

INTELLECTUAL PROPERTY

NEWSLETTER NOVEMBER, 2022

TRADEMARK NEWS

'INTEL', A WELL-KNOWN TRADEMARK WITHIN THE MEANING OF SECTION 2(ZG) OF THE TRADE MARKS ACT, 1999

The Plaintiff, Intel Corporations filed the instant suit in 2006 to seek permanent injunction against three entities – Intel Gas Gadgets (P) Ltd., Intel Gas Guards (P) Ltd. and Intel Safety Devices, and Mr. S.P. Gupta, Director of the said defendants. It was the claim of the Plaintiff that the defendants have used their registered trademark 'INTEL,' without any prior authorisation. Owing to their world-wide repute and goodwill, the Plaintiff claimed to have over 2000 registrations for the term 'INTEL,' across regimes.

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SETTLEMENT AGREEMENTS IN A MEDIATION PROCEEDING CAN BE ENTERED INTO EVEN BEYOND THE DISPUTE WHICH IS PENDING BEFORE THE COURT.

The Plaintiff filed a suit to restrain the defendant from using their registered marks – 'POOJA' (vide Trade Mark No. 781390) and 'SHIV' (vide Trade Mark No. 1357957), both in Class 30, respectively, for Namkeen, Sweets, Bakery, Snacks and Confectionary products. Following the institution of the said suit, the Hon'ble High Court was pleased to grant a interim injunction in favour of the Plaintiff.

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DOMAIN NAME NOT A MERE ADDRESS ON THE INTERNET, ENTITLED TO EQUAL PROTECTION AS A TRADE MARK

The Plaintiff is a Part of the IndiaBulls Group which has been in the business of financial services since 1994. It is further stated that the Plaintiff is a non-banking finance company and is inter-alia engaged in the business of providing loans for personal and business purposes.

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USE OF THE REGISTERED MARK AS PART OF THE CORPORATE NAME OR TRADING STYLE WOULD ALSO BE A VIOLATION OF THE PLAINTIFF'S RIGHTS

The Plaintiff, Pioneer Nuts and Bolts has filed the suit seeking permanent injunction and to prevent the further infringement of their registered trademark 'TUFF'. The Plaintiff contended that it was incorporated in 1996 and was engaged in the manufacturing and sale of various types of nuts, bolts, screws, machine washers, etc., and the same was sold under the trademark of 'TUFF'.

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DELHI HIGH COURT STAYS RELEASE OF FILM TITLED 'AJINOMOTO' FOR ALLEGED TRADEMARK INFRINGEMENT BY JAPANESE SEASONING MANUFACTURER

The Plaintiff filed the subject suit seeking permanent injunction restraining infringement of its registered trademark "AJINOMOTO". The plaintiff being the largest manufacturer of seasoning in Japan had adopted and registered the trademark "AJI-NO-MOTO", primarily used for Monosodium Glutamate ["MSG"] which was manufactured and marketed by Plaintiff worldwide including a strong

presence in India. Plaintiff alleges trademark infringement for not only the unauthorized use but also for the prejudice caused by the public statements made by Mr. Mathiraj Iyampuram, the Director of the film (Defendant No. 2) in relation to the trademark in the context of the film. As alleged by the plaintiff, even though the film is unreleased and character unknown, the statements made in the interview are indicative of the storyline which is metaphorically fashioned around the ingredient linked to the plaintiff.

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COPYRIGHT NEWS

DELHI HIGH COURT SEEKS EXPERT OPINION ON THE FAIR USE OF MUSIC IN MARRIAGE CEREMONIES

The case concerns a copyright infringement and injunction suit filed by PPL against Lookpart Exhibitions and Events Private Limited which aimed to determine whether playing music during weddings and religious ceremonies would constitute copyright infringement or would fall within the ambit of a statutory exception. The Defendant had sought the protection of Section 52(1)(za) of the Copyright Act, 1957 and claimed that music played for the purpose of marriage ceremonies and other associated social events was exempted from the requirement of obtaining a license.

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DELHI HIGH COURT ORDERS TO TAKE DOWN AN AUDIO BOOK IN A COPYRIGHT INFRINGEMENT SUIT

Plaintiff is an operator of an online platform called KuKu FM which features audio books, audio CDs, podcasts, and other material. While, Defendant 1 operates a platform known as Pocket FM with services nearly identical to the plaintiff's online platform. The Plaintiff claims to have exclusive rights and licenses over the translations/audio adaptations of various books which are stored in its repository. The dispute arose over the Hindi translation of the book "Mossad: The Greatest Mission of the Israeli Secret Service" authored by Michael Bar-Zohar and Nissim Mishal whose license had been obtained subsequent to a Publisher Assignment Agreement with Defendant 2.

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PERMANENT INJUNCTION GRANTED IN FAVOUR OF BAAGHI 3

The Plaintiff's work, a film titled, 'Baaghi 3' was theatrically released on 06.03.2020. Under 14(d) of the Copyright Act of 1957, the Plaintiff possesses the exclusive distribution rights to publicly display and disseminate the Film and any content associated with it through theatrical exhibition.

The Plaintiff's claim is based on the alleged unlawful and unauthorized distribution, transmission, and streaming of the Plaintiff's Film by the defendants, also known as Rogue websites. According to the Plaintiff, the Rogue Websites breach the Plaintiff's Exclusive rights, which have been granted protection under the Act, as a consequence of the illicit transmission of their material.

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PATENT NEWS

DELHI HIGH COURT ADDRESSES THE ISSUES PERTAINING TO JURISDICTION IN THE AFTERMATH OF SCRAPPING THE INTELLECTUAL PROPERTY AP- PELLATE BOARD

To address the issues pertaining to jurisdiction vis-à-vis the institution of a suit in the aftermath of scrapping the Intellectual Property Appellate Board, the Hon'ble Delhi High Court deemed fit to club matters and to pronounce an order on the same, dated 10 November, 2022. The cases themselves are concerned with the revocation of Patents and appeals as under Section 117A of the Patents Act.

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DELHI HIGH COURT RULES THAT SIM- PLICITY DOES NOT DEFEAT AN INVEN- TION

The instant case was filed against the order of the Controller and General of Patents and Designs for

refusing the grant of patent for 'Notched Fastener.' The appellant is a company which is engaged in the business of providing branding and information to enhance packaging or to carry and display information about products. It was contended by the respondent that the said patent was rejected on the grounds of lack of inventive step as required by the Patents Act of 1970.

GSP GETS GO AHEAD FROM DELHI HIGH COURT FOR MANUFACTURING AND MARKETING OF CTPR

The Plaintiff, FMC Corporation, USA and its two Companies FMC Agro Singapore Pvt. Ltd and Plaintiff No.3 - FMC India Pvt. Ltd. seeking inter alia, an injunction restraining the infringement of Indian Patent No. IN252004 titled "Method for Preparing Fused Oxazinones from Ortho-Amino Aromatic Carboxylic Acid and a Carboxylic Acid in the presence of a Sulfonyl Chloride and Pyridine."

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DELHI HIGH COURT REJECTS NOKIA'S PETITION FOR AN ORDER COMPELLING OPPO TO PAY ROYALTIES UNDER ORDER 39 RULE 10 CPC IN A STANDARD ESSENTIAL PATENTS CASE.

Plaintiff was the holder of various patents, and the present suit was related to its three patents: (i) System and Method for Providing AMR-WB DTX Synchronization; (ii) Method Providing Multiplexing for Data Non-Associated Control Channel; and (iii) Additional Modulation Information Signaling for High-Speed Downlink Packet Access.

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PETITIONERS SHOULD NOT SUFFER FOR THE FAULT OR NEGLIGENCE OF THE PATENT AGENT, FALLS INTO THE EXCEPTION OF 'EXTRAORDINARY CIRCUMSTANCES'

The Writ Petition was instituted by the Petitioners against the impugned order of the Controller of Patents and Designs whereby their patent application was deemed abandoned due to lapse of time due to non-filing of timely response to the First Examination Report (FER) and on account of non-filing of the renewal fees.

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DESIGN NEWS

BOMBAY HIGH COURT GRANTS EX-PARTE ORDER AGAINST INFRINGEMENT OF OF ATOMBERG TECHNOLOGIES'S FAN DESIGN

A lawsuit was brought by the plaintiffs for infringement and perpetual injunction under Section 22 of the Designs Act, 2000 for alleged infringement of their design by the defendant by selling the same type of cooler. According to the plaintiffs, the said design is duly registered by the Controller and granted ten years of protection, extending up to 26.12.2025. The learned Court by an ad-interim order restrained the defendants from manufacturing and selling the registered Design number 233559 of the Plaintiffs. The defendants, their servants, agents, distributors and dealers are restrained by order of injunction from manufacturing, copying, using & selling the registered design number 233559 of the air cooler of the plaintiffs till final disposal of the suit or till the registration thereof remains intact.

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GEOGRAPHICAL INDICATION NEWS

GI TAG FOR MITHILA MAKHANA, BIHAR'S FOX NUT

Bihar's Mithila Makhana has been granted a Geographical Indication by the Union Government (GI). This is Bihar's fifth product to be given the GI designation. Previously, the GI classification was shared by the Bhagalpur-based Jardalu Mango, the Katarni Dhaan (rice), the Nawada-based Magahi Paan, and the Muzaffarpur-based Shahi Litchi. 80 per cent of the nation's supply of makhana, or fox nuts, comes from Bihar. The Mithila region of Bihar has been classified as a Geographical Indication due to its fame for Fox Nut farming (GI).

It is verified that the GI was registered in the name of Mithilanchal Makhana Utpadak Sangh by the GI registry certificate. Usually, a name like that communicates a guarantee of quality and uniqueness, which is mainly attributed to the location of its origin. Government sources claim that by making this decision, Fox Nut farmers will receive the highest price possible for their premium goods. This choice will benefit more than 5 lakh farmers in Bihar's Mithila region.

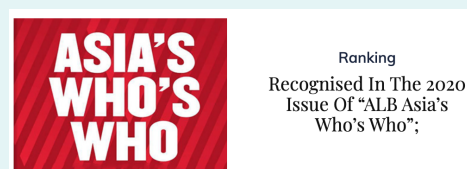
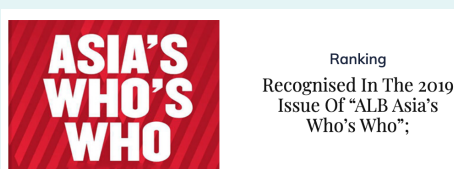
Mithila Makhana's primary motivation for obtaining the GI Tag is to increase farmer profits by making it easier for them to increase their income. The farmers will benefit from this tag's award by receiving a fair price for their products and thereby increasing their income. This will indirectly improve their standard of living by having an impact on the farmers' ability to earn a living. The Geographical Indication would allow that outside of Bihar to use this produce reverently. The GI tag will also aid in defending the produce's growers against unauthorised exports and users.

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AWARDS & RECOGNITIONS



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