



THE IP ODYSSEY

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TRADEMARK TAPESTRY

DELHI HIGH COURT RESTRAINS FRANCHISEBYTE FROM UNAUTHORIZED USE OF "WOW! MOMO" TRADEMARK

The Delhi High Court has ordered franchise consultant website FranchiseByte to cease using the "WOW! MOMO" trademark, instructing the removal of all related content from its website and YouTube channel. Justice C Hari Shankar, in an October 20 ruling, noted that FranchiseByte's unauthorized use of the trademark not only constituted trademark infringement but also amounted to fraud. The lawsuit, filed by Wow Momo through Khaitan & Co, alleged that FranchiseByte deceitfully enticed individuals to apply for Wow Momo franchises that were never actually offered. The court also directed FranchiseByte to disclose information regarding purported franchises and earnings from such activities. The case is scheduled for further proceedings on February 6, 2024.

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DELHI HIGH COURT GRANTS PERMANENT INJUNCTION IN 'DREAMZ11' TRADEMARK DISPUTE

In a recent case, Delhi High Court Judge C. Hari Shankar granted a permanent injunction to the plaintiffs, prohibiting the defendants from using the mark 'dreamz11' or any similar variant in trade, domain names, emails, or any other manner. The court also restrained Defendant 1 and 2 from using the domain 'dreamz11.com' and operating the corresponding website. The dispute arose from the similarity between the plaintiffs' registered trademark 'Dream 11' and the defendants' website 'dreamz11.com'. The court found significant resemblances in website layout, access to fantasy games, and even Facebook posts. This led to a clear case of trademark infringement under Section 29(2)(b) of the Trade Marks Act, 1999, and passing off. Defendants' failure to respond further strengthened the plaintiffs' case. The court's ruling stands as a decree of permanent injunction.

Case Name: Sporta Technologies Pvt. Ltd. v. Dreamz11
Citation: (CS(COMM) 44/2023)

JUDGEMENT

'DELHI HIGH COURT GRANTS INJUNCTION IN PRESTIGE VS. PARISTONE PRESSURE COOKER DISPUTE

In a case involving alleged design piracy, trademark infringement, and passing off, Justice C. Hari Shankar granted a crucial injunction favouring the plaintiff, Prestige, against the defendants producing pressure cookers under the name "PARISTONE." The court found that the trade dress of Paristone closely mimicked Prestige's, with identical white lettering on pink background and a black swirl. This visual similarity, combined with identical packaging, posed a significant risk of consumer confusion. The court determined that the defendants had imitated Prestige's mark, affirming a case of passing off. Consequently, the defendants were restrained from manufacturing, selling, or advertising pressure cookers with the contested design. However, they were not restricted from using the "PARISTONE" mark in a dissimilar trade dress.

Case Name: TTK Prestige Ltd v. Arjun Ram & Anr.
Citation: (CS(COMM)915/2022)

JUDGEMENT

DELHI HIGH COURT RESTRAINS USE OF 'OYKAA' MARK IN TRADEMARK INFRINGEMENT SUIT BY 'NYKAA'

In the case of FSN E-Commerce Ventures Ltd. and Nykaa E-Retail Pvt. Ltd. versus Pintu Kumar Yadav and Cosmetify, the Delhi High Court granted an ex-parte ad-interim injunction in favor of the plaintiffs. The defendants were accused of adopting the mark 'OYKAA' for cosmetic and wellness products, closely resembling the plaintiffs' established mark 'NYKAA'. The Court noted the striking similarities between the marks, websites, and terms of service, concluding that the defendants aimed to exploit the plaintiffs' reputation. Given the potential harm to both the plaintiffs' business and misled customers, the Court ordered an immediate cessation of the defendants' use of the mark 'OYKAA' and related logos for specified goods. Additionally, the defendants' website was directed to be suspended by the Domain Name Registrar.

Case Name: FSN E-Commerce Ventures Ltd v. Pintu Kumar Yadav
Citation: (CS(COMM) 726/2023)

JUDGEMENT

DELHI HIGH COURT CLARIFIES LIMITATIONS OF SECTIONS 11(1) AND 11(2) IN TRADEMARK CASE

In the case of *Kia Wang v. The Registrar of Trademarks*, the Delhi High Court emphasized that Sections 11(1) and 11(2) of the Trademarks Act are not applicable when the mark in question is not an "earlier trade mark." The petitioner, the founder of ROCKPAPA, sought to rectify the Register of Trade Marks against the registration of a similar mark by Respondent No. 2. The Court ruled in favor of the petitioner, stating that the contested mark did not qualify as an "earlier trademark" and highlighted the importance of prior use and bad faith in trademark disputes, ultimately ordering the removal of the contested mark from the Register to maintain its integrity.

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DELHI HIGH COURT BARS FLAVOURED TEA BRAND FROM IMITATING CHAAYOS' PACKAGING

In the case of *Sunshine Teahouse Pvt Ltd v. Grey Mantra Solutions*, the Delhi High Court, led by Justice Prathiba M Singh, has prohibited the flavoured tea brand 'Teacurry' and 'Just Vedic' from producing new products with packaging resembling the tea café 'Chaayos'. The court ordered the tea manufacturer to disclose inventory details and values for products already made in Chaayos' packaging. Additionally, the court mandated the removal of Teacurry and Just Vedic listings from Amazon due to their striking similarity to Chaayos' packaging. The court stressed that such imitation could lead to customer confusion, highlighting the significance of accurate listings in online marketing. Further proceedings are scheduled for January 29, 2024.

Case Name: Sunshine Teahouse (P) Ltd. v. Grey Mantra Solutions
Citation: CS(COMM) 757/2023)

JUDGEMENT

DELHI HIGH COURT GRANTS PERMANENT INJUNCTION IN FAVOUR OF HIMALAYA WELLNESS COMPANY FOR ITS 'LIV.52' TRADEMARK

In a case where Himalaya Wellness Company sought a permanent injunction, Justice C. Hari Shankar granted the injunction, barring the defendants from using marks like 'LIV.55', 'LIV 55', or 'LIV.999' that were deceptively similar to the plaintiff's 'LIV.52' product. The Court noted the extensive reputation and goodwill associated with the 'LIV.52' mark, emphasizing its use in ayurvedic preparations available over the counter. The defendants' use of 'LIV 55 DS' with a deceptively similar trade dress led to consumer confusion. The court concluded that the defendants had consciously copied the plaintiff's trade dress, justifying the grant of a permanent injunction.

Case Name: Himalaya Wellness Company v. Abony Healthcare Ltd
Citation: (CS(COMM) 476/2021)

JUDGEMENT

DELHI HIGH COURT ADDRESSES JURISDICTIONAL ISSUE IN VIMAL AGRO'S BID TO CANCEL 'SCHEZWAN CHUTNEY' TRADEMARK

In the case of *Vimal Agro Products P. Ltd. v. Capital Foods P. Ltd.*, the Delhi High Court is scrutinizing a rectification petition by Vimal Agro Products seeking the cancellation of Capital Foods' registered trademark, "SCHEZWAN CHUTNEY." Vimal Agro argues that the mark is generic and descriptive. The court, headed by Justice Pratibha Singh, has deferred a stay on the registered trademark, prioritizing the jurisdictional contention. The dispute raises questions about the applicability of Section 9 of the Trade Marks Act, 1999, which outlines grounds for refusal of registration based on distinctive character, generic nature, and other factors.

Case Name: Vimal Agro Products P. Ltd. V. Capital Foods P. Ltd.
Citation: C.O. (COMM.IPD-TM) 227/2023)

JUDGEMENT

DELHI HIGH COURT RESTRAINS CAPITAL TV FROM USING TV TODAY'S PROGRAM MARKS FOR NEWS SHOWS

In a case where Capital TV produced programs with names identical to TV Today Network Ltd.'s, the Delhi High Court, under Justice Prathiba M. Singh, granted a restraining order. The court prohibited Capital TV from using logos/marks such as "TO THE POINT," "HALLA BOL," "SPECIAL REPORT," "BLACK & WHITE," "KISMAT CONNECTION," or any deceptively similar marks for news/current affairs programs. While acknowledging that individual words might be common, the court emphasized protecting combination marks with secondary significance. The decision aimed to prevent passing off and trademark infringement, considering the popularity of plaintiff's TV channels. Defendant 1 was directed to take down all related online content, ensuring differentiation from the plaintiff's programs.

Case Name: TV Today Network Ltd. v. Capital TV
Citation: (CS(COMM) 727/2023)

JUDGEMENT

DELHI HIGH COURT GRANTS EX-PARTE INJUNCTION IN PHARMACEUTICAL TRADEMARK DISPUTE, CITING LOW TOLERANCE FOR CONSUMER CONFUSION

In the case of Glaxo Group Limited v. Precado Healthcare Private Limited, the Delhi High Court, presided over by Justice Prathiba M Singh, granted an ex-parte injunction in favour of Glaxo. The suit aimed to protect the packaging and trade dress of Glaxo's pharmaceutical product 'Augmentin.' Precado Healthcare, based in Mumbai, faced allegations of imitating Glaxo's packaging with its product 'Amoxyduo 625,' manufactured by GG Nutrition in Himachal Pradesh. The court restrained defendants from manufacturing or selling pharmaceutical preparations resembling Glaxo's 'AUGMENTIN' packaging. While allowing the use of the 'AMOXIDUO' mark, the court emphasized avoiding confusion, considering the near identity in packaging, especially in rural and urban areas.

Case Name: Glaxo Group Limited. v. Precado Healthcare Private Limited
Citation: (CS(COMM) 706/2023)

JUDGEMENT

DELHI HIGH COURT REJECTS TATA'S DISPARAGEMENT SUIT AGAINST PURO'S HEALTHY SALT COMMERCIAL

In a recent ruling, the Delhi High Court dismissed Tata's disparagement suit against Puro Wellness over an advertisement for "Puro Healthy Salt." The court found that Puro's commercial, emphasizing the natural qualities of its salt, did not disparage white salt, including Tata's product. The judge highlighted that Tata itself had used similar claims for its Himalayan Pink Salt. The court ruled that Puro's ad fell within the permissible boundaries of comparative advertising, and Tata failed to establish a prima facie case for injunctive relief. The decision emphasized the importance of truthful comparative advertising and rejected Tata's claim based on Food Safety Regulations.

Case Name: Tata Sons (P) Ltd. v. Puro Wellness (P) Ltd.
Citation: (CS(OS) 582/2023)

JUDGEMENT

DELHI HIGH COURT RESTRAINS DOMINICK PIZZA FROM USING DOMINO'S REGISTERED TRADE MARKS

The Delhi High Court, in a case between Dominos and Dominick Pizza, emphasized heightened caution in food-related trademark conflicts. Justice C. Hari Shankar noted that using deceptively similar marks in the food industry may compromise quality and exploit established brands. Dominos IP Holder LLC prevailed, with the court granting a permanent injunction against Dominick Pizza for its marks resembling "Domino's." The decision aimed to prevent customer confusion and maintain the distinctiveness of well-established food brands. Dominos IP Holder LLC highlighted its global recognition and operations, while Dominick Pizza's attempts to register similar marks were rejected. The court directed domain transfers and imposed a substantial cost on Dominick Pizza.

Case Name: Dominos IP Holder LLC & Anr. v. MS Dominick Pizza & Anr.
Citation: (2023:DHC:7126)

JUDGEMENT

DELHI HIGH COURT GRANTS PERMANENT INJUNCTION TO MODICARE LIMITED FOR 'WELL' TRADEMARK

In a case heard by Justice Prathiba M. Singh, the Delhi High Court granted a permanent injunction to Modicare Limited, restraining defendants from manufacturing, selling, or offering for sale any cosmetics, wellness, or nutraceutical products under marks similar to 'WELL'. The Court emphasized the need for higher standards in cases involving pharmaceutical, cosmetics, and health-related wellness products, considering potential harm to consumers. Modicare Limited, a prominent FMCG conglomerate, asserted its rights over the 'WELL' mark, adopted in 2004. The Court noted that the defendants' products, bearing names such as 'WELL INTELLECTE' and 'WELL D-TOX', were identical to those of the plaintiff. The judgment further directed the removal of infringing products from online platforms. The plaintiff was also granted costs.

Case Name: Modicare Ltd. v. Maa Adishakti Multi Trade Enterprises

Citation: (CS(COMM) 532/2019)

JUDGEMENT

COPYRIGHT CORNER

KERALA HIGH COURT QUASHES KANTARA MOVIE COPYRIGHT CASE

The Kerala High Court has quashed criminal proceedings against the makers of the movie 'Kantara' over copyright infringement allegations related to the song 'Varaharoopam.' An FIR had been filed in 2022, claiming that the song plagiarized 'Navarasam' by Thykkudam Bridge Band. The court accepted the settlement between the parties, deeming the dispute private. Last year, the court dismissed pleas challenging injunction orders against using the song. The temporary injunctions had restrained the movie's producers from exhibiting or distributing the song. With the settlement, the court now concludes the matter, alleviating the accused filmmakers from criminal prosecution.

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DELHI HIGH COURT RESTRAINS FOOD OUTLETS FROM PLAYING SOUND RECORDINGS BELONGING TO PPL WITHOUT LICENSE

In the case of Phonographic Performance Limited v. Gola Sizzlers Private Limited and Ors., the Delhi High Court has granted an ex-parte ad-interim injunction, temporarily restraining Sandoz and Gola Sizzlers from playing sound recordings owned by Phonographic Performance Limited (PPL). PPL filed a copyright infringement suit, alleging that the food outlets were playing its sound recordings without proper licenses. The court also bound Tim Hortons, another food outlet, by its counsel's statement that it would not play any recordings from PPL's repertoire without a license. The court issued summons in all three suits, disposing of IA 21058/2023 and listing the matter for further consideration on February 07, 2024.

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AR RAHMAN FACES COPYRIGHT SUIT OVER SONG 'VEERA RAJA VEERA'

Indian classical singer Ustad Faiyaz Wasifuddin Dagar filed a copyright infringement suit against music composer AR Rahman, alleging that the song 'Veera Raja Veera' from the movie Ponniyin Selvan Part-2 was copied from 'Shiva Stuti.' Dagar seeks credit for the song and an injunction against Rahman, Madras Talkies, Lyca Productions, and Tips Industries. The Delhi High Court ordered Rahman to submit the raw recording of the song, noting similarities in beat and rhythm. Rahman's counsel will respond later. Dagar, a descendant of Dhrupad vocalists, claimed rights to his father and uncle's compositions.

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DELHI HIGH COURT DENIES RELIEF IN COPYRIGHT DISPUTE OVER EXCHANGE22 APP

The Delhi High Court has refused relief to HULM Entertainment's online fantasy sports app, EXCHANGE22, in a copyright infringement dispute. The court vacated an ex-parte ad interim injunction, stating that distinguishing features were insufficient for the plaintiffs to claim originality and copyright protection. The plaintiffs, claiming to be India's first sports stock exchange, alleged that MYFAB11 app copied their concept and features. The court found no prima facie case of copyright infringement, noting the existence of prior apps with similar features. It emphasized the plaintiffs' failure to disclose material facts, leading to the denial of equitable relief.

Case Name: Hulm Entertainment Pvt. Ltd. v. Fantasy Sports MYFAB11 Pvt. Ltd.

Citation: (CS(COMM) 244/2022)

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SUIT UNDER SECTION 60 OF COPYRIGHT ACT NOT MAINTAINABLE AFTER INFRINGEMENT ACTION, SAYS KARNATAKA HIGH COURT

The Karnataka High Court clarified that a suit filed under Section 60 of the Copyright Act is not maintainable when a copyright holder has already initiated legal action for copyright infringement against the alleged infringer. Justice V Srishananda emphasized that the proviso to Section 60 prevents an alleged infringer from filing a suit when the copyright owner has previously filed a suit under Section 55. In this case, the defendants filed their suit after the plaintiff initiated legal proceedings, rendering the Section 60 action not maintainable. The court highlighted the importance of the defendants' proactive legal action in Delhi High Court against copyright infringement claims.

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DELHI HIGH COURT PERMANENTLY RESTRAINS ROGUE WEBSITES ILLEGALLY STREAMING DISNEY HOTSTAR CONTENT

The Delhi High Court has granted a permanent injunction, barring 50 rogue websites from illegally streaming television shows, series, and movies broadcasted on Disney Plus Hotstar. In the case, Star India Pvt Ltd and Disney Plus Hotstar filed a suit against these websites, alleging piracy of their copyrighted content. Justice C Hari Shankar noted that the exclusive rights to stream or telecast the content in question reside with the platform. The court had issued an ad interim injunction against the rogue websites in August, and despite their absence in the proceedings, a permanent restraint has now been granted.

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HUMANS OF BOMBAY AND PEOPLE OF INDIA RESTRICTED FROM USING EACH OTHER'S COPYRIGHTED WORK

The Delhi High Court has ordered Humans of Bombay (HOB) and People of India (POI) to refrain from using each other's copyrighted work, including commissioned images, literary works, original pieces, commissioned videos, and the manner of representation of stories. The court emphasized the "idea versus expression dichotomy" and noted that there is no copyright in an idea, but copying the expression of the idea constitutes copyright infringement. The order also stated that if photos or videos are commissioned by either platform, the copyright belongs to that platform. The court closed the proceedings, binding both parties to the terms of the order.

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PATENT PULSE

DELHI HIGH COURT EASES RULES FOR DIVISIONAL PATENT APPLICATIONS

In a recent decision (Syngenta Limited v. Controller of Patents and Designs), the Delhi High Court clarified that lack of unity objection by the Controller is no longer necessary for maintaining a divisional patent application. The court also ruled that the subject matter of a divisional application does not have to be within the original claims' scope, as long as it's supported by the entire original specification. This decision contradicts the 2022 ruling in Boehringer Ingelheim v. Controller of Patents and Designs. The court's guidance on differentiating "different inventions" may impact divisional application maintenance in India.

Case Name: Syngenta Limited v. Controller of Patents and Designs
Citation: (C.A.(COMM.IPD-PAT) 471/2022)

JUDGEMENT

DELHI HIGH COURT AWARDS DAMAGES IN PATENT INFRINGEMENT CASE

The Delhi High Court has ordered Maharaja Appliances Limited to pay INR 50 lakhs in damages and Rs. 31.4 lakhs in actual costs to Strix Ltd. for infringing on Strix's patent related to a "Liquid Heating Vessel." The court found that Maharaja Appliances had used sensors and temperature controls covered by Strix's patent in one of its kettle models. While rejecting the defendant's claims of patent invalidity and non-working, the court emphasized the defendant's prior use of Strix's product and subsequent import from China. The damages were calculated based on a reasonable royalty, considering the expired status of the patent.

Case Name: Strix Ltd. v. Maharaja Appliances Ltd
Citation: (CS(COMM) 403/2018)

JUDGEMENT

DELHI HIGH COURT GRANTS INJUNCTION AGAINST DECEPTIVE SIMILARITY TO JAPAN PATENT OFFICE LOGO

The Delhi High Court has issued an injunction against Indian companies accused of infringing the Japan Patent Office's (JPO) logo. The JPO filed a suit against the defendants, alleging that they used an identical logo for the manufacture and sale of tools and kits. The court found the defendants' use of the logo to be a clear imitation and copy, violating the JPO's goodwill and brand equity. Despite the absence of a registered trademark or copyright, the court granted an ex parte injunction, emphasizing the prima facie case presented by the JPO and the potential irreparable harm to its reputation.

Case Name: Japan Patent Office v. Ms. A2Z Glass And Glazing Co. & Ors.
Citation: (CS(COMM) 720/2023)

JUDGEMENT

FIRM HIGHLIGHTS



MS. ANUSHREE RAUTA, RECOGNIZED AMONGST THE TOP FEMALE LAWYERS IN INDIA BY ALB

Ms. Anushree Rauta, head of our media and entertainment practice has been recognized amongst the Top Female Lawyers in India by Asian Legal Business.

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MR. RAHUL DHOTE, RECOGNISED AMONGST ALB INDIA TOP DISPUTE LAWYER 2023

Mr. Rahul Dhote, Partner, Intellectual Property (Practice Head) at ANM Global, recognised amongst Asian Legal Business India Top Dispute Lawyer 2023.

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ANM GLOBAL WELCOMED KHUSHBOO BUTAIL KAROL AS A PARTNER

ANM Global is delighted to welcome Khushboo Butail Karol as a Partner in New Ventures & Strategic Growth.

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FIRM HIGHLIGHTS



DELHI HIGH COURT EXAMINES COPYRIGHT VIOLATION CLAIM AGAINST AR RAHMAN OVER VEERA RAJA VEERA SONG

The Delhi High Court heard an application filed in the suit by the Plaintiff, Ustad Faiyaz Wasifuddin Dagar whereby he claimed moral right in the musical composition “Shiv Stuti” and alleged the Defendants have been unauthorizedly exploiting the said composition through the song “Veera Raja Veera”.

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ANM GLOBAL'S OUTSTANDING DEBUT IN THE PRESTIGIOUS 11TH BOMBAY GYMKHANA LAWYERS FOOTBALL CHAMPIONSHIP 2023!

The Women's Team of ANM Global comprising of Prachiti Joshi, Jennifer Vimadalal, Natasha Swamy, Ruddhi Bhalekar, and Amisha Singh, became champions.

Ms. Prachiti Joshi bagged the best female player in the championship.

The Men's team comprising of Adarsh Himatsinghka, Umang Sheth, Shabbir Shamim, Samyak Surana, Savan Dhameliya, Amal Goenka, Adv. Arpit Choudhary made it to the quarter finals.

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MR. SHABBIR SHAMIM AND MR. SAVAN DHAMELIYA, SERVED AS JUDGES AT THE 5TH INTRA MEDIATION COMPETITION

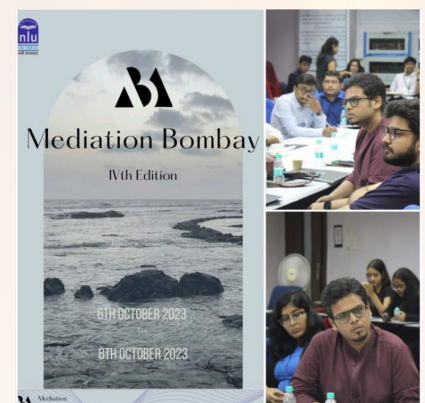
ANM Global is thrilled to share that recently, our Associates, Mr. Shabbir Shamim and Mr. Savan Dhameliya, had the honor of serving as judges at the 5th Intra Mediation Competition hosted by NMIMS School Of Law.

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MR. GAURAV SURYAVANSHI WAS A PART OF JUDGES' PANEL AT THE 4TH EDITION OF MEDIATION BOMBAY

Our Associate, Mr. Gaurav Suryavanshi, was honored to be a part of the esteemed judges' panel at the 4th edition of Mediation Bombay, Maharashtra National Law University Mumbai's flagship Mediation Competition.

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