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iprécis

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Dear Readers,

We at Cyril Amarchand Mangaldas are thrilled to present the October 2025 issue of IPrécis, our intellectual property newsletter.

IPrécis is a carefully curated roundup of significant events and cases in the IP sector, in India, and its role is to keep these developments in mind. This edition of IPrécis also features some of the IP transactions successfully handled by our team. A crucial area of focus is the intersection of AI and IP law. The increasing use of AI in creating inventions, designs, and creative works presents novel legal challenges. Questions surrounding patent-eligibility of AI related inventions are at the forefront of this evolving landscape. The enclosed newsletter summarizes the recent guidelines for examination of computer related inventions, including AI related inventions, issued by the Patent Office, India.

Cyril Amarchand Mangaldas, India's premier full-service law firm, has an industry leading and dedicated Intellectual Property Rights practice. Our class-leading practice specialists are always on top of the latest developments in the sector. It is in this light; that we present the present issue of **IPrécis - a carefully curated** roundup of significant events/cases in the IP sector in India.

We hope you find **IPrécis** both informative and insightful. We value your feedback and welcome your comments at cam.publications@cyrilshroff.com.

Regards,

CYRIL SHROFF

Managing Partner
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Recent Important Ip Updates: India

Trademarks

Johnson & Johnson v. Pritamdas Arora – 11 March, 2025; Delhi High Court

Brief Facts: Johnson & Johnson (**Plaintiff**) filed a suit against M/s Medserve (Defendants), a Delhi-based medical device importer and wholesaler, seeking a permanent injunction to restrain counterfeiting and infringement of their trademarks “SURGICEL”, “ETHICON”, and “LIGACLIP”. The dispute originated in 2019 when a neurosurgeon at the University of Kentucky discovered counterfeit “SURGICEL” surgical devices during a brain surgery. Subsequent investigations revealed that the University had procured both counterfeit products and expired original products repackaged in counterfeit packaging with falsified expiration dates. The supply chain was traced back to M/s Medserve in India. Court-appointed Local Commissioners found substantial counterfeit products bearing the Plaintiff’s marks, along with infringing materials and business records at the Defendants’ premises.

The Defendants failed to provide adequate defence, offering only vague assertions in their written statement and demonstrating non-compliance with court orders, particularly regarding the disclosure of bank accounts. The Delhi High Court ruled in favour of Johnson & Johnson, holding that the Defendants’ actions constituted deliberate, conscious, and wilful infringement, causing immense harm to the Plaintiff’s goodwill and reputation. The Court granted permanent injunction against the Defendants and ordered the destruction of seized counterfeit products. Adopting a stringent approach against deliberate infringement, the Court awarded compensatory damages of INR 2,34,82,986 and exemplary damages of INR 1,00,00,000, totalling INR 3,34,82,986 in damages.

TikTok Inc. v. The Registrar of Trade Marks – 2 May, 2025; Bombay High Court

Brief Facts: TikTok Inc. applied for well-known trademark status in India under Section 11(6) of the Trade Marks Act. Despite its enormous global user base, the Trade Marks Registry rejected the application under Rule 124, based on the Indian Government’s ban on the TikTok app over national security concerns. The Registry considered this ban as a “relevant fact” under Section 11(6) of the Act. TikTok subsequently challenged this decision before the Bombay High Court, arguing that their global popularity and brand recognition should qualify them for well-known status in India.



However, the Bombay High Court upheld the Trade Marks Registrar’s decision and held that Section 11(6) of the Trade Marks Act empowers the Registrar to consider any fact relevant when determining whether a trademark qualifies as well-known. Moreover, the Court noted that the Constitution of India also requires all authorities concerned to apply the law within the broad framework, provided in the Constitution of India. Noting that the TikTok ban pertained to India’s sovereignty and integrity, its defence, and public order, the Court upheld the Registrar’s decision and emphasised that these reasons were serious and could not be ignored. Therefore, it held that the Registrar had considered relevant factors while passing the impugned order.

Bodhisattva v. Mayo – 28 July, 2025; Delhi High Court

Brief Facts: On July 28, 2025, the Delhi High Court Division Bench delivered its decision in *Bodhisattva Charitable Trust & Ors. v Mayo Foundation for Medical Education and Research*, upholding the Single Judge’s interim injunction in favour of Mayo Clinic and against Bodhisattva. The dispute centred around the trademark “MAYO”, which Mayo Clinic had registered in India in 1992 under Class 16 (medical journals and printed material) and later expanded in 2008 to Classes 41 (educational services) and 44 (medical and healthcare services). The Appellants, Bodhisattva Charitable Trust, operated institutions under the names Mayo Medical Centre, Mayo Hospital, Mayo Institute of Medical Sciences, and Mayo School of Nursing without trademark registration. Mayo Clinic objected to Bodhisattva’s use of the “MAYO” trademark, arguing it created consumer confusion given their global standing and widespread recognition in India. In response, Bodhisattva claimed prior use since 1995 and argued that Mayo Clinic had not used the mark in India for 30 years despite registration.

The Division Bench cited some of the following reasons for upholding the interim injunction in favour of Mayo Clinic:

- 1) Valid trademark registration in 1992 created presumptive validity under Section 31(1).
- 2) Bodhisattva's non-use defence failed:
 - a) because the moment a trademark is validly registered, Section 28(1) grants the registrant, not only with the right to exclusive user of the mark but also the right to relief against infringement of the mark 21 by any third person; and
 - b) because no formal application was made under Section 47, seeking the removal of the Respondent's registered trademark from the register.
- 3) Infringement was established under Section 29(2)(b) due to similar marks and services causing likely confusion.
- 4) Bodhisattva's plea of acquiescence was not considered because Section 33, which deals with the effect of acquiescence, applies only to a registered trademark. Inasmuch as the Appellant does not have any registered trademark, it was held that it cannot seek the benefit of Section 33.
- (5) Bodhisattva could not claim prior use rights as their 1995 usage postdated Mayo Clinic's 1992 registration.

Pernod Ricard India Pvt. Ltd. v. Karanveer Singh Chhabra – 14 August, 2025; Supreme Court of India

Brief Fact: Pernod Ricard India Pvt Ltd. (**Pernod Ricard**), proprietor of registered trademarks including "BLENDERS PRIDE", "IMPERIAL BLUE", and "SEAGRAM'S" for whisky products, filed a suit against Karanveer Singh Chhabra in 2019. Pernod Ricard discovered that the Respondent was selling whisky under the brand name "LONDON PRIDE", allegedly using bottles embossed with "SEAGRAM'S" and packaging resembling their products. Pernod Ricard sought permanent injunction alleging trademark infringement, passing off, and unfair competition, and applied for interim injunction. Both the Commercial Court and High Court denied the interim injunction application. The matter subsequently reached the Supreme Court on appeal, with Pernod Ricard arguing that "LONDON PRIDE" was deceptively similar to "BLENDERS PRIDE" and that the Respondent's packaging imitated their "IMPERIAL BLUE" trade dress.

The Supreme Court dismissed Pernod Ricard's appeal, finding no *prima facie* case for interim injunction. Applying the anti-dissection rule, it held that marks must be compared holistically,

finding "BLENDERS PRIDE" and "LONDON PRIDE" sufficiently dissimilar. It emphasised that "PRIDE", being laudatory, diluted, and commonly used in the trade, could not be monopolised without proof of acquired secondary meaning, which Pernod Ricard failed to establish. The geographical identifier "LONDON" was found to create distinct brand identity. Given that both products targeted premium consumers, the Court noted such buyers are reasonably discerning and unlikely to be confused. The claim regarding "SEAGRAM'S" embossed bottles was also dismissed due to lack of evidence.

Indmoney Tech (P) Ltd. v. Ashok Kumar – 28 July, 2025; Delhi High Court

Brief Facts: The Plaintiff, Indmoney Tech (P) Ltd., filed the present suit, seeking protection of its mark "INDMONEY" against the Defendants, who were using the domain name indmoney.online and the mark "INDMONEY" for providing financial services. The Plaintiff alleged that the Defendants' adoption of the mark was dishonest and intended to ride on the goodwill and reputation of the Plaintiff.

The Court went on to consider and decide the following issues:

- 1) Whether the Plaintiff had established rights in the mark "INDMONEY" as a prior user and registered proprietor.
- 2) Whether the Defendants' use of the impugned domain name and mark amounted to infringement and passing off.
- 3) Whether the Defendants had any justification or *bona fide* reason for adopting the identical mark.

The Court held that the Plaintiff was the prior adopter and user of the mark "INDMONEY" and that the Defendants had no justification for adopting an identical mark. The Court restrained the Defendants from using the mark "INDMONEY" and operating the domain name indmoney.online. Directions were also issued to relevant authorities to suspend the impugned domain name.

YMI Ghar Soaps (P) Ltd. v. Ashok Kumar - August 19, 2025; Delhi High Court

Brief Facts: In this suit pertaining to the Plaintiff's intellectual property rights in the trademark/tradename 'GHAR SOAPS', various unidentified/unscrupulous entities impleaded as Defendant nos. 1-10 (John Doe) were allegedly involved in the sale of counterfeit products with deceptively similar packaging. The Plaintiff, a Direct-to-Consumer (**D2C**) business dealing in personal care products since 2019, claimed substantial goodwill, revenue of INR 49.11 crore in 2024-2025, and significant

marketing expenditure. It alleged that unidentified Defendants and e-commerce platforms (Defendants nos. 12, 14, and 15) facilitated counterfeit sales through “latching on,” misuse of advertising tools, and ineffective takedown mechanisms, thereby infringing its rights and deceiving consumers.

The Court went on to consider and decide the following issues:

- 1) Whether the Plaintiff’s mark ‘GHAR SOAPS’ had acquired substantial goodwill and reputation in the market.
- 2) Whether Defendant nos. 1–8 and 10 were infringing and passing off counterfeit goods using deceptively similar packaging and trademarks.
- 3) Whether the conduct of e-commerce platforms (Defendants nos. 12, 14, 15) in allowing infringing listings constituted facilitation of such infringement.
- 4) Whether interim injunction was warranted to protect the Plaintiff’s goodwill and prevent irreparable injury.

Holding that the Plaintiff had established a prima facie case that failure to grant injunction would cause irreparable injury, and that balance of convenience lay in its favour, the Court:

- 1) Restrained Defendants nos. 1–8 and 10 from using the Plaintiff’s brand/trademark ‘GHAR SOAPS’, its distinctive packaging, or any colourable imitation thereof, and from reproducing/adopting the Plaintiff’s copyright works, packaging, or trade dress.
- 2) Directed Defendants nos. 12, 14, and 15 to block/suspend infringing listings and blacklist Defendants nos. 1–8 and 10; and to act on Plaintiff’s future written complaints within 48 hours.
- 3) Issued limited direction to Defendant no. 14 to disable the algorithmic feature leading to Defendant no. 9’s listing alongside Plaintiff’s products during a consumer search for ‘GHAR SOAPS’.
- 4) Granted liberty to legitimate sellers wrongfully blocked to approach the Court with undertakings.

Royal Challengers Sports Private Limited v. Uber India Systems Private Limited & Ors. – May 5, 2025; Delhi High Court

Brief Facts: The Plaintiff, a company incorporated in India under the Companies Act, 1956, and the owner of the Indian Premier League Cricket team “Royal Challengers Bengaluru”, is also the registered proprietor of the RCB trademark and related logos, and has used it extensively to advertise its cricket team. On April 5, 2025, Defendant no.1 posted the impugned advertisement on

its Instagram platform in collaboration with Defendant no. 3, as well as on its X and Facebook platforms. Defendant no. 2 also posted the impugned advertisement on its official YouTube channel. Both Defendants defaced the Bengaluru team name by adding “ROYALLY CHALLENGED” above “BENGALURU”. A poster bearing the fan chant “Ee Sala Cup Namde” was visible on the left side of the frame.

The Court identified a two-prong test for evaluating the reliefs sought by the Plaintiff, which have to be dealt with when taking into account the provisions of Article 19 of the Constitution of India:

- 1) Whether there is any disparagement, per se.
- 2) Whether the provisions of Section 29(4) of the TM Act are attracted.

The Court noted that the threshold of proof required under Section 29(4) is higher than that required in the preceding provisions of Section 29(1)–(3) on simpliciter infringement. Even in cases of identity between impugned marks and registered trademarks, there can be no presumption of infringement simply because they are for different kinds of goods or services from that of the Plaintiff.

Rights under Article 19(1)(a) of the Constitution are subject to “reasonable restrictions” under Article 19(2) and cannot pertain to matters of “decency or morality” or cause “defamation or incitement”. The Supreme Court in *Tata Press Ltd. v. MTNL* held that advertisement/commercial speech is protected under Article 19(1)(a) as it contributes to the marketplace of ideas in the economic sphere.

It defined “disparagement” theoretically as per Black’s Law Dictionary as “a false and injurious statement that discredits or detracts from the reputation of another’s property, products or business,” and as per the Merriam-Webster Legal Dictionary as “the publication of false injurious statements that are derogatory of another’s property, business or product”. According to Kerly’s Law of Trade Marks and Trade Names, to maintain such an action, the statement made must “specifically denigrate the claimant, and must be intended to be taken seriously, and must contain specific false comparison, and must not be mere general praise of the defendant’s goods”. The Court noted that since disparagement has nowhere been defined in any Statute, it is only a “tortious liability” and has to be taken into consideration as per the factual circumstances involved of each case.

As per the Court, the following factors must be kept in mind: (i) Intent of the commercial, (ii) manner of the commercial, (iii) story line of the commercial and the message sought to be



conveyed by the commercial, noting that the “manner of the commercial” is very important. If the manner ridicules or condemns the competitor’s product then it amounts to disparaging, but if the manner is only to show one’s product better without derogating other’s product, that is not actionable.

Extolling one’s product, even if it borders on exaggeration, is perfectly permissible in comparative advertising and does not have to pass the test of truth as long as it does not contain serious representations of qualitative or quantitative facts. The right to free speech and promote one’s product is an essential feature of the right to trade and business. Even exaggeration in advertisement is permissible if it does not make serious qualitative/quantitative representations.

The Court held that no common person would be able to draw inference/conclusion after seeing the advertisement. The advertisement cannot be said to come within purview of disparagement and/or infringement within meaning of Section 29(4), especially considering Article 19 of Constitution. It distinguished previous cases involving a different cause of action where the character committed offensive actions while wearing RCB jersey, and cases where derogation/negative light was clearly discernible. In contrast, the impugned advertisement shows the stadium security team as vigilant. The Court dismissed the application, finding that the Plaintiff had failed to make out a *prima facie* case of disparagement/infringement.

Culver Max Entertainment Private Limited v. VIPBox.Ic & Ors. – 30 May, 2025; Delhi High Court

Brief Facts: The Plaintiff, as the right holder of “original works” as envisaged under Section 37 of the Copyright Act of 1957, is

entitled to the protection under it. In cases of live sporting events, the “rogue websites” activate new domains/websites and URLs just minutes before a match starts and deactivate them once it ends. The rapid evolution of “hydra-headed” websites, has enabled them to resurface in multitudes with only minor, mechanical changes within seconds as alphanumeric or mirror websites despite being blocked/deleted. Such “hydra-headed” websites, operating under the garb of privacy, can mask their registration/contact details, ensuring that their operators are impossible to locate and contact.

The Court granted a “Dynamic+” injunction in favour of the Plaintiff, granting it rights to protect its copyrighted works as the moment these are infringed/created. It empowered the Plaintiff to block and report infringing websites, especially during the live streaming of sporting events. Upon discovering any mirror/redirect/alphanumeric variations of the “rogue websites” websites illegally streaming content over which it hold rights, the Plaintiff has liberty to provide details of these websites to the relevant DNRs (Defendants nos. 11-23, and 25 and 26) or ISPs (Defendants nos. 27-35) for blocking.

The Court directed Defendants nos. 11-23, and 25 and 26 (DNRs) to block and suspend within 72 hours the websites of Defendant nos. 1-10 registered under them and enumerated in Annexure B. It also directed Defendants nos. 27-35 (ISPs) to block access within 72 hours to the “rogue websites” enumerated in Annexure B. It ordered Defendants nos. 36 and 37 (Department of Telecommunications and Ministry of Electronics and Information Technology) to ensure that Defendants nos. 27-35 (ISPs) comply with the directions through appropriate communications and notices.

The Court held that the Plaintiff was able to establish a *prima facie* case in its favour and against the Defendants, with the

balance of convenience tilting towards the grant of relief. It added failure to grant an *ex parte ad interim* injunction would likely result in the Plaintiff suffering irreparable loss and injury. The Court restrained all persons/entities, including, but not limited to, the Defendants nos.1-10 (**rogue websites**) from making the Plaintiff's protected sporting events via any digital platform or application. It disallowed the owners, partners, proprietors, officers, servants, agents and representatives, franchisees, head-ends and all others in the capacity of principal or agent acting for and on behalf of the "rogue websites" from communicating the said sporting events to the public in any manner, including hosting, storing, reproducing, streaming, broadcasting, rebroadcasting, causing to be seen or heard by public, making available for viewing and / or communicating to the public, or facilitating the same on their websites / applications, through the internet in any manner whatsoever.

Asociación de Productores de Pisco A.G. v. Union of India & Ors. – 25 July, 2025; Delhi High Court

Brief Facts: The writ petition was filed challenging the November 29, 2018, order (**Impugned Order**) passed by the Intellectual Property Appellate Board (**IPAB**), which had allowed the Respondent no. 4's Geographical Indication (**GI**) application bearing No. 43 for the mark "PISCO". This Impugned Order had set aside the previous July 3, 2009, order, which Respondent no. 2, i.e., Assistant Registrar of Trade Marks & GI had passed, granting the GI registration to Respondent no. 4 as "Peruvian PISCO".

The Petitioner, an association representing the producers of the alcoholic beverage Chilean PISCO in Chile's regions III and IV, encompassing the river valleys of Elqui, Limari, Huasco, Copiapo, and Choapa. These producers have been engaged in the production and marketing of Chilean PISCO for well over a century. The Petitioner has claimed similar rights over the name/GI "PISCO" for certain alcoholic beverages manufactured in Chile, as Respondent no. 4 has for its alcoholic beverage manufactured in Peru. Therefore, the Petitioner filed a GI application for "Chilean PISCO" on June 3, 2020, which was allotted Application no. 689.

Respondent no. 4 had earlier filed an application before the Registrar of Trade Marks & GI for grant of the GI "PISCO" on September 29, 2005, for alcohol beverages in Class 33. In response, the Petitioner filed a notice of opposition on January 17, 2007. By way of an order dated July 3, 2009, the Registrar of Trade Marks & GI held that the documents established that both Peru and Chile used the term "PISCO" and that some countries had parallel agreements for the right to use of "PISCO". Thus, Respondent no. 4's Application no. 43 for the registration of GI

PISCO was allowed with a caveat that the GI be registered as "Peruvian PISCO", to avoid any deception or confusion among the consumers. Consequently, Respondent no. 4 filed an appeal before the IPAB against the order dated July 3, 2009, passed by the Registrar of Trade Marks & GI, which, through the Impugned Order dated November 29, 2018, allowed the appeal and held that Respondent no. 4 was entitled to the registration of GI as "PISCO", without the prefix "Peruvian".

The rights conferred by GI Act are distinct from Trade Marks Act, in that trademark is the private right of an individual or entity, whereas GI is the collective right of producers in a region. A trademark can be assigned, transferred, or licensed, but a GI cannot be assigned or transferred. Any person claiming to be the producer of goods for which a GI has been registered can apply under Section 17 of the GI Act for registration as an authorised user. Under Trade Marks Act, priority of adoption and use are key for determining ownership, but priority plays no role in ownership under the GI Act, which is concerned with the identification of goods as originating from a specific geographical origin with given quality, reputation, or characteristics attributable to that geographical origin.

Section 9 titled "Prohibition of registration of certain geographical indications" provides that a geographical indication shall not be registered if: (a) the use of which would be likely to deceive or cause confusion; or (b) the use of which would be contrary to any law for the time being in force; or (c) which comprises or contains scandalous or obscene matter; or (d) which comprises or contains any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India; or (e) which would otherwise be disentitled to protection in a court; or (f) which are determined to be generic names or indications of goods and are, therefore, not or ceased to be protected in their country of origin, or which have fallen into disuse in that country; or (g) which, although literally true as to the territory, region or locality in which the goods originate, but falsely represent to the persons that the goods originate in another territory, region or locality, as the case may be.

Section 10 of the GI Act deals with the registrations of homonymous GIs, which states: "10. *Registration of homonymous geographical indications.— Subject to the provisions of Section 7, a homonymous geographical indication may be registered under this Act, if the Registrar is satisfied, after considering the practical conditions under which the homonymous indication in question shall be differentiated from other homonymous indications and the need to ensure equitable treatment of the producers of the goods concerned, that the consumers of such goods shall not be confused or misled in consequence of such registration*".

The Court explained that “*homonymous GIs*” are geographical indications spelt and pronounced alike, but which designate the geographical origin of products stemming from different countries, places, or regions and possess different characteristics from each other. In principle, homonymous GIs bring about the existence of multiple GIs that are afforded rights and protection albeit with a co-existent status, along with addition of auxiliary information/indicator, to obviate any confusion or potential of misleading of consumers, as to the true origin of the product.

The Court noted that the GI Act was enacted pursuant to the TRIPS Agreement. Article 23.3 of TRIPS Agreement states: “*In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of Paragraph 4 of Article 22. Each Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled*”.

The Court noted that “*Costa Rica has recognized and granted geographical indication rights in PISCO (Chile) to the petitioner by virtue of registration certificate dated 04th February, 2008*”. It observed that “*there are multiple Free Trade Agreements between Chile and other countries all over the world, which recognize the Republic of Chile’s rights in PISCO*”. It concluded: “*The fact that the alcoholic beverage from Chile is known as PISCO is evident from various documents on record, including, from the Free Trade Agreements with several countries, as well as the documents pertaining to the European Union, which acknowledge that PISCO is also from Chile*”.

The Court noted that it was in complete agreement with the categorical finding in the July 3, 2009, order passed by the GI Registry that registering PISCO as per the application of Respondent no. 4 would definitely cause confusion or deception during the course of trade among consumers, considering both Chilean and Peruvian alcoholic beverages are identified as PISCO.

It held that the fact that the two beverages are qualitatively different has no co-relation with whether the alcoholic beverage from Chile is also identified as “PISCO”. It also criticised the Impugned Order for wrongly referring to the alcoholic beverage from Chile as “Chilean Liquor” without mentioning the name by which it is identified, despite documents and pleadings clearly having established that this alcoholic beverage from Chile is identified and recognised worldwide as “PISCO”.

Consequently, the Court concluded that grant of a GI for “PISCO” exclusively to Respondent no. 4 without specifying the GI of Peru would be detrimental to the legal and legitimate commercial interest of producers of “PISCO” in Chile and would likely deceive and cause confusion.

Final Orders:

- 1) **Setting Aside IPAB Order:** The Court set aside the IPAB’s Impugned Order of November 29, 2018, directing that the GI granted to Respondent no. 4 be modified as “Peruvian PISCO”. It directed that Entry no. 43 in favour of Respondent no. 4 dated June 17, 2019, for “PISCO” in the Register of the Geographical Indications, be modified to include “Peruvian” before “PISCO”.
- 2) **Lifting Stay on Chilean PISCO Application:** The Court directed the lifting of the stay granted vide order dated June 16, 2020, on the Petitioner’s GI Application no. 689 for the GI Chilean PISCO dated June 3, 2020. It also directed the Registrar of Trade Marks & GI to proceed with the Petitioner’s application in accordance with law.

Aishwarya Rai Bachchan v. Aishwaryaworld.com & Ors. – 9 September, 2025; Delhi High Court

Brief Facts: Aishwarya Rai Bachchan filed a commercial suit (CS(COMM) 956/2025) as the Plaintiff against multiple Defendants, including Aishwaryaworld.com & Others. The Plaintiff is one of the most celebrated and internationally recognised personalities in the Indian entertainment industry. Over the years, she has built herself into a brand, wherein the public associates both “trust” and “quality” with the Plaintiff as with every brand she endorses. Because of her reputation, the Plaintiff’s Personality Rights, which include the Plaintiff’s name, image, signature, voice, likeness, and all other elements of the Plaintiff’s persona, have acquired a unique distinctiveness, and due to their inimitable nature, they also have a huge commercial value associated with them.

Activities by the Defendants:

- 1) **Defendant no. 1:** Operates and maintains a website accessible at ‘[https:// aishwaryaworld.com/](https://aishwaryaworld.com/)’ (<https://aishwaryaworld.com/>), which falsely represents itself as the Plaintiff’s official website and is designed to mislead the public into believing that it is operated, authorized, and endorsed by the Plaintiff.
- 2) **Defendant no. 2:** Operates and maintains a website accessible at ‘<https://apkpure.com/>’ (<https://apkpure.com/>),



which hosts and distributes APK files that enable users to download and install applications, including those that are not available on the Google Play Store. This Defendant has several unauthorised applications that bear images of the Plaintiff.

- ⌋ **Defendants nos. 3 and 4:** Defendant no. 3 operates and maintains a website accessible at '<https://bollywoodteeshop.com/>' which unauthorizedly sells T-shirts, in the name of the Plaintiff, prominently bearing her photographs / images. Defendant no. 4 operates and maintains a website accessible at '<https://kashcollectiveco.com/products/aishwarya-rai-vintage-t-shirt>' and unauthorizedly sells T-shirts which prominently bear the name and photograph of the Plaintiff.
- ⌋ **Defendant no. 5:** Is an e-commerce platform that offers for sale various infringing articles such as coffee mugs and T-Shirts to customers, which violate the Plaintiff's Personality Rights. The said Defendant provides a platform which facilitates third party entities to advertise, offer for sale and sell products that infringe the Plaintiff's Personality Rights in an unchecked manner.
- ⌋ **Defendant no. 6:** Is an organisation named 'Aiswarya Nation Wealth, Motivational Speaker' based in Thiruvananthapuram and Mumbai. On 15.08.2025, the Plaintiff received a letter from Defendant no. 6, wherein the Plaintiff was referred to as the Chairman of the said organization, with her image attached on the letterhead of Defendant no. 6 with fraudulent intent of wilful misrepresentation.
- ⌋ **Defendant no. 7:** Is a chatbot accessible at 'www.jainatorai.com' (<http://www.jainatorai.com>), wherein users can interact with AI characters that are designed to facilitate and engage in personalized conversations with inappropriate innuendos related to the Plaintiff. The said chatbot also engages in the impersonation of the Plaintiff, while using sexually-coloured remarks in its messages generated in chat with the users of the chatbot.
- ⌋ **Defendants no. 8 and 9:** Defendant no. 8 is a YouTube Channel which features AI-generated deepfake videos / YouTube shorts of the Plaintiff, which infringe her publicity right, while also engaging in dissemination of false information related to the Plaintiff. Defendant no. 9 is also a YouTube Channel, which features misleading and inappropriate AI-generated YouTube shorts / videos of various Bollywood celebrities including the Plaintiff. These YouTube shorts / videos often portray the Plaintiff in a false setting in addition to inappropriate scenarios with other celebrities.
- ⌋ **Defendant no. 10:** Is Google LLC that owns the tool 'YouTube', where the infringing videos shared by the Defendants nos. 8 and 9 are made available.
- ⌋ **Defendants no. 11-12:** The Ministry of Electronics and Information and Technology and the Department of Technology, Government of India, are proforma Defendants, who have been impleaded only to facilitate the implementation of the orders of this Court.
- ⌋ **Defendant no. 13:** Unknown Defendants referred to as 'John Doe' and / or 'Ashok Kumar', whose names, addresses and/or constitution are presently unknown to the Plaintiff.

Issues:

- 1) Whether the unauthorised use of the Plaintiff's name, image, likeness, and other attributes of her persona by the Defendants constitutes infringement of her Personality / Publicity Rights.
- 2) Whether the Defendants' activities amount to passing off by creating confusion among the public regarding endorsement or sponsorship by the Plaintiff.
- 3) Whether the Plaintiff has established a prima facie case for grant of interim injunction
- 4) Whether the balance of convenience lies in favour of the Plaintiff.
- 5) Whether the Plaintiff would suffer irreparable harm if interim injunction is not granted.
- 6) Whether the use of Artificial Intelligence, deepfakes, and other technological tools to misappropriate the Plaintiff's persona constitutes violation of her rights.

The Court held that Personality Rights encompass an individual's right to control and protect the commercial exploitation of their image, name, likeness, or other distinctive attributes of their personality. These rights are grounded in individual autonomy, the right to permit or deny exploitation of one's personality attributes. Unauthorised use of a famous personality's identity without consent may result in both commercial detriment and violation of their right to dignity. Such unauthorised exploitation has two dimensions: first, violation of the right to protect personality attributes from commercial exploitation; and second, violation of privacy rights, thereby undermining the right to live with dignity. Courts cannot ignore such unauthorised exploitation and must protect aggrieved parties from resulting harm. *Ex parte* injunction was granted and the Defendants concerned were restrained from violating the Plaintiff's personality/publicity rights and/or moral rights and/or passing off their goods and services as those emanating from or being endorsed by the Plaintiff by utilising and/or in any manner directly and/or indirectly, using, exploiting or misappropriating the Plaintiff's: (a) name "Aishwarya Rai Bachchan" and acronym "ARB"; (b) image and likeness; and (c) any other attributes of her persona that are exclusively identifiable with her for any commercial and/or personal gain and/or otherwise by exploiting them in any manner whatsoever without the Plaintiff's consent and/or authorisation, through the use of any technology including, but not limited to, Artificial Intelligence, Generative Artificial Intelligence, Machine Learning, Deepfakes, Face Morphing, on any medium and format.

Ferrero SPA & Others v. M.B. Enterprises – 28 July, 2025; Delhi High Court

Brief Facts: Part of the world-renowned Ferrero Group established in 1946, the Plaintiffs are currently among the leading chocolate producers and confectionery companies in the world. They coined and adopted the mark "NUTELLA" in 1964 for their novel hazelnut cocoa spread. The Defendant, trading as M/s. M.B. Enterprises, is engaged in the manufacture, supply, distribution, and sale of large quantities of counterfeit "NUTELLA". The Plaintiffs first learnt about the Defendant on receiving a letter from Dr. R.D. Munde, a Food Safety Officer under the Food & Drug Administration, on October 29, 2021. During the raid, the Department seized 9,53,400 units of counterfeit "NUTELLA" and about 4,00,000 units of packaging material including labels, bottles, and lids of "NUTELLA" from the Defendant's premises.

This Court noted that dealing with edible items for human consumption warrants exercising greater degree of care and caution as well as applying a more stringent test to avoid any possibility/likeness of confusion between different edible products among the general public. It emphasised the need for due diligence and circumspection, as any deceptive similarity and confusion between trademarks for consumable products could have dangerous implications and be detrimental to the public at large.

Regarding the Plaintiffs' request for declaration of their trademarks "NUTELLA"/"Nutella" as a "well-known trademark", as per the provisions of Sections 2(zg) and 11(6) of the Act, the Court noted that these trademarks have to become so well-known to a substantial segment of the public that its use on other goods or services likely evokes a connection between these goods or services and the original user of the mark. The factors needed to ascertain whether a trademark can be declared as "well-known" include knowledge or recognition obtained by way of promotion of the said trademark, duration, extent and geographical area of use of the said trademark, and record of successful enforcement of the trademark rights.

The Plaintiffs first discovered the Defendant's infringement activities when the FDA conducted a raid at the Defendant's premises and seized large quantities of counterfeit "NUTELLA"/"Nutella" labels, empty jars, etc. This clearly showed the Defendant's *mala fide* intent and that it was/is guilty of misusing the Plaintiff's registered trademarks and clandestinely carrying on manufacturing/offering/selling/marketing of the impugned products to somehow reflect that it was the Plaintiffs and/or was connected with them in some manner. Under these circumstances and more so when the Plaintiffs are the

injunction, arguing lack of novelty and prior publication, relying on Atomberg’s own social media posts, delivery challans, and invoices from early and mid-2018 to demonstrate the design was in the public domain before registration. The Single Judge initially rejected Atomberg’s interim relief plea, finding prior publication and noting Atomberg had described the fan as “formerly known as Atomberg Gorilla Renesa” while failing to disclose relevant facts.

The Bombay High Court Division Bench dismissed Atomberg’s appeal, upholding the Single Judge’s denial of interim relief. Relying on *Wander Ltd. v. Antox India*, the Division Bench found no grounds to interfere with the discretionary order, noting Atomberg’s non-disclosure of prior variants and concluding the design was merely a trade variant lacking novelty. The Court found that documents demonstrated prior publication through Atomberg’s own social media posts and commercial documents from early and mid-2018, undermining the novelty claim. It rejected Atomberg’s contention that the Single Judge erred in equating different fan models, finding the design was previously disclosed and lacked distinctiveness under Sections 4 and 19 of the Designs Act. The passing off claim was also dismissed due to differences in the packaging and branding, with the Court holding that mere similarity was insufficient without proof of misrepresentation or deceptive similarity. Accordingly, it dismissed the appeal and interim application, establishing that design protection requires genuine novelty and proper disclosure of prior variants.

Macleods Pharmaceuticals Ltd v. The Controller of Patents & Ors. – 20 March, 2025; Delhi High Court

Brief Facts: Macleods Pharmaceuticals Ltd filed a revocation petition under Section 64 of the Patents Act, 1970, challenging the validity of Boehringer Ingelheim’s patent for the diabetes drug Linagliptin. Simultaneously, Boehringer filed patent infringement suits against Macleods in both Delhi and Himachal Pradesh High Courts. During the proceedings, the patent in question expired. Boehringer moved applications to dismiss Macleods’ revocation petition, arguing that it had become infructuous due to the patent’s expiry and the existence of parallel infringement proceedings where invalidity could be raised as a defence under Section 107. The Delhi High Court was required to determine:

- 1) Whether the revocation petition could proceed despite these circumstances.
- 2) Whether it constituted a separate cause of action from the invalidity defence available in infringement suits.

The Delhi High Court dismissed Boehringer’s motions to dismiss

the revocation petition, clarifying that Sections 64 and 107 operate independently, with separate causes of action and distinct remedies. It ruled that a revocation petition could proceed even after patent expiry, particularly when an infringement suit seeking damages remained active, as successful revocation would lead to the dismissal of the infringement claim and denial of damages. The Court rejected arguments about potential conflicting judgments, emphasising that the Patents Act provides both rights without forcing parties to choose between them. The judgment reinforced that Section 64 revocation rights are independent statutory rights that should not be undermined by defence of invalidity under Section 107 of the Act. Therefore, patent validity challenges remain accessible even post-expiry of patent term when legitimate cause of action exists.

E.R. Squibb & Sons, LLC & Others v. Zydus Lifesciences Limited – 18 July, 2025; Delhi High Court

Brief Facts: In this suit in the Delhi High Court, the Plaintiff sought permanent injunction to restrain infringement of its Indian Patent titled “Human Monoclonal Antibodies to Programmed Death 1 (PD-1) for Use in Treating Cancer”. The suit patent covers Nivolumab (also known as “5C4”), a therapeutic antibody used in treating various forms of cancer. In April 2022, Plaintiffs became aware that Defendant had applied for clinical trial approval of Nivolumab before CDSCO and had registered a clinical trial for its biosimilar product ZRC-3276 with the Clinical Trial Registry of India, identifying Opdivo® as the reference product. In April 2024, Plaintiffs discovered the Defendant was likely planning to launch a biosimilar version of Nivolumab during the suit patent term, prompting them to file this *quia timet* action.

The Court concluded that *prima facie*, the Plaintiff had established the validity of the suit patent and the Defendant had not raised any credible challenge to validity. It noted that the Patent was granted following a long prosecution and had overcome challenges raised in four pre-grant oppositions. Regarding the argument that the Defendant’s product not being covered by the suit patent, the Court found that “*both the products fall within the scope of the claims of the suit patent*” and “*ZRC-3276, the product of the Defendant, on account of being bio-similar, has the same claimed sequence as claimed in the suit patent, which is admittedly Nivolumab*”.

The Court concluded that, *prima facie*, if the Defendant launch its product commercially, it would amount to infringement of the suit patent. Finding that the Plaintiffs had established a *prima facie* case with balance of convenience in their favour, it granted them interim injunction and restrained the Defendants from

registered proprietors of the trademarks “NUTELLA”/ “Nutella” and its variants, the Defendant’s activities clearly constitute both infringement and passing off, entitling the Plaintiffs to the reliefs under Section 28 of the Trade Marks Act.

In fact, the Defendant’s action raises alarm because these edible items are consumed by all sections of the society, especially children. The availability of the Defendant’s counterfeit products under the same trademark as the Plaintiffs “NUTELLA”/“Nutella” in the open market, without any checks and balances could cause serious public harm. If not stopped, it could also result in the dilution of the Plaintiffs’ long-standing reputation and goodwill.

Accordingly, the Court permanently restrained the Defendant, its partners, proprietors, sister-concerns, affiliates, franchisees, officers, servants, agents, distributors, stockists, representatives, licensees, and anyone acting for or on their behalf directly or indirectly from manufacturing, packaging, supplying, distributing, selling, offering for sale, advertising, and dealing in any manner whatsoever with counterfeit “NUTELLA” or any product not emanating from the Plaintiffs or their authorised distributors and bearing the trademark “NUTELLA” or any other mark, trade dress deceptively identical or similar to the Plaintiffs “NUTELLA” trademarks that amount to the infringement of the Plaintiffs’ trademarks and passing off. Taking into consideration and taking a lenient view, the Court awarded the Plaintiff a cumulative sum of INR 30,00,000 (Thirty Lacs Only) as damages and asked the Defendant to bear the burden of INR 2,00,000 (Rupees Two Lacs Only) for costs and special costs. Accordingly, the Court allowed the present suit and passed a summary judgment in favour of the Plaintiffs and against the Defendant.

The Plaintiffs have been continuously and uninterruptedly using the said mark(s) “NUTELLA”/“Nutella” since 1946 and have valid and subsisting registration from 1975. The Plaintiffs had advertised the trademark “NUTELLA”/“Nutella” across India, spending INR 3 crore in FY 2020–21, INR 7 crore in FY 2021–22, and INR 16 crore, in FY 2022–23 and had gross sales figures of INR 233 crores for FY 2020–21, INR 145 crore in FY 2021–22, and INR 106 crore in FY 2022–23. The Plaintiffs’ registered trademarks “NUTELLA”/“Nutella” were already declared as a “well-known trademark” by the World Intellectual Property Organization and the International Trademark Association. Accordingly, the Court had no hesitation in declaring the Plaintiffs’ “NUTELLA” / “Nutella” as a “well-known trademark” under Section 2(zg) of the Act.

Patents and Designs

Srinivas Jegannathan v. Controller of Patents – July 1, 2025; Madras High Court

Brief Facts: The Madras High Court recently allowed an appeal against the rejection of Patent Application No.122/CHE/2006 for an invention titled “*Formulation of Ceftazidime, Tazobactam and Linezolid for Enhancement of Antibacterial Activity*”. The patent application concerned a pharmaceutical composition combining ceftazidime (a cephalosporin antibiotic), linezolid (an oxazolidinone with excellent activity against MRSA and VRSA), and tazobactam (a beta-lactamase inhibitor) to enhance antimicrobial activity. Rejecting the application on March 26, 2014, following examination and hearing, the Controller of Patents had concluded that the active ingredients and their combinations were well known from prior arts.

Justice Senthilkumar Ramamoorthy allowed the Appeal as the Court found the Controller’s conclusion devoid of reasoning and noted that, individually, none of the cited prior arts combined all three ingredients, i.e., a cephalosporin, an oxazolidinone, and tazobactam together. The Court emphasised that the Controller had failed to explain how combining these three ingredients would be obvious to a person skilled in the art.

The High Court set aside the rejection order and remanded the matter for reconsideration based on the original claims, requiring a different officer to conduct the review and issue a reasoned decision within three months. Importantly, the Court made no determination on the patent application’s merits, leaving the substantive assessment for fresh consideration by the Patent Office.

Atomberg Technologies Pvt. Ltd. v. Luker Electric Technologies Pvt. Ltd. – July 25, 2025; Bombay High Court

Brief Facts: The Bombay High Court dismissed Atomberg Technologies Pvt. Ltd.’s appeal against denial of interim relief in its design infringement and passing off suit against Luker Electric Technologies Pvt. Ltd. Atomberg alleged that Luker had copied its registered “Renesa Ceiling Fan” design (September 8, 2018) through its “Size Zero Fan 1” and “Size Zero Fan 2” models launched in 2022, claiming they were slavish imitations. Atomberg sought injunction based on its claimed long-standing use since 2018, substantial goodwill, and over INR 103 crore turnover in FY 2021–22, asserting the design was created by its directors and assigned to the company. Luker opposed the

manufacturing, using, selling, offering for sale, importing, exporting, advertising or dealing in any biosimilar/similar biologic of Nivolumab during suit pendency. The Court also restrained the Defendants from launching any product manufactured during patent pendency even after patent expiry and directed it to file an affidavit disclosing within four weeks the quantity of manufactured biosimilar Nivolumab.

F. Hoffmann-La Roche AG & Anr v. Zydus Lifesciences Limited – 23 July, 2025; Delhi High Court

Brief Facts: This suit sought permanent injunction to restrain infringement of two Indian patents held by the Plaintiffs titled “PHARMACEUTICAL FORMULATION COMPRISING HER2 ANTIBODY” (a product patent relating to aqueous pharmaceutical formulation comprising Pertuzumab) and “PERTUZUMAB VARIANTS AND EVALUATION THEREOF” (a process patent concerning the method for preparing compositions comprising Pertuzumab and its variants). Both patents pertain to Pertuzumab, a monoclonal antibody biologic used to inhibit HER2 cell dimerisation for treating breast cancer, sold under brand name Perjeta. In February 2024, the Plaintiffs discovered the Defendant had obtained CDSCO recommendation for manufacturing Pertuzumab 30 mg/ml concentrate solution and conducted clinical trials for biosimilar ZRC-3277 using the Plaintiffs’ Perjeta as a reference product. Anticipating a product launch during patent term, the Plaintiffs filed a *quia timet* action suit against the Defendant.

The Court observed that the Plaintiffs had failed to furnish a “claim mapping” chart to technically demonstrate how the Defendant’s product would infringe the formulation patent. It directed the Plaintiffs to provide this analysis as the “*absence of such claim mapping substantially restricts the Court from fully assessing the infringement allegations*”.

There is no interim injunction in favour of the Plaintiffs as on date; however, instead of pressing the injunction application, the Plaintiffs pressed the application seeking disclosure of the Defendant’s manufacturing process to the members of the confidentiality club before Court. The Court denied the request and held that the Plaintiffs failed to fulfil mandatory requirements of Section 104A of the Act. Accordingly, it dismissed the application, noting that it cannot issue any direction to the Defendant to disclose its manufacturing process, even if filed in a sealed cover. The Court concluded that the Plaintiffs had failed to meet the statutory prerequisite under Section 104A of proving that the Defendant’s final product was “identical”, not merely “similar”, to the product derived from the patented process. It also noted that although the Defendant’s product was launched in June 2024, the Plaintiffs conducted no

analytical characterisation to show that the Defendant’s product is identical to the product manufactured using the Plaintiffs’ patented process, which is the statutory requirement under Section 104A.

Takeda Pharmaceutical Co Ltd v. Controller of Patents and Designs & Others – 11 April, 2025; Calcutta High Court

Brief Facts: This is an appeal against the April 12, 2023, order (**Impugned Order**) passed by the Deputy Controller of Patents & Designs, rejecting the patent application on the grounds of lack of inventive steps under Sections 2(1)(j), 3(d), and 10(4) of the Patents Act, 1970. The application was filed on October 21, 2010, claiming priority from an application filed on May 21, 2009. The invention relates to novel protein kinase Inhibitors, specifically providing a new class of potent and selective ALK inhibitors. The subject application relates to a single compound, Brigatinib, comprising a pyrimidine core connected to specific ring moieties. Two pre-grant oppositions were filed by Cancer Patients Aid Association and Ms. Mita Sheikh, raising objections of lack of novelty, prior publication, obviousness, and lack of inventive steps.

The High Court allowed the appeal and set aside the Impugned Order. The Court held that the Controller had erred in finding the invention obvious merely on the basis of structural similarity, emphasising that “*mere structural similarity between compounds of the prior arts and the claimed invention does not make the entire invention obvious*” and that the Controller “*failed to furnish any reasons in concluding that the compounds were structurally similar and how the teachings of the invention were obvious.*” It found that “*the experimental data and evidence relied on by the appellant has been totally ignored in passing the impugned order*” and that the Controller had “*failed to apply the settled principles for assessment of inventive steps and erred in appreciating the true scope of the invention.*” The Court noted that diverse evidence demonstrated Brigatinib’s increased selectivity for ALK over Ins-R, resulting in superior therapeutic efficacy and reduced side effects, but “*all such technical and scientific evidence has been ignored and has not even been considered in the impugned order.*” Regarding post-filing data, it held that “*development of pharmaceutical drug is a lengthy process and the data to demonstrate therapeutic efficacy can be filed even after filing of specification*” and that “*no time bar has been provided in the Act which prevents an applicant from filing additional documents after filing of the patent claim.*” The Court emphasised the importance of avoiding hindsight analysis and considering all evidence including industrial acclaim such as US FDA approval. It remanded the matter to the Respondents for fresh consideration in accordance with law.

Cryogas Equipment Private Limited v. Inox India Limited – 15 April, 2025; Supreme Court of India

Brief Facts: Inox India Limited filed a trademark suit against Cryogas Equipment Private Limited and LNG Express India Private Limited on September, 24, 2018, alleging infringement of two types of copyright: (i) drawings of LNG Semi-trailers (Proprietary Engineering Drawings); and (ii) literary works detailing processes and descriptions. Inox sought damages of INR 2 crore and permanent injunctions against the use of their proprietary materials. LNG Express filed an application under Order VII Rule 11 CPC seeking the rejection of the suit, arguing that the drawings fell under the Designs Act definition and Inox had lost copyright protection by failing to register them under the Designs Act and reproducing them more than 50 times industrially. The Commercial Court initially allowed LNG Express's application, ruling that the drawings qualified as a "design" under Section 2(d) of the Designs Act, but the High Court disagreed and remanded the matter for reconsideration.

The case went up to the Supreme Court, and the Court noted that over time a bit of confusion had arisen in classifying works as an "artistic work" and a "design". To remove ambiguity, the Apex Court formulated a "two-pronged approach" for deciding such cases.

- 1) Determine whether the work in question is purely an "artistic work" entitled to protection under the Copyright Act or whether it is a "design" derived from such original "artistic work" and subjected to an industrial process (Section 15(2)).
- 2) If the work doesn't qualify for copyright protection (i.e., it's effectively a design post-industrial use), then apply the test of "functional utility" to determine its dominant purpose and ascertain whether it would qualify for design protection under the Designs Act.

The Apex Court remanded the case, directing the Trial Court to apply the test provided by the Supreme Court to the facts of this case.

Copyright

Elsevier Ltd. v. Alexandra Elbakyan - August 19, 2025; Delhi High Court

Brief Facts: The Plaintiffs, owners of copyright in several scientific journals, articles, and books, approached the Delhi

High Court alleging that Defendant no. 1, Alexandra Elbakyan, the admitted creator and owner of the website "Sci-Hub" and its mirror domains, was infringing their copyright by storing, reproducing, issuing copies, making available for viewing and download, and communicating to the public their literary works. Defendant no. 1 had, on December 24, 2020, undertaken before the Court not to upload any of the Plaintiffs' new copyrighted articles on Sci-Hub. However, investigations revealed that post-2022 works were uploaded on Sci-Hub and on a sister platform "Sci-Net," launched in April 2025. The Plaintiffs submitted that this was a deliberate and wilful violation of the undertaking.

The Court went on to consider and decide the following issues:

- 1) Whether Sci-Hub and Sci-Net qualify as "rogue websites" as per the test laid down in *UTV Software Communication Ltd. v. 1337x.to*.
- 2) Whether the uploading and availability of the Plaintiffs' works on Sci-Hub and Sci-Net constituted a breach of the Defendant's undertaking dated December 24, 2020.
- 3) Whether Defendant no. 1 was guilty of contempt for wilful violation of the said undertaking.
- 4) Whether blocking orders against Sci-Hub and Sci-Net were necessary and proportionate enforcement measures to prevent further violations.

The Court held that Sci-Hub and Sci-Net were "rogue websites," noting their primary role in facilitating copyright infringement and their disregard for copyright laws. Defendant no. 1's uploading of the Plaintiffs' copyrighted works on Sci-Hub and Sci-Net was held to be in violation of her undertaking dated December 24, 2020, thereby making her *prima facie* guilty of contempt. Consequently, the Court directed:

- 1) The Department of Telecommunications (**DoT**) and the Ministry of Electronics and Information Technology (**MeitY**) to issue notifications requiring all ISPs and telecom service providers to block access to Sci-Hub ([www.sci-hub.ru](<http://www.sci-hub.ru>), [www.sci-hub.se](<http://www.sci-hub.se>), [www.sci-hub.st](<http://www.sci-hub.st>)) and Sci-Net ([www.sci-net.xyz](<http://www.sci-net.xyz>)).
- 2) DoT and MeitY to issue such blocking orders within 72 hours.
- 3) ISPs to block access to these websites within 24 hours of issuance of the blocking orders.



Summary Of Guidelines For Examination Of Computer-related Inventions

The Indian Patent Office recently released guidelines for examination of Computer-Related Inventions (CRI). The summary is as follows:

Novelty

The guidelines rely on *Telefonaktiebolaget LM Ericsson v. Lava International Ltd* (Delhi HC, 28 March 2024) to lay down the Test of Novelty, i.e., the “**Seven Stambhas (Pillars) Approach**” for novelty assessment.

1. **Understand the Claims of the invention:** Analyse claims that define invention boundaries and what is the novel contribution according to the applicant as a whole.
2. **Identify Relevant Prior Art:** Search and collect relevant patent or non-patent literature published prior to the priority date.
3. **Analyse Prior Art:** Compare similarities/differences with claimed invention.
4. **Determine Explicit and Implicit Disclosures:** Explicit is when the prior art directly describes the claimed subject matter; implicit is when the prior art is so similar that a direct disclosure can be drawn by a person skilled in the art on the priority date in view of his/her common general knowledge.
5. **Assess Material Differences:** Presence of material difference would indicate that the invention is novel.

6. **Check Combination of Claimed Elements:** Assess novelty considering the claim as a whole and all combination of elements in the claim.
7. **Analyse Documentation and Determine Novelty:** Specify the finding and provide a clear rationale with references to prior art.

Inventive Step

The guidelines rely on various cases to elaborate on how inventive step needs to be adjudicated for various software-related inventions. These also state strictly and objectively judging obviousness and looking at the invention as a whole. The guidelines also lay down a **5-Step Analysis for Inventive Step** (*Ericsson v. Lava, 2024*):

1. Identify person skilled in the art (PSITA).
2. Identify common general knowledge at priority date.
3. Identify inventive concept of the claim (or construe it).
4. Identify differences between prior art and claimed invention.
5. Ask: Without hindsight, would those differences be obvious to PSITA, or do they require inventive ingenuity?

Sufficiency of Disclosure

Patents operate on a quid pro quo basis. Exclusive rights are granted in exchange for full disclosure of the invention. This ensures the invention can be understood, replicated, and

applied by a person skilled in the art. The test to be used is that specification should answer “*what*” the invention is and “*how*” it is performed:

1. “What”: Hardware-based inventions must describe every feature with drawings, methods must set out steps with flowcharts and mechanisms, including working relationship between components and expected result.
2. “How”: The best mode of performance known to the applicant must be disclosed with illustrations and description should go beyond functionality to include implementation details.

Determination of Excluded Subject

The Examiner should also determine whether or not the claimed invention is patentable under Section 3 of the Act. The Sub-sections 3(k) and (m) consider mathematical methods, business methods, algorithms, and computer programmes per se as not patentable.

Mathematical Method: Purely abstract or intellectual methods are not patentable. The following steps should be taken to assess if the claimed invention is a mathematical method:

1. **Construe the Substance of Claimed Invention:** Understanding the claimed invention in its entirety to capture its primary underlying objective and the solution it aims to provide.
2. **Determination Regarding the Identified Solution:** The identified solution in Step 1 shall be assessed to determine:
 - a. Whether the solution, in its essence, lies in abstract mathematical processing by inherently showing only operations/functions of equations, statistical models, mathematical computations or alike, only to define any output.

OR

 - b. Whether the mathematical processing is not the primary objective but part of a larger technical process, where the output calculation is not the main aim rather it contributes to achieving a broader technical objective.
3. **If the determination in step 2 matches with 2(a), then the claimed subject matter falls under exclusion of “Mathematical Method”; else if the determination matches with 2(b), then the claimed subject matter does NOT fall under exclusion of “Mathematical Method”.**

Business Method: Mere use of the terms “enterprise”, “commerce”, “sales”, etc., will not automatically make an invention a business method. The focus is on the substance of the claim whether it is a business strategy or a technical solution. Steps for assessing whether the claimed invention falls under the exclusions under “Business Method”:

1. **Construe the Substance of Claimed Invention:** Understanding the claimed invention in its entirety to capture its primary underlying objective and the solution it aims to provide. It includes evaluating the substance of claimed invention and determining where the core of claimed invention lies.
2. **Determination Regarding the Identified Core of the Claimed Invention:** The identified core in Step 1 shall be assessed to determine:
 - a. Whether the core of claimed invention, in its essence, is primarily an administrative/commercial/business strategy like financial schemes, marketing strategies, administrative processes outlining rules or strategies for revenue generation, customer management, or financial transactions.

OR

 - b. Whether the core of claimed invention, in its essence, is technical improvement/ solution to an underlying system or process, aimed at refining operational framework or infrastructure, and using business context only as a constraint to define the scope of the invention.
3. **If the determination in step 2 matches with 2(a), then the claimed subject matter falls under exclusion of “Business Method”; else if the determination matches with 2(b), then the claimed subject matter does NOT fall under exclusion of “Business Method”.**

Algorithm: Steps for assessing whether the claimed invention falls under the exclusion of ‘Algorithm’:

1. **Construe the Substance of Claimed Invention and thereby Identification of Series of Steps:** Understanding the claimed invention in its entirety to capture where the core of claimed invention lies, and then assess it to identify a series of steps outlining a sequential process.
2. **Determination of Enablement/Abstractness:** The identified series of steps in Step 1 shall be assessed to determine:

- a. Whether the identified series of steps have a level of abstractness devoid of technical specifics or components needed to implement those steps.

OR

- b. Whether the identified series of steps are enabled in the sense that they have the technical specifics/components needed to implement those steps, detailing the technical implementation and if this results in a technical solution to a real-world problem.
3. **If the determination in Step 2 matches with 2(a), then the claimed subject matter falls under exclusion of “Algorithm”; else if the determination matches with 2(b), then the claimed subject matter does NOT fall under exclusion of “Algorithm”**

Computer Programme per se: Steps for assessing whether the claimed invention falls under the exclusion of computer programme per se involve:

1. **Construing the Substance of Claimed Invention as a Whole and Identifying the Essential Technical Features:** Understanding the claimed invention holistically, looking beyond the specific wording or form of the claims to understand the actual underlying objective and concept

of the invention to capture claimed invention’s actual technical contribution. Further, pin-pointing the core technical components and/or functionalities that are indispensable building blocks of the claimed invention and are vital for its operation and achieving the claimed purpose.

2. **Identifying the Core Problem Addressed by the Invention and the Solution It Proposes and Thereby Determine the Technicality.**
3. **Determining Whether the Identified Technicality Results in a Technical Effect**, which is beyond a mere incidental effect.
4. **If the determination in Step 3 results into affirmation, then the claimed subject matter does NOT fall under the exclusion of “Computer Programme per se”; else the claimed subject matter is excluded under “Computer Programme per se” of Section 3(k).**

These guidelines position India at the forefront of modern patent examination, balancing innovation protection with appropriate exclusions. They provide essential clarity for practitioners, inventors, and examiners while ensuring India’s patent regime remains responsive to technological advancement and industrial needs in the digital age.

Recent Major Deals Handled By The Ip Team At Cam

1. Airbus in Their IP Licensing Deal with Tata Advanced Systems Limited

Our IP team assisted Airbus in their IP Licensing deal with Tata Advanced Systems Limited (**TASL**) and drafting documents for technology transfer to TASL. The agreement was drafted keeping in mind the Indian legal provisions, for instance, the [Indian] Contract Act, 1872, and the public policy of India, such that the same are valid and enforceable under Indian Law.

2. Hindustan Unilever Limited (HUL) Acquisition of Majority Shareholding in Minimalist.

CAM represented Hindustan Unilever Limited (**HUL**) in acquiring 90.5 per cent of the share capital of Uprising Science Private Limited (**Minimalist**). The Intellectual Property team conducted the IP due diligence, brand diligence, brand strength analysis, review of license agreements, etc., for the transaction. IP team also advised on HUL entering into appropriate license agreements with vendors and other third parties.

3. CG Power and Industrial Solutions Limited Acquisition of Radio Frequency Business from Renesas Electronics Corporation (Project Radio)

CAM represented CG Power and Industrial Solutions Limited (**CG Power**) in its acquisition of the Radio Frequency (**RF**) front-end and RapidIO components business from Renesas Electronics America Inc. and other affiliates of Renesas Electronics Corporation (collectively, **Renesas**). The CAM team conducted comprehensive legal due diligence on the target assets including the intellectual property rights and reviewed, negotiating various transaction documents, including the asset purchase agreement and various IP licensing agreements executed between Renesas and CG Power. The IP team's key contributions included conducting patent ownership, validity assessments across the United States, Japan, China, and South Korea, facilitating the transfer of IP ownership.

4. AM Green Technology & Solutions B.V. Acquisition of Chempolis Oy (Project Sunrise)

CAM acted as legal counsel to AM Green Technology & Solutions B.V., a company incorporated under the laws of Netherlands, in relation to the acquisition of approximately 96 per cent shares of Chempolis Oy, a company incorporated



under the laws of Finland. It also advised the Client on the transfer of the Bio 2X business and related assets of Fortum Power and Heat Oy to Chempolis and the assignment and transfer of intellectual property rights from Fortum Oyj to Chempolis. The IP team advised the Client in negotiating and finalising the asset transfer agreement for assignment and transfer of intellectual property rights to Chempolis Oy. The transaction also involved undertaking intellectual property due diligence on Chempolis Oy and its Indian subsidiary, Chempolis India Private Limited.

5. Pernod Ricard India Private Limited Sale of 'Imperial Blue' Business to Grain & Grape Works Private Limited

CAM advised Pernod Ricard India Private Limited (**PRI**) to sell its "Imperial Blue" business division to Grain & Grape Works Private Limited (**GGWPL**), a wholly owned subsidiary of Tilaknagar Industries Limited. The IP team's role involved drafting and negotiating IP-focused commercial agreements, including business domain names assignment agreement, co-existence assignment agreement, and IP transfer Deed covering trademarks, brand assets, and associated intellectual property rights. The team conducted vendor legal due diligence of PRI, identifying all intellectual property assets associated with the "Imperial Blue" brand portfolio, including registered trademarks, design rights, and proprietary formulations. Given that excise business in India is heavily regulated across different states, the IP team ensured that all IP transfers complied with state-specific trademark regulations and brand protection laws across different states, facilitating seamless transfer of brand ownership rights and domain names while managing co-existence arrangements.

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