



INTELLECTUAL PROPERTY

NEWSLETTER JULY, 2023

TRADEMARKS

AFFIDAVIT NOT MANDATORY FOR DETERMINING WELL-KNOWN STATUS OF TRADEMARK

The Delhi High Court ruled that filing evidence through an affidavit is not mandatory when determining the well-known status of a trademark under Section 11 of the Trade Marks Act, 1999. Justice Pratibha M. Singh stated that if documentary evidence sufficiently establishes contemporaneous and continuous use, reputation, and goodwill of the trademark, an affidavit is not obligatory. The court clarified that while oral evidence and affidavits are considered as evidence under the Act, an affidavit is not essential as long as there is adequate documentary evidence. Moreover, the absence of an affidavit will not lead to the rejection of the application for well-known status. The court granted an opportunity to the entity Kamdhenu Limited to submit supporting documents, including an affidavit, for their mark 'KAMDHENU.'

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DELHI HIGH COURT RESTRAINS WIPRO FROM USING 'EVECARE' MARK IN TRADEMARK INFRINGEMENT SUIT BY HIMALAYA WELLNESS COMPANY

The Court has issued an interim order to prohibit Wipro Enterprises from using the 'EVECARE' mark for its women's intimate hygiene wash or any other product.

The order was given in response to a lawsuit filed by Himalaya Wellness Company, alleging trademark infringement and passing-off. The court observed that Himalaya has been using the 'EVECARE' mark for its uterine tonic since 1998, gaining goodwill and reputation over a period of 24 years. On the other hand, Wipro introduced its product with the same mark only in August 2021.

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DELHI HIGH COURT GRANTS PERMANENT INJUNCTION AGAINST "SATTADREAM 11" IN FAVOR OF DREAM11

The Court has ruled in favor of fantasy sports platform Dream11, granting a permanent injunction against a website operating similar sports betting services under the mark "Satta Dream 11." The court found the domain name www.sattadream11.com to be a deliberate attempt to exploit Dream11's goodwill and trademark. The similarity between "Dream11" and "sattadream11" could lead to confusion, especially on the internet. Sporta Technologies, the owner of Dream11, had filed the trademark infringement suit against Unfading OPC Private Limited, which operated the infringing website. The court proceeded ex-parte against the defendant as they failed to appear. The court ordered the transfer of the domain name to Sporta Technologies.

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DELHI HIGH COURT GRANTS INJUNCTION TO SUN PHARMA AGAINST GLENMARK'S USE OF "INDAMET" MARK IN PHARMACEUTICAL TRADEMARK DISPUTE.

The Delhi High Court issued an injunction in favor of Sun Pharma, prohibiting Glenmark Pharmaceuticals from using the "INDAMET" mark for its drug. The court determined that the marks "ISTAMET" and "INDAMET" were structurally and phonetically alike, creating a significant likelihood of confusion and deception among consumers. Considering the potential health risks linked to such confusion regarding drug administration, the court stressed the need for careful evaluation in pharmaceutical trademark disputes.

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DELHI HIGH COURT ISSUES RESTRAINING ORDER AGAINST VIP INDUSTRIES, HIGHLIGHTING THE NEED OF ESTABLISHING THE SPILL OVER OF TRANSBORDER REPUTATION IN RELATION TO THE USE OF THE 'CARLTON' MARK.

The present ruling pertains to the interim injunction applications submitted by the respective parties involved in a dispute concerning the utilisation of the trademark "Carlton". The plaintiff initiated the legal action subsequent to receiving a cease and desist notification from the defendant, who claimed to have obtained the trademark through an assignment arrangement.

DELHI HIGH COURT DECLARES ('SUPREME' RED-BOX LOGO) AS A 'WELL-KNOWN' MARK.

The Delhi High Court has ruled that the 'Supreme' red-box symbol is recognised as a 'well-known' trademark for clothes and clothing, in accordance with Section 2(zg) of the Trade Marks Act, 1999. The order was issued by Justice Pratibha M. Singh in a lawsuit for permanent injunction initiated by Charter 4 Corp. The purpose of the lawsuit was to secure legal protection for Charter 4 Corp's trademarked red-box device mark, known as 'SUPREME'. The court made an observation that the mark 'SUPREME' on the red-box device has obtained a secondary meaning due to its widespread usage. As a result, the court concluded that the mark should be granted protection.

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Given that both parties possess registration for their separate 'Carlton' trademarks, the court has determined that neither party can claim infringement in the current legal matter. Nevertheless, with regards to the issue of passing off, the court determined that the defendant was unable to prove the extension of its mark's reputation across borders into India. In contrast, the plaintiff successfully demonstrated a strong reputation and prior usage of the mark in the Indian market. As a result, the court granted an interim injunction in favour of the plaintiff.

PATENTS

PATENTS ACT PREVAILS OVER COMPETITION ACT IN EXERCISE OF RIGHTS BY PATENTEE

The Delhi High Court has held that the Patents Act, 1970 takes precedence over the Competition Act, 2002 regarding the exercise of rights by a patentee. The court highlighted that Chapter XVI of the Patents Act, a subsequent legislation, is a specialized and comprehensive law dealing with issues related to patents, including unreasonable conditions in licensing agreements and abuse of patentee status.

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DELHI HIGH COURT RESTRAINS CANVA'S "PRESENT AND RECORD" FEATURE IN INDIA IN PATENT INFRINGEMENT SUIT BY RXPRISM

The Court has issued an interim order restraining Canva, an Australian graphic design platform, from offering its "Present and Record" feature in India in response to a patent infringement suit filed by RxPrism Health Systems Private Limited. Justice Pratibha M Singh directed Canva to deposit Rs. 50 lakhs as security for past use of the infringing feature in India. RxPrism's patent "My Show & Tell,"

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INTERIM INJUNCTION DENIED: BALANCING PUBLIC INTEREST AND AFFORDABILITY IN CANCER DRUG CASE

The Delhi High Court denied an interim injunction to Bayer Healthcare for the drug "Regorafenib" in a patent infringement case against Natco Pharma. The court considered public interest and affordability in the context of life-threatening diseases like cancer. The plaintiff's high-priced imported product (Rs. 36,995) was in stark contrast to the defendant's locally manufactured and more affordable product (Rs. 9,900).

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DESIGN

DESIGNS ACT: PROTECTING IDEAS APPLIED TO ARTICLES - VISUAL TEST AND ORIGINATOR'S REGISTRATION

The Delhi High Court ruled that the Designs Act protects an idea when applied to an article and not a mere "idea in vacuo." The test to determine if a shape or pattern applied to an article constitutes a design is visual or ocular. The court emphasized that the design's features must appeal to the eye when applied to the finished article. It further clarified that the originator of the design must be the one seeking registration. The court vacated the ad interim injunction granted in favor of Jayson Industries against Crown Craft (India) over the design of certain products, citing lack of novelty and originality.

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FUNCTIONAL DESIGNS ARE NOT PER SE INELIGIBLE FOR REGISTRATION AND CAN BE REGISTERED IF THEY POSSESS ANY AESTHETIC APPEAL, RULES DELHI HIGH COURT.

The dispute pertained to imitation of suit design by the Defendant. The suit design was a "Handi" shaped pressure cooker registered in favor of the Plaintiff. The Court determined that the design possessed a discernible and unique eye appeal, which is a fundamental need for eligibility for design registration. Disregarding the argument that the suit design lacked validity due to its simply functional nature and absence of aesthetic appeal, the court asserted that Prestige's "Pressure Handi Cooker" possesses aesthetic appeal that surpasses both prior art and other well recognised designs of pressure cookers.

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PLANT VARIETIES AND FARMERS RIGHTS

DELHI HIGH COURT UPHOLDS REVOCATION OF PEPSICO'S POTATO VARIETY REGISTRATION FOR LAY'S CHIPS

The Delhi High Court upheld the revocation of PepsiCo India's registration for the potato variety "FL 2027," used in making Lay's chips. PepsiCo's subsidiary appealed the order of revocation by the Protection of Plant Varieties and Farmers Rights Authority.

The court found no merit in the appeal and upheld the revocation, citing that the registration was wrongly applied for as a "new variety" instead of an "extant variety." The court also noted that the appellant failed to provide correct information regarding the date of commercialization.

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