that Order XIII-A does not require a "fanciful" defence to be tried — only a "realistic" one. Since the Defendant's only defence had been wiped out by an order which was not challenged, obtaining evidence ex parte would amount to "an exercise in futility" and summary judgment was therefore entered.

4. **ARUN KUMAR GUPTA V. REGISTRAR OF TRADE MARKS**[15]

Citation: W.P.(C)-IPD 28/2026 and C.M. Nos. 175-176/2026

Court: Delhi High Court

Bench: Hon'ble Justice JYOTI SINGH

Keywords: Trademark, Renewal of Registration, Removal of Trademark, Form O-3, Mandatory Notice, Registered Proprietor, Restoration of Trademark

Facts

At the outset,the trademark "ODEON" was registered in the name of Petitioner's predecessor, Mr. Ram Kumar Gupta in Class 11 and renewed up to 21 December 2008. The predecessor die on 29 February 1992 and the petitioner (Son of the predecessor) files FORM TM-24 on 30 october 2001 to transfer the trademark in his name. The trademark was renwed up to 21 December 2008.The Petitioner contended that the Registrar did not issue the mandatory renewal notice in Form O-3 under Section 25(3) of the Trade Marks Act, 1999. Consequently, the renewal application was not filed and the trademark was removed from the Register. Petitioner approached the Delhi High Court seeking restoration of the trademark.

Provision: Section 25(3) of the Trade Marks Act, 1999

Judgment

Removal of the trademark without issuance of the mandatory Form O-3 notice was unjustified

[15] **ARUN KUMAR GUPTA V. REGISTRAR OF TRADE MARKS,** W.P.(C)-IPD 28/2026 and C.M. Nos. 175-176/2026

and directed restoration of the trademark "ODEON" to the Register. The Petitioner was permitted to file the renewal application along with the prescribed fees and requisite formalities.

Ratio

Issuance of notice in Form O-3 under Section 25(3) of the Trade Marks Act, 1999 is a mandatory pre-condition for removal of a trademark from the Register on account of non-renewal. Mere expiry of registration or failure to file a renewal application does not, by itself, justify removal of the trademark without compliance with the prescribed procedure.

Issues Framed by the Court

1. Whether a trademark can be removed from the Register for non-renewal without sending the mandatory renewal notice in Form O-3 to the registered proprietor?
2. Whether the Petitioner's delay in approaching the Court could prevent restoration of the trademark when the mandatory Form O-3 notice had not been issued?

Points to be considered

The Registrar must comply with the mandatory requirement of issuing Form O-3 before removing a trademark from the register. Also, a registered proprietor cannot be made to suffer the consequence of removal where reminder notice was not issued.

5. **NEW BALANCE ATHLETICS INC. v. ASTORMUELLER AG AND ORS.**[16]

Citation: CS(COMM) 962/2025

Court: Delhi High Court

Bench: Hon'ble Justice JYOTI SINGH

Keywords: Passing Off, Deceptive Similarity, Prior User, Well-known Trademark, Registered Proprietor v. Registered Proprietor.

Facts: New Balance Athletics Inc., proprietor of the N-marks used on footwear since the 1970s globally and since 1986 in India, sought an ad interim injunction against Astormueller AG and its Indian subsidiaries, who sold footwear under the brand NUBEAT using marks including the

[16] **NEW BALANCE ATHLETICS INC. v. ASTORMUELLER AG AND ORS.,** CS(COMM) 962/2025

word mark "nu:beat" and standalone logo marks "n:" and a circular "n:" device. Both parties held Indian trademark registrations for their respective marks. Defendants had used the nu:beat marks in India only since April 2024. New Balance alleged infringement and passing off, while Defendants argued the marks were dissimilar, that a registered proprietor cannot be sued for infringement by another registered proprietor, and that no monopoly could be claimed over a single letter.

Provisions: Sections 11(1), 27(2), 28(1), 28(3), 29 and 34 of the Trade Marks Act, 1999.

Judgement

The Delhi High Court allowed the injunction application in part, restraining the Defendants from using the standalone logo marks "n:" and the circular "n:" device, or any mark deceptively similar to Plaintiff's N-marks, holding that passing off was made out. The Court held that the word marks "nu:beat" and "n: nu:beat" were not deceptively similar to the N-marks and could continue to be used.

Ratio

Registration of a mark is no defence to a passing off action, since rights under Section 27(2) are independent of and override the bar in Section 28(3) on one registered proprietor suing another for infringement. Registration merely recognises pre-existing common law rights and does not create new rights, so a prior user's rights prevail over a subsequent user's registration. A single letter can acquire distinctiveness and secondary meaning through long and extensive use, entitling it to protection despite the general rule against monopoly over individual alphabets. In comparing composite marks, courts apply the anti-dissection rule but assess overall impression, and where a common dominant element is identical, an added minor element such as punctuation does not dispel deceptive similarity.

Issues Framed by the Court:

1. Whether Plaintiff can maintain an action for infringement and/or passing off against Defendant No.1, who is also a registered proprietor of the impugned marks in India.

2. Whether the rival marks, namely Plaintiff's N-marks and Defendants' nu:beat marks (including the logo marks "n:" and the circular "n:" device), are deceptively similar so as to cause confusion.
3. Whether Plaintiff can claim exclusivity over the single letter 'N', or whether the letter is common to the trade and register, disentitling Plaintiff to protection.
4. Whether Plaintiff has established the three ingredients of passing off, namely goodwill, misrepresentation and damage.
5. Whether prior use of the N-marks in India since 1986 gives Plaintiff a superior right over Defendants, who commenced use of the nu:beat marks only from April 2024.
6. Whether registration of Defendants' marks operates as a bar to grant of interim injunction in a passing off action.

Points to be Considered

The Court applied the classical trinity test of goodwill, misrepresentation and damage, and the initial interest confusion standard, holding that a consumer need only be placed in a state of "wonderment" as to association for confusion to be established. The Court found that Defendant's own explanation to the Trade Marks Registry, describing "n:" as a stylised combination of the letters 'n' and 'B', undermined its defence, since this reading brought the mark phonetically closer to Plaintiff's well-known NB mark. The Court also noted that Defendants had already given up standalone use of a plain 'n' device early in the proceedings, indicating awareness of its resemblance to the N-marks. The plea that 'N' was common to trade was rejected for lack of evidence of substantial third-party use. The Court declined to reproduce or rely on the Defendant's search report from a private platform, holding it insufficient to prove actual use by third parties. The order was expressly stated to be tentative and prima facie, with no bearing on final adjudication of the suit.

6. **Havells India Limited & Anr. v. Havai Home Products Pvt. Ltd. & Ors.**[17]

Citation: CS(COMM) 778/2024 (with I.A. 38970/2024)

Court: Delhi High Court

Bench: Hon’ble Justice JYOTI SINGH

[17] Havells India Limited & Anr. v. Havai Home Products Pvt. Ltd. & Ors., CS(COMM) 778/2024 (with I.A. 38970/2024)

Keywords: passing off, deceptive similarity, well-known mark, phonetic similarity.

Facts

The Plaintiffs are the proprietors of the trademark HAVELLS (registered since 1955) and a well-known trademark declared by the Delhi High Court. The Plaintiffs are a prominent Fast-Moving Electrical Goods (FMEG) company, with substantial sales and advertising expenditure.

Defendant no. 1 manufactures and sells similar electrical goods, and is the registered proprietor of the mark HAVAI in Class 11, along with related marks in other classes.

However, the Defendants deceived the public by using a stylized version of their registered mark in which the last letter “I” was represented to resemble the letter “L”. It appears and sounds similar to HAVAL, hence closely resembling HAVELLS. They failed to explain the deviation of their font and stylization of their registered mark. Therefore, the plaintiff sought an ad interim injunction restraining the Defendants from using the marks HAVAI and its device variants.

Provisions: Trade Marks Act, 1999: Sections 27(2), 28(3), 29, 29(8), 30(2), 34, and Section 2(1)(zg) of well-known trademarks.

Judgment

The Court upheld the plaintiff's claim of deceit using well-known HAVELLS markings, both physically and phonetically. The defendants' actual use of the mark HAVAI, which has a stylized "I" that resembles a "L". The Court determined that the Defendants caused confusion and exploited the goodwill and reputation connected with the Plaintiffs' trademarks. The interim injunction was directed to operate during the pendency of the suit.

Ratio: Even a registered proprietor may be restrained from using a trademark where the ingredients of passing off are established. Section 27(2) preserves the common-law remedy of passing off notwithstanding the statutory rights arising from registration. Common-law rights arising from prior use, goodwill, and reputation may prevail over subsequent statutory registration. Registration does not necessarily confer superiority over established prior rights. In a passing-off case, the Court may consider how a mark is utilized in the market rather than just the form in which it is registered. Deliberately changing the letter "I" to resemble an "L", therefore imitating a well-known mark, may provide significant proof of dishonest intent and support the award of injunctive relief.

Issues Framed by the Court

1. Whether the deceptive similarity between the Plaintiffs' HAVELLS marks and the impugned marks HAVAI, including their goods as they are actually used by the Defendants.
2. Whether a registered proprietor, specifically Defendant No. 1, can be restrained in a passing-off action despite having a valid trademark registration.
3. Whether the Plaintiffs showed a prima facie case, a balance of convenience, and possibility of irreparable harm that justified the issuance of a temporary injunction.

Points Considered by the Court

Registration of a trademark is not a defence to an action for passing off, as passing off is a common-law remedy independent of statutory registration. In case of registered proprietors conflict, the Court may examine their respective common-law rights, including prior use and goodwill, to determine the superior right. Trademarks must be compared as a whole in accordance with the anti-dissection principle; however, their overall visual and phonetic impressions are relevant in determining deceptive similarity. The relevant class of consumers may not exercise a high degree of discernment and may be susceptible to confusion arising from imperfect recollection. The identity or similarity of the goods further increased the likelihood of confusion. The "initial interest confusion" test is relevant to both trademark infringement and passing-off actions.

7. **Ashiana Ispat Limited vs. Kamdhenu Limited & Ors.**[18]

Citation: FAO(OS) (COMM) 120/2026 with CM APPL. 27051/2026

Court: Delhi High Court

Bench: Hon'ble Justice V. KAMESWAR RAO and Hon'ble Justice MANMEET PRITAM SINGH ARORA

[18] **Ashiana Ispat Limited vs. Kamdhenu Limited & Ors.** FAO(OS) (COMM) 120/2026 with CM APPL. 27051/2026

Keywords: Assignment, novation of contract, interlocutory injunction, discretionary order.

Facts:

Ashiana Ispat (Appellant) and Kamdhenu Limited (Respondent) were originally one joint family business that split in 2002.

In 1997, Kamdhenu Limited (KL) let Ashiana use the "KAMDHENU" mark as a licensee. Ashiana could adopt and use a new mark called "AL KAMDHENU GOLD". Ashiana applied to register "AL KAMDHENU GOLD" in 2002, but let the application go abandoned in 2008; for 16 years. Meanwhile, KL never withdrew its own application and got "KAMDHENU GOLD" and "KAMDHENU GOLD TMT" registered in its own name (2003 and 2005).

In 2021, the parties signed a new agreement about the KAMDHENU/KAMDHENU NXT marks for updated products. In 2024, KL terminated the previous agreement, alleging Ashiana wasn't performing. Ashiana then suddenly filed a fresh application for "AL KAMDHENU GOLD" in December 2024 and started actually using the mark on goods only from 2025 onward after the fallout. Both parties sued each other; each sought an injunction against the other's use of marks. The bench dismissed Ashiana's injunction request and granted KL's.

Provisions:

Sections 11(4), 27(2), 28(3), 29, 48(2) Trade Marks Act, 1999

Judgment:

The Division Bench largely upheld that Ashiana never registered "AL KAMDHENU GOLD" . It never used the mark for decades. So, it has no rights over it. The injunction against Ashiana stands based on KL's registered marks "KAMDHENU GOLD TMT" and "KAMDHENU." KL had promised to withdraw its own trademark applications, and it didn't. While it never used KAMDHENU GOLD" until 2025, shortly after the issue erupted, the Court also restrained KL while the case was pending. Ashiana can still sell steel under its own name, "ASHIANA." All of these conclusions are transient. They will not affect the final trial decision, and the appeal was dismissed. Both sides faced restrictions.

Ratio:

A mere contractual promise to let someone "adopt and use" a mark is not the same as transferring ownership. It requires a registration laid out in the contract. Non-use of a mark for decades defeats a claim to common-law. A party cannot benefit from its own inaction. Hence, suddenly asserting rights right after a business dispute will not be viewed favourably by courts. If a party has never used the registered mark and employs it as a legal weapon in bad faith rather than a genuine business identity. The court can stop you from using it. Appellate courts give strong deference to trial courts' discretionary injunction orders, only interfering where discretion was exercised unreasonably or against settled principles.

Issues Framed by the Court:

1. Whether the 2002 Agreement (Clause 22 onwards) gave Ashiana proprietary/ownership rights in "AL KAMDHENU GOLD," or only a conditional license.
2. Whether the 2002 Agreement was novated (replaced) by the 2021 Agreement.
3. Whether Ashiana acquired any statutory or common-law (goodwill-based) rights in "AL KAMDHENU GOLD" through use between 2002–2024.
4. Whether KL's registrations of "KAMDHENU GOLD" and "KAMDHENU GOLD TMT" (obtained in breach of its 2002 promise to withdraw) should still be protected by injunction.

Points to be Considered:

Ownership under Clause 22–24 of the 2002 Agreement was conditional on registration; mere permission to "adopt and use" was not the same as an assignment of ownership.

Ashiana never got the mark registered (it let its 2002 application lapse in 2008) and showed no evidence of actual use of "AL KAMDHENU GOLD" on goods from 2002–2024 only mentions in corporate/statutory filings, which don't count as trademark use to build goodwill.

Ashiana only began actually selling goods under the mark in 2025 right after the relationship broke down undermining its claim of long-standing rights.

KL breached its own promise and never withdrew the mark. This breach was overlooked by Ashiana, since it later signed the 2021 Agreement referencing KL's registration without objection. Appellate courts (per Wander Ltd. v. Antox India) should not interfere with a trial court's discretionary injunction order unless it was arbitrary, capricious, or against settled legal principles.

8. SUN PHARMA LABORATORIES LTD. v. FINECURE PHARMACEUTICALS LTD. & ORS[19]

Citation: FAO(OS) (COMM) 200/2023, CM APPL. 47338-47340/2023

Court: Delhi High Court

Bench: V. KAMESWAR RAO, J. AND MANMEET PRITAM SINGH ARORA, J.

Keywords

Trademark, Pharmaceutical Trademarks, PANTOCID, PANTOPACID, Deceptive Similarity, Trademark Infringement, Registered Trademark, Delay, Interim Injunction, Public Interest

Facts

Sun Pharma Laboratories Ltd. (Appellant) had the registered trademark "PANTOCID" and had been using it since 1999. Finecure Pharmaceuticals Ltd. (Respondents) claimed use of the "PANTOPACID" mark since 2007. Both the marks were used for a drug containing the same active ingredient, Pantoprazole. The trademark application was filed in 1998 and Sun Pharma claimed use of the mark since 1999.Sun Pharma filed a suit alleging that "PANTOPACID" was deceptively similar to its registered trademark "PANTOCID" and sought an interim injunction against its use.The respondent raised the issue of delay in filing the suit by the appellant.The Single Judge found the marks "PANTOCID" and "PANTOPACID" to be similar and held that there was prima facie infringement.However, the interim injunction was refused due to delay in approaching the Court (in 2023) and non-disclosure of certain earlier proceedings/correspondence.Sun Pharma appealed against the refusal of the injunction.

Provision

Sections 11(1)(a), 28, 29(2)(b), 31(1) and 124 of the Trade Marks Act, 1999

Judgment

The Division Bench held that "PANTOPACID" was deceptively similar to "PANTOCID" and prima facie infringed Sun Pharma's registered trademark.The Court set aside the findings

[19] **SUN PHARMA LABORATORIES LTD. v. FINECURE PHARMACEUTICALS LTD. & ORS.** FAO(OS) (COMM) 200/2023, CM APPL. 47338-47340/2023

relating to the challenge to Sun Pharma's registration, suppression of facts, prior use and balance of convenience.The Respondents were restrained from manufacturing, selling or dealing in medicines under "PANTOPACID", "PANTOPACID D", "PANTOPACID SR".

Ratio

Mere delay in approaching the Court is not, by itself, sufficient to refuse an injunction, particularly in pharmaceutical filed where confusion between similar marks may also affect public interest.

Issues Framed by the Court

1. Whether the use of "PANTOPACID" for the same type of medicine caused confusion with the registered trademark "PANTOCID"?
2. Whether Sun Pharma's trademark registration could be questioned at the interim stage based on an earlier registration of the same mark by another company, when that earlier registration had already been removed.
3. Whether the delay in approaching the Court could be a reason to refuse an injunction despite finding trademark infringement?

Points to be considered

A stricter approach is required while comparing trademarks used for pharmaceutical products, as confusion between similar medicine names may have consequences beyond ordinary consumer confusion.

Delay in taking action may not defeat an injunction against infringement, though it may affect the claim for damages.

9. TV TODAY NETWORK V. SAURASHTRA AAJ TAK & ANR.[20]

Citation: RFA 320/2012 & CM APPL. 80300/2025

Court: Delhi High Court

Bench: Hon'ble Justice MINI PUSHKARNA

[20] **TV TODAY NETWORK V. SAURASHTRA AAJ TAK & ANR.,** RFA 320/2012 & CM APPL. 80300/2025

Keywords

Trademark, Passing Off, AajTak, Saurashtra AajTak, Deceptive Similarity, Goodwill, Misrepresentation, Likelihood of Confusion, Prior User, Well-Known Trademark, Disclaimer, Class 38, Class 41

Facts

TV Today Network (Appellant) had been using the mark "AajTak" in relation to news services since 1995 and had built goodwill around the mark.In 2002, the TV Today Network came to know that the Respondent was publishing a Gujarati newspaper under the name "Saurashtra AajTak" in the Saurashtra region of Gujarat.The Appellant objected to use of "AajTak" and filed a suit in 2003 seeking to restrain the Respondent from using the name "Saurashtra AajTak".The Trial Court accepted that the use of "AajTak" created confusion that the "Saurashtra AajTak" was associated with "AajTak".However, the Trial Court did not completely restrain the Respondent from using the name and allowed it to use with a disclaimer stating that " 'Saurashtra AajTak'has no connection or association with 'AajTak' of T.V. Today Network".TV Today appealed in the High Court against the decision of merely adding a disclaimer and stated the decision was not sufficient to recover the caused confusion and possible damage to its goodwill.The trademark of the appellant was a Well known trademark and was conveyed the same to the court on May 2, 2025.

Provision: Sections 27, 28 and 34 of the Trade Marks Act, 1999

Judgment

The High Court accepted the appeal and set aside the Trial Court's direction of continued use of mark with the disclaimer by the Respondent. The Court held that the Trial Court was not justified in allowing continued use of "Saurashtra AajTak" merely with a disclaimer.The court stated that use of "Saurashtra AajTak" was deceptively similar to the "AajTak".Therefore, the Respondent was permanently restrained from using the name "Saurashtra AajTak" and was directed to adopt a name that was not similar or deceptively similar to "AajTak".

Ratio

In a passing-off action, the focus is on protecting the goodwill of the earlier user (the appellant) from a later use that is likely to create confusion or an impression of association. Actual confusion/loss need not always be proved but, likelihood of confusion and possible damage to goodwill may be sufficient.

Issues Framed by the Court

1. Whether allowing continued use of deceptively similar Mark with a disclaimer was sufficient once the damage and confusion to goodwill of the Appellant had been established?

Points to be considered

A disclaimer may not be enough to cure the deceptive use of a similar mark. Actual confusion or actual financial loss does not necessarily have to be proved in a passing-off case. A likelihood of confusion and resulting harm to goodwill can be enough.

10. AMRIT SINGH MEHTA TRADING AS MEHTA COSMETICS V. CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADE MARKS[21]

Citation: W.P.(C)-IPD 5/2026

Court: Delhi High Court

Bench: Hon'ble Justice JYOTI SINGH

Keywords: Trademark, Renewal, Removal of Trademark, Registration Certificate, Form O-2/Form O-3, Restoration of Trademark, Delayed Registration Class 03, writ petition, under Article 226of the Constitution of India

Provision: Section 25(3) of the Trade Marks Act, 1999; Rule 64(3) of the Trade Marks Rules, 2002

Facts

The mark "BLUE CHIPS" was registered under class 03 on August 3, 2005 which was filed by the petitioner (Amrit Singh) on July 21, 1992.The petitioner claimed that he did not receive the

[21] **AMRIT SINGH MEHTA TRADING AS MEHTA COSMETICS V. CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADE MARKS,** W.P.(C)-IPD 5/2026

registration certificate and hence, was unaware that renewal is required.Trademark was removed from the trademark register due to non-renewal and was considered as expired.The Petitioner, through RTI, sought details regarding dispatch of the registration certificate and renewal notice.The Trade Marks Registry was unable to establish that the registration certificate or the mandatory renewal notice in Form O-2/O-3 had been sent.A writ petition was filed by the petitioner under Article 226 of the Constitution of India to direct the respondent for the restoration of the mark.

Judgment

The Court found the violation of section 25(3) of Trademark Act, 1999 and held that the Petitioner could not be blamed for failure to renew the trademark when he had neither received the registration certificate nor the mandatory renewal notice.The Court directed restoration of the trademark “BLUE CHIP” and permitted the Petitioner to file the renewal application with the prescribed fees and formalities.

Ratio

Where a trademark is registered after its normal renewal date, the proprietor is entitled to a six-month period from the actual date of registration to seek renewal. Further, a trademark cannot be removed for non-renewal without first issuing the mandatory notice (Form O2/O3) as prescribed under Section 25(3).

Issues Framed by the Court

1. Whether the Petitioner could be held responsible for not renewing the trademark when the registration certificate had not been received?
2. Whether the trademark could be removed from the Register without sending the mandatory renewal notice in Form O-2/O-3.
3. Whether the Petitioner was entitled to the six-month renewal period available when registration is granted after the normal renewal date?

Points to be considered

A proprietor should not lose trademark rights because of failure on the part of the Registry to communicate the registration or issue the mandatory renewal notice. Procedural requirements relating to renewal and removal must be followed before a trademark is removed from the Register.

11. ADS Spirits Pvt. Ltd. v. The Registrar of Trade Marks[22]

Citation: C.A.(COMM.IPD-TM) 8/2026 and I.A. 3697/2026
Court: Delhi High Court
Bench: Hon'ble Justice JYOTI SINGH

Keywords: Trade Marks Distinctiveness, Arbitrary Mark

Facts:
The Appellant, ADS Spirits Pvt. Ltd., a company incorporated in 2010 and part of a large liquor conglomerate, filed Trade Mark Application No. 5514779 on 03.07.2022 seeking registration of the mark "OFFER" in Class 33 for alcoholic beverages (except beers) and alcoholic preparations for making beverages, on a 'proposed to be used' basis.

The Respondent, the Registrar of Trade Marks, issued an Examination Report dated 18.11.2022 objecting under Section 9(1)(a) of the Trade Marks Act, 1999, describing the mark in a standard pre-drafted format as a common surname/personal name/geographical name/ornamental mark or a non-distinctive geometrical figure. Despite the Appellant's reply and additional reply citing case law and a list of 31 registered marks incorporating the word OFFER with prefixes/suffixes, the Respondent passed the impugned order dated 30.10.2025 refusing registration on the sole ground that the word OFFER is commonly used while demanding a discount and is devoid of 'uniqueness'.
Aggrieved, the Appellant filed the present statutory appeal before the Delhi High Court, challenging the impugned order as illegal, perverse, non-speaking and reflecting non-application of mind.

Provisions: Section 9(1)(a) of the Trade Marks Act, 1999.

[22] **ADS Spirits Pvt. Ltd. v. The Registrar of Trade Marks,** C.A.(COMM.IPD-TM) 8/2026 and I.A. 3697/2026

Judgment:

The Delhi High Court allowed the appeal and quashed the order dated 30.10.2025. The Court held that the Respondent had applied a wrong and legally unrecognised test of 'uniqueness' instead of assessing 'distinctive character' as required under Section 9(1)(a), and had also failed to consider the Appellant's submissions, documents and cited judgments, rendering the order non-speaking and unreasoned. The matter was remanded to the Respondent for fresh consideration of the application within four months, after granting a hearing to the Appellant, with the Court expressing no opinion on the merits.

Ratio:

Section 9(1)(a) of the Trade Marks Act, 1999 proscribes registration only where a mark is devoid of distinctive character, i.e., incapable of distinguishing the goods or services of one person from those of another; it does not require the mark to be 'unique' or novel. Further, being a quasi-judicial authority, the Registrar of Trade Marks is obligated to consider all material, submissions and precedents placed on record and to pass a reasoned, speaking order; failure to do so independently vitiates the order.

Issues Framed by the Court

1. Did the Registrar apply the correct legal test under Section 9(1)(a) while refusing to register the Trade Mark or did it wrongly reject the mark for not being "unique"?
2. Is the word "OFFER" incapable of identifying ADS Spirits' alcoholic beverages as coming from one particular company, or can it still function as a distinctive brand name in that context?
3. Did the Registrar's order properly consider the Appellant's submissions, evidence, and cited case law, or was it a non-speaking, unreasoned order?

Points to be Considered:

The core question was simple: did the Registrar correctly apply the law when rejecting "OFFER," and did it explain its reasoning properly?

ADS Spirits argued the rejection letter was just a generic checklist without a clear basis, and that the Registrar ignored their evidence. They cited Abu Dhabi Global Market v. Registrar of Trademarks to argue that a word can't be called non-distinctive without proof someone else is using something similar, and cited Oswaal Books and Learnings Private Limited v. Registrar of Trade Marks to show that even an everyday phrase ("ONE FOR ALL") can be trademarked if it has no natural connection to the product.

The respondent defended the rejection as adequately reasoned and cited Venus Worldwide Entertainment v. Popular Entertainment Network (where "KHILADI" was refused for being used in dozens of films), IHHR Hospitality Pvt. Ltd. v. Bestech India Pvt. Ltd. (where "ANANDA" was refused for being too closely tied to peace/relaxation), and the Supreme Court ruling in Pernod Ricard India Private Limited v. Karanveer Singh Chhabra — a dispute between the whisky brands Blenders Pride and London Pride — where "PRIDE" was held too common across liquor brands to be monopolized.

The Court rejected these comparisons, clarifying that "offer" isn't synonymous with "discount" and is rarely used alone to mean one. It cited Mohd. Rafiq & Others v. Modi Sugar Mills Ltd. the case allowing "SUN" as a trademark for lanterns.
The court cancelled the order, and sent the application back for fresh consideration/ examination under the right standard.

12. INDUSTRIA DE DISENO TEXTIL, S.A. v. REGISTRAR OF TRADE MARKS & ANR.[23]

Citation: C.A.(COMM.IPD-TM) 52/2024, I.A. 33885/2024
Court: Delhi High Court
Bench: Hon'ble Justice JYOTI SINGH

Keywords: Deceptive Similarity, Anti-Dissection Rule, Well-Known Trademark, Trademark Dilution, Section 11(2), Phonetic Similarity.

Facts: The Appellant, Industria de Diseno Textil, S.A. (Inditex), which owns the globally recognized ZARA mark, opposed the registration of ZORA. This application was filed by Respondent No.2, a Sadar Bazar trader known as Aggarwal Bag House, for plain, coated,

[23] INDUSTRIA DE DISENO TEXTIL, S.A. v. REGISTRAR OF TRADE MARKS & ANR. C.A.(COMM.IPD-TM) 52/2024, I.A. 33885/2024

laminated, and waterproof fabrics in Class 24. Respondent No.2 claimed to have used ZORA since June 3, 2016. In contrast, ZARA has been used in India since 1986-87 through contract manufacturers and has been registered in Class 24 since 2003. The Registrar dismissed the opposition on February 8, 2024. They concluded that the marks did not sound or look similar. They cited the different prefixes ‘ZA’ and ‘ZO’ and stated that the businesses of a high-end retailer and a small wholesale fabric supplier could never overlap. The Appellant challenged this decision under Section 91 of the 1999 Act.

Provisions: Sections 11(1), 11(2), 11(7), 11(5), 11(6), 2(1)(zg) and 91 of the Trade Marks Act, 1999; Rule 43 of the Trade Marks Rules, 2017.

Judgment: The Delhi High Court allowed the appeal. It reversed the Registrar’s order from February 8, 2024, and cancelled the registration of ZORA (No. 4310686) in Class 24. The Court directed the Registrar to correct the Register within two months.

Ratio: Section 11(2) does not require an earlier mark to have a formal declaration of well-known status before its owner can oppose a later mark. The provision only requires that the mark is well known. The term ‘entitled’ in Explanation (b) simply means that the opponent must prove, with evidence that meets Section 11(6), that it qualifies for protection. Once a mark meets this threshold, it can oppose a registration of a deceptively similar mark even for different goods. The inquiry under Section 11(2) does not concern consumer confusion; it focuses on whether the later mark unfairly benefits from or weakens the earlier mark’s distinctive character. Regarding the marks, the Court stated that breaking ZARA and ZORA into their syllables and comparing ‘ZA’ with ‘ZO’ violates the established anti-dissection rule. Rival marks must be assessed as a whole. Viewed this way, both marks have four letters and share the same Z-R-A structure, differing only in the middle vowel. This difference is insignificant for an average consumer with normal memory. The Court found that evidence of actual confusion, relevant under Section 11(1), was not significant for a dilution claim under Section 11(2).

“The only difference in the two marks is the vowel ‘O’, which is an insignificant distinction”.

Issues Framed by the Court:

1. Whether ZARA is entitled to protection as a well-known trademark under Section 11(2) without a prior formal declaration by a court or the Registrar.
2. Whether the marks ZARA and ZORA are deceptively similar when considered as a whole, rather than by dissecting their syllables.
3. Whether differences in goods and trade channels undermine an opposition once the earlier mark is recognized as well known under Section 11(2).
4. Whether Respondent No.2's use of ZORA in 2016, six years after ZARA's Indian stores opened, was honest.

Points to be considered: The Court noted that the Registrar's order did not address Section 11(2) or ZARA's well-known status, despite thorough submissions on the topic. It dismissed the opposition based on the mark's perceived dissimilarity, treating the matter of goods as irrelevant. This reasoning was flawed. Explanation (b) in Section 11 defines an earlier mark as one entitled to protection as a well-known mark. The term 'entitle', according to Black's Law Dictionary, means to grant a legal right or qualify for protection—not to be formally declared. The Court pointed out that interpreting it differently would make Section 11(5) and Rule 43 of the 2017 Rules meaningless. The evidence strongly supported ZARA's case: its use in India since 1986-87, its registration in Class 24 since 2003, over 6,400 stores in 95 markets, and the Court's 2015 ruling in Industria de Diseno v. Oriental Cuisines that recognized ZARA's transborder reputation by 2003, well before Respondent No.2 claimed to have adopted ZORA in 2016. On similarity, the Court reviewed past cases involving vowel changes, such as Essco Sanitations (ESSCO/OSSO), Ajanta Pharma (OLPET/OLOPAT), and Sulphur Mills (FORTIS/FERTIS). It observed that changing one vowel within an otherwise identical consonant structure rarely avoids deceptive similarity. An average consumer does not remember tiny details of a mark seen previously at a different counter. Thus, the Registrar's finding that ZARA and ZORA could never appear together at the same counter was irrelevant. Respondent No.2's actions did not support its argument. Its explanation for the name ZORA changed between its counter-statement, where it claimed the name meant 'baby' in Hindi, and its written submissions, where it referenced 'dawn' in English. Additionally, its revenue increased from about Rs. 2.45 crore in 2016-17 to Rs. 31.34 crore by 2023 after adopting the mark. The Court saw this growth as supporting, though not formally determining, the Appellant's accusation that ZORA was adopted in bad faith to benefit from ZARA's reputation.

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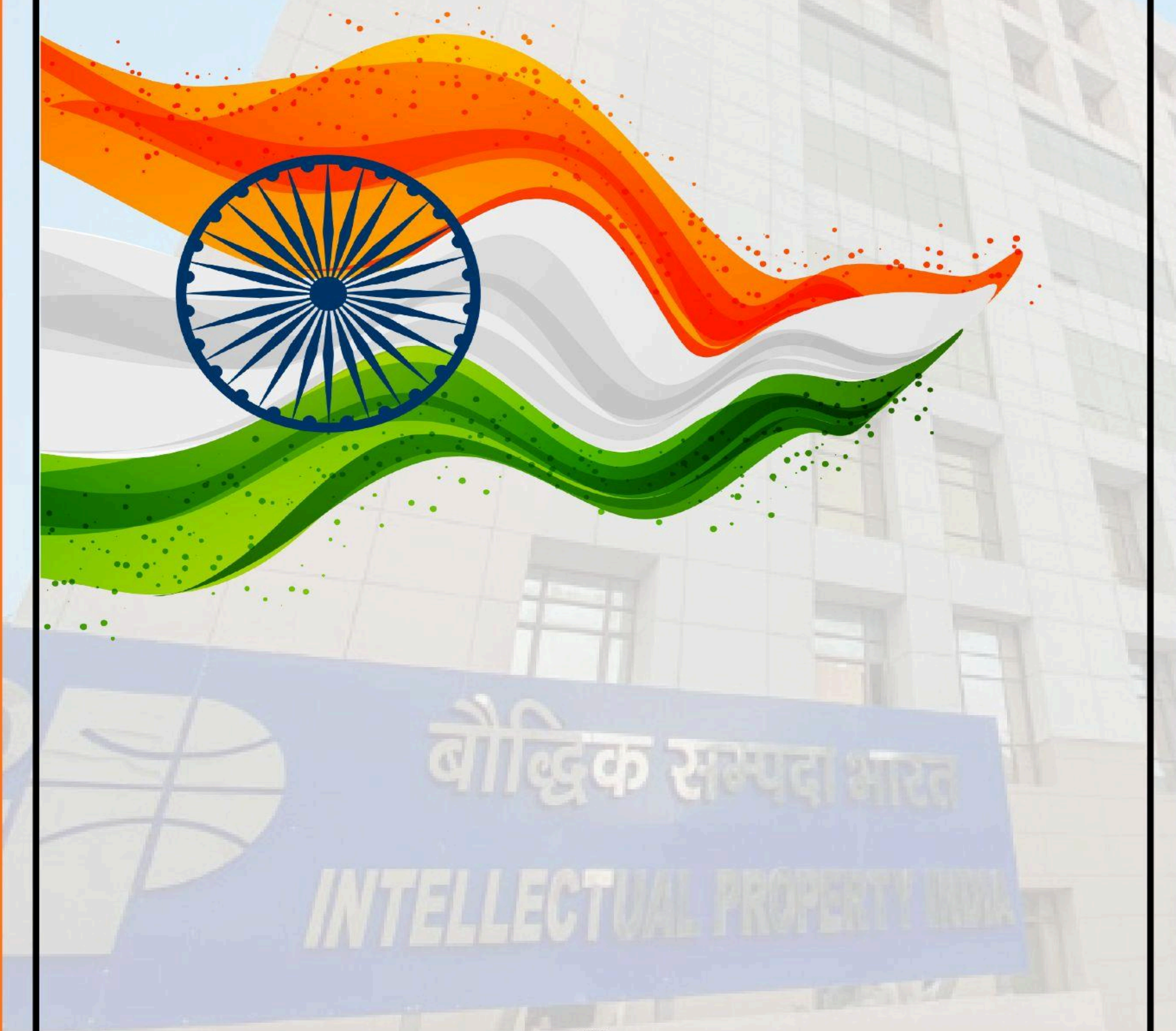
आनो भद्राः क्रतवो यन्तु विश्वतः

- ऋग्वेद – 1.89.1

Let noble thoughts come to us from all directions.

- Rig Veda 1.89.1



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