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उद्योग संवर्धन और आंतरिक व्यापार विभाग

Department for Promotion of Industry and Internal Trade

**बौद्धिक संपदा महानियंत्रक कार्यालय**

Office of The Controller General of Patents, Designs & Trade Marks

बौद्धिक संपदा भारत

Intellectual Property INDIA

# "बौद्धिक न्यायवृत्त"

# (IP LEX)

## MONTHLY COMPILATION OF JUDGMENTS ON *INTELLECTUAL PROPERTY RIGHTS*



## OCTOBER 2026

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# MESSAGE

As homes across *Bharat* light their lamps for *Deepawali*, "बौद्धिक न्यायवृत्त" (IP LEX) reaches its fourth issue and completes its first quarter, a milestone worth celebration, in this festive season.

Deepawali begins with Dhanteras, when families honour *dhan*, the wealth that sustains a household, and remember Bhagwan Dhanvantari, who rose from the Samudra Manthan bearing the kalash of amrit and the knowledge of healing. On Lakshmi Puja, Goddess Lakshmi is worshipped with Lord Ganesha and, in many homes, Goddess Saraswati. Our tradition has always integrated prosperity and knowledge. *Vidya Lakshmi*, one of the *Ashta Lakshmi*, stands for learning as wealth, and the subhashita declares विद्याधनं सर्वधनप्रधानम्, the wealth of knowledge is the greatest of all.

Intellectual property is how modern law recognises this idea. A patent, design, copyright, trade mark or geographical indication is wealth in the fullest sense: property created by the mind that can be owned, valued, licensed, transferred and protected. The same verse says knowledge grows the more it is given away, and the patent system rests on that principle, granting protection in return for disclosure so that one inventor's lamp lights many others. Dhanvantari also reminds us of our duty to safeguard traditional knowledge, the shared inheritance of our communities, from misappropriation.

IP LEX is an attempt to bring structure and clarity to the steady flow of judgments from our Courts. Like the churning of the ocean, evolving jurisprudence keeps yielding principles that guide our work, helping Controllers, Registrars and Examiners write reasoned, fair and consistent orders, and making the law more predictable for practitioners, legal scholars and rights holders. I welcome readers' feedback for the editions ahead.

As we bring home something new this Dhanteras, may every inventor, creator and enterprise also recognise the value of what they create and take steps to protect it.

My warm greetings to all for a joyous, prosperous and enlightening Deepawali.

शुभ दीपावली।

**Prof. (Dr.) Unnat P. Pandit**
Controller General of Patents, Designs & Trade Marks

# IP LEX

India's intellectual property jurisprudence has, in recent years, grown in both volume and complexity. Courts across the country, from the Supreme Court to the High Courts and their specialised Intellectual Property Divisions, deliver a steady stream of judgments interpreting the Patents Act, 1970, the Copyright Act, 1957, the Designs Act, 2000, the Trade Marks Act, 1999, and the Geographical Indications of Goods (Registration and Protection) Act, 1999. These decisions shape how statutory provisions are read, how rights are enforced, and how the balance between innovation, creativity, and public interest is struck in practice. For controllers, registrars, examiners, practitioners, students, and rights holders, keeping track of this evolving body of law is not straightforward. Judgments are scattered across court websites, law reports, and databases, often without a common structure, making it difficult to locate the reasoning on a given provision or to see how a principle has developed across cases and years.

IP Lex is conceived as a consolidated resource bringing together Indian statutes, rules, and judicial decisions relating to Patents, Copyright, Designs, Trade Marks, and Geographical Indications. Each entry is organised around the relevant statutory provisions, enabling users to readily trace the judgments interpreting them. It facilitates easy navigation between the statutory framework and its judicial interpretation, while presenting recurring legal principles emerging from the Courts. The platform serves as an accessible and evolving reference, reflecting significant judicial developments and the continuing evolution of Indian Intellectual Property law.

For the month of October 2026, this monthly compilation brings together significant judicial decisions relating to Intellectual Property Rights, covering the areas of Patents, Copyright, and Trade Marks. The compilation highlights key judicial findings and principles emerging from these decisions, providing a consolidated reference to the developments in Indian Intellectual Property law during the month.

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## 1. THE NORTH FACE APPAREL CORP VS. CONTROLLER OF PATENTS AND DESIGNS[1]

**Case no.: CMA(PT) No. 22 of 2025**

**Court: HIGH COURT OF JUDICATURE AT MADRAS**

**Bench: HON'BLE MR.JUSTICE K.KUMARESH BABU**

**Date of Judgement/Order:** October 16, 2026

**Keywords**

Patentability, Inventive Step, Prior Art, Mosaicing, Hindsight Reconstruction, Technical Advancement, Patent Refusal, Grant of Patent, Principles of hindsight

**Facts**

The North Face Apparel Corp. (Appellant) filed Patent Application No. 202147026139 for an invention titled "Systems and Methods for End-to-End Article Management." The invention involved monitoring garment manufacturing, identifying errors, and correcting deviations using invisible markers and a spectrophotometer to improve manufacturing accuracy and efficiency. The Controller rejected the application on 16 April 2025, holding that the invention lacked an inventive step in view of prior-art documents D21–D24. The appellant argued that the Controller had examined individual features separately instead of considering the invention as a whole and had failed to appreciate its technical differences from the cited prior art. The appellant challenged the refusal before the Madras High Court.

**Provisions**

Section 2(1)(j) and Section 2(1)(ja) and Section 13 of the Patents Act, 1970

**Judgment**

The Madras High Court allowed the appeal, set aside the Controller's refusal order dated 16 April 2025 and directed the Patent Office to grant the patent. The Court found that the use of invisible markers identified through a spectrophotometer provided a technical advancement

[1] THE NORTH FACE APPAREL CORP VS. CONTROLLER OF PATENTS AND DESIGNS

over the cited prior art and involved an inventive step. Therefore, the refusal was unsustainable. The Court observed that the Controller had improperly broken the invention into separate features and compared them with different prior-art documents. The cited documents had different objectives and did not disclose the claimed manufacturing process when considered together.

**Ratio**

An invention must be assessed as a whole when determining inventive step. Different prior-art documents cannot be combined through hindsight reconstruction to reject an invention without establishing how their teachings lead to the claimed invention. A technical advancement over existing knowledge, including an improved manufacturing process, can support the existence of an inventive step.

**Issues Framed by the Court**

1. Whether the Controller was justified in combining features from different prior-art documents to conclude that the invention was obvious?
2. Whether the Controller was justified using the principles of hindsight for examining the patentability and inventive step of an invention?
3. Whether the use of invisible markers and a spectrophotometer provided a technical advancement over existing manufacturing systems?

**Points to be Considered**

The Inventive step must be assessed by considering the invention as a whole, rather than examining individual features in isolation. Prior-art documents should not be combined using hindsight merely to show that an invention is obvious.

**2. TETRA TECHNOLOGIES, INC. vs. UNION OF INDIA & ORS.[2]**

**Case no.: W.P.(C)-IPD 33/2024**

**Court: HIGH COURT OF DELHI AT NEW DELHI**

**Bench: HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

[2] TETRA TECHNOLOGIES, INC. vs. UNION OF INDIA & ORS.

**Date of Judgement/Order:** October 6, 2026

**Keywords**

Deemed Abandonment, Non-Receipt of FER, Electronic Communication, Natural Justice, Revival of Patent Application, Section 21(1)

**Facts**

Tetra Technologies, Inc. (Petitioner) filed Indian Patent Application No. 202017019804 on 11 May 2020 through its patent agent. The Controller claimed that the First Examination Report (FER) was sent by email on 28 October 2021. Since no reply was received within the prescribed period, the application was treated as deemed abandoned under Section 21(1). The petitioner argued that neither it nor its patent agent had received the FER and that it became aware of the abandonment only after checking the Patent Office website in April 2023. Despite repeated emails and a petition requesting re-issuance of the FER, the Controller maintained that the FER had been successfully sent. The petitioner, therefore, approached the Delhi High Court seeking revival of its patent application.

**Provisions**

Section 21(1) of the Patent Act, 1970 and Rule 5, Rule 6(3)-(5), Rule 24B(5)–(6), Patents Rules, 2003

**Judgment**

The Delhi High Court set aside the decision treating the patent application as abandoned and directed its revival. The Court observed that the Patent Office had shown that an email was dispatched but had not established that the FER was actually received by the petitioner or its patent agent. The Court held that mere dispatch of an email, particularly where receipt is seriously disputed, cannot by itself justify the serious consequence of abandonment. The Controller was directed to communicate the FER to the petitioner through both postal and email addresses within one week. The petitioner was given eight weeks to respond, after which the application was to be processed in accordance with law.

**Ratio**

A patent application cannot be treated as deemed abandoned under Section 21(1) when effective communication of the FER is not established. The applicant must have a fair opportunity to respond to examination objections. Proof of dispatch alone is insufficient in circumstances where receipt is seriously disputed, and the evidence does not establish effective communication.

**Issues Framed by the Court**

1. Whether a patent application can be treated as abandoned when the applicant claims that the FER was never received?
2. Whether proof that an email was sent by the Controller is sufficient to establish effective communication of the FER?
3. Whether the Controller violated principles of natural justice by treating the application as abandoned without giving the applicant a meaningful opportunity to respond?

**Points to be Considered**

Effective communication of the FER is essential before applying the deemed-abandonment provision under Section 21(1). Mere electronic dispatch does not conclusively establish actual receipt where communication is seriously disputed. The Controller must properly examine complaints of non-receipt rather than relying solely on system-generated dispatch records. An applicant's continued efforts to pursue an application may indicate that there was no intention to abandon it.

**3. SML LIMITED VS. MOHAN & COMPANY AND ANR.[3]**

**Case no.: OMP No. 324 of 2023 in COMS No. 7 of 2023**

**Court: HON'BLE MR. JUSTICE SANDEEP SHARMA**

**Bench: HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Date of Judgement/Order:** October 15, 2026

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[3]**SML LIMITED VS. MOHAN & COMPANY AND ANR.**

**Keywords**

Patent Infringement, Territorial Jurisdiction, Interim Injunction, Trap Purchases, Unauthorized Dealer, Online Sale, Patent Rights

**Facts**

SML Limited (Plaintiff), owner of Indian Patent No. 282092 for an agricultural composition marketed as "TECHNO Z", filed a patent infringement suit against Mohan & Company and another defendant concerning the sale of a similar product under the brand name "ZeekaSulf". SML sought an interim injunction to stop the defendants from manufacturing, marketing and selling the allegedly infringing product. An ex parte interim injunction was initially granted on 24 July 2023. Defendant No. 2 challenged the territorial jurisdiction of the Himachal Pradesh High Court, arguing that it neither operated nor sold the product in Himachal Pradesh. It claimed that the four invoices relied upon by SML were isolated purchases from an unauthorized retailer and could not establish jurisdiction.

**Provisions**

Section 48, Patents Act, 1970, Order XXXIX Rules 1 and 2, CPC, 1908, Clauses 8(2) and 8(3), Fertilizer (Control) Order, 1985

**Judgment**

The Himachal Pradesh High Court dismissed SML Limited's application for an interim injunction on the ground that it had failed to establish a prima facie case of territorial jurisdiction.

The Court observed that the four invoices relied upon by SML did not establish that Defendant No. 2 had supplied or authorized the sale of the product in Himachal Pradesh.

It further held that merely listing a product on a website does not establish that the defendant is conducting business or making sales within the Court's territorial jurisdiction.

Since territorial jurisdiction was not established at the interim stage, the Court did not examine whether the defendants had actually infringed SML's patent.

**Ratio**

A patent owner seeking an interim injunction must establish a prima facie basis for the Court's territorial jurisdiction. Isolated purchases from an unauthorized retailer or the mere availability of a product listing on a website are insufficient, on their own, to establish jurisdiction where no genuine commercial connection with the territory is demonstrated.

**Issues Framed by the Court**

1. Whether the Himachal Pradesh High Court had territorial jurisdiction to hear the patent infringement dispute?
2. Whether four isolated purchases from an allegedly unauthorized retailer were sufficient to establish territorial jurisdiction?
3. Whether listing the allegedly infringing product on a website established that it was being offered or sold in Himachal Pradesh?
4. Whether SML Limited was entitled to an interim injunction without first establishing a prima facie basis for territorial jurisdiction?

**Points to be Considered**

Territorial jurisdiction must be established at least prima facie before an interim injunction is granted. Isolated or arranged purchases may not be sufficient to establish jurisdiction without credible supporting evidence. Evidence connecting the manufacturer or supplier to the alleged sales is important when jurisdiction is disputed.

The Court did not decide whether the patent was infringed or whether the patent was valid. The findings were limited to the interim injunction application and did not finally determine the underlying infringement suit.

**4. ORION ENGINEERED CARBONS IP GMBH AND CO. KG. VS. THE PATENT OFFICE, DELHI & ANR.[4]**

**Case no.: W.P.(C)-IPD 42/2026**

**Court: HON'BLE MR. JUSTICE VIKAS MAHAJAN**

**Bench: HIGH COURT OF DELHI**

**Date of Judgement/Order:** October 16, 2026

[4]ORION ENGINEERED CARBONS IP GMBH AND CO. KG. VS. THE PATENT OFFICE, DELHI & ANR.

**Keywords**

Post-Grant Opposition, Clerical Error, Form 7, Form 30, Deficient Fee, Correction of Procedural Irregularities, Rule 137, Statutory Time Limit

**Facts**

Orion Engineered Carbons (Petitioner) filed a post-grant opposition against Patent No. 470059 on 4 November 2024, within the prescribed one-year period. However, due to a clerical error, the opposition was uploaded in Form 30 instead of Form 7, resulting in payment of ₹12,000 instead of the required ₹40,000. After discovering the mistake, the petitioner applied for correction under Rule 137 of the Patents Rules, 2003. The Controller did not decide the correction request and maintained that it had no power to condone delays in post-grant opposition proceedings. The petitioner approached the Delhi High Court seeking correction of the filing error.

**Provisions**

Section 25(2) and Section 142(3) of the Patents Act, 1970, Rule 55A and Rule 137 of Patents Rules, 2003

**Judgment**

The Delhi High Court allowed the petition and permitted correction of the filing error under Rule 137. The Court observed that the opposition had been filed within the statutory one-year period. Therefore, there was no delay in filing the opposition itself. Uploading the opposition in the wrong form and paying the corresponding lower fee were procedural errors arising from an inadvertent mistake. These could be corrected without prejudicing the patentee. The Court directed the petitioner to pay the deficient fee of ₹28,000 within three weeks and directed the Patent Office to consider the post-grant opposition in accordance with law after payment.

**Ratio**

A post-grant opposition filed within the statutory time limit should not be defeated merely because of a correctable procedural error. Rule 137 permits correction of an incorrect form

and the resulting fee deficiency, provided the correction does not prejudice another person's interests. Procedural rules should support justice rather than defeat the purpose of the law.

**Issues Framed by the Court**

1. Whether a post-grant opposition filed within the prescribed one-year period could be treated as defective merely because it was uploaded in the wrong form?
2. Whether the incorrect filing form and resulting fee deficiency could be corrected under Rule 137?
3. Whether allowing such correction would amount to extending the statutory deadline under Section 25(2)?
4. Whether correcting the clerical error would prejudice the rights of the patentee?

**Points to be Considered**

Filing within the statutory deadline was the decisive factor in this case. Rule 137 can be used to correct procedural mistakes where no specific correction provision exists. Filing an opposition in the wrong form and paying a deficient fee may be correctable when the original opposition was submitted on time. Correction is subject to the condition that it does not prejudice the interests of another person. Rule 137 does not generally extend the one-year statutory deadline for filing post-grant opposition. The Court permitted the opposition to proceed, but did not decide its merits or the validity of the Patent.

**5. NOCIL LTD. VS. FINORCHEM LTD. & ANR.[5]**

**Case no.:IP-COM/25/2024**

**Court: HON'BLE JUSTICE RAVI KRISHAN KAPUR**

**Bench: HIGH COURT AT CALCUTTA**

**Date of Judgement/Order:** October 7, 2026

**Keywords**

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[5]NOCIL LTD. VS. FINORCHEM LTD. & ANR.

Process Patent Infringement, Trade Secrets, Breach of Confidentiality, Non-Disclosure Agreement (NDA), Burden of Proof, Credible Challenge, Interim Injunction, Patent Validity

**Facts**

NOCIL Ltd. (Plaintiff), a manufacturer of rubber chemicals, owned three process patents (Nos. 341922, 366559, and 389262) relating to the manufacture of 4-Aminodiphenylamine (4-ADPA), a chemical used in producing rubber antioxidants. NOCIL alleged that Finorchem Ltd. (Defendant No. 1) was using a substantially similar manufacturing process. It further alleged that its former employee (Defendant No. 2), who had worked on the patented technology and signed a Non-Disclosure Agreement (NDA), had shared confidential technical information with Finorchem. NOCIL relied on similarities between the companies' Environmental Impact and Risk Assessment (EIRA) reports and the manufacturing processes disclosed by Finorchem. NOCIL approached the Court seeking an interim injunction to prevent patent infringement and misuse of its confidential information.

**Provisions**

Section 13(4), Section 48(b), Section 64, Section 104A of Patents Act, 1970

**Judgment**

The Calcutta High Court granted interim relief in favour of NOCIL Ltd. The Court found that Finorchem's manufacturing process was prima facie substantially similar to NOCIL's patented processes. Minor technical variations were insufficient to establish meaningful differences. The Court observed that Finorchem had failed to raise a credible challenge to the validity of NOCIL's patents. Its repeated changes to the disclosed manufacturing process and failure to provide consistent information also weighed against it. The Court further found prima facie evidence suggesting misuse of confidential information by NOCIL's former employee and breach of the NDA. Considering the strong prima facie case, balance of convenience and risk of irreparable harm, the Court granted interim protection against patent infringement and misuse of confidential information.

**Ratio**

In process patent infringement cases, the essential features of the patented process must be compared with the defendant's process. Minor or insignificant variations do not necessarily

avoid infringement. Where the conditions of Section 104A are satisfied, the defendant may be required to establish that its manufacturing process is different. A patent grant does not automatically prove validity; however, a defendant must raise a credible and substantiated challenge to resist interim protection. Confidential technical information and trade secrets may also be protected against misuse by former employees and competitors.

**Issues Framed by the Court**

1. Whether Finorchem's manufacturing process was substantially similar to NOCIL's patented processes and amounted to prima facie infringement?
2. Whether Finorchem was required under Section 104A to prove that its manufacturing process was different from NOCIL's patented process?
3. Whether Finorchem had raised a credible challenge to the validity of NOCIL's patents?
4. Whether NOCIL's former employee had breached his NDA and misused confidential technical information?
5. Whether NOCIL was entitled to an interim injunction against patent infringement and misuse of trade secrets?

**Points to be Considered**

Process patent infringement is assessed by comparing the essential features of the patented process with the defendant's process. Minor changes in technical steps may not be sufficient to avoid infringement. Section 104A can shift the burden of proof to the defendant in qualifying the process patent infringement cases. Grant of a patent does not automatically establish its validity, but an unsupported challenge is insufficient to defeat interim relief. Courts may consider the age, examination history, and commercial use of patents when assessing interim protection. Confidential technical information can remain protected through an NDA even after an employee leaves the company. The decision concerns interim relief; final findings on infringement, patent validity, and breach of confidentiality remain subject to trial.

## 6. GLISTEN LLC VS. THE ASSISTANT CONTROLLER OF PATENTS & DESIGNS[6]

[6] GLISTEN LLC VS. THE ASSISTANT CONTROLLER OF PATENTS & DESIGNS

**Case no.: C.A.(COMM.IPD-PAT) 21/2026**

**Court: HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

**Bench: HIGH COURT OF DELHI**

**Date of Judgement/Order:** October 15, 2026

**Keywords**

Patent Refusal, Inventive Step, Hearing Notice, Natural Justice, Revival of Objections, Opportunity of Hearing, Patent Examination

**Facts**

Glisten LLC (Appellant) filed a patent application titled "Gemstone Coating and Methods of Making and Using the Same." The First Examination Report (FER) raised an inventive-step objection against Claims 1–18. However, after the applicant submitted its reply, the subsequent hearing notice raised the inventive-step objection only against Claim 18. Glisten LLC, therefore, deleted Claim 18 and proceeded with Claims 1–17.

Despite this, the Assistant Controller refused the entire application, holding that Claims 1–17 lacked inventive step based on prior-art documents D1 and D2. Glisten LLC challenged the refusal before the Delhi High Court, arguing that it had not been given an opportunity to respond to the objection against Claims 1–17 at the hearing stage.

**Provisions**

Section 14, Section 15, Section 80, Section 2(1)(ja), Section 117A, Patents Act, 1970

**Judgment**

The Delhi High Court allowed the appeal and set aside the Controller's refusal order. The Court held that the hearing notice had restricted the inventive-step objection to Claim 18. Once that claim was deleted, the Controller could not reject Claims 1–17 on an objection that had not been communicated as outstanding in the hearing notice.

The Court emphasized that an applicant must know the specific objections it has to answer before an adverse decision is taken. Accordingly, the patent application was revived and sent

back to the Patent Office for fresh consideration in accordance with the law. The Court did not decide whether Claims 1–17 satisfied the inventive-step requirement.

**Ratio**

A patent application cannot be refused on an objection that was not communicated to the applicant as an outstanding ground before the hearing. If the Controller wishes to revive an earlier objection or raise a fresh one, the applicant must first be informed and given a fair opportunity to respond. The power to refuse an application under Section 15 must be exercised in compliance with Sections 14 and 80 and the principles of natural justice.

**Issues Framed by the Court**

1. Whether the Controller could reject Claims 1–17 for lack of inventive step when the hearing notice raised that objection only against Claim 18?
2. Whether an objection mentioned in the FER but not carried forward into the hearing notice could be relied upon in the final refusal order without further notice?
3. Whether the appelant was denied a fair opportunity to respond to the grounds on which its patent application was refused?
4. Whether the refusal order violated Section 14 and the principles of natural justice?

**Points to be Considered**

The hearing notice must clearly identify the objections that remain unresolved after the FER reply. An objection raised in the FER but omitted from the hearing notice cannot be revived in the final refusal order without giving the applicant a fresh opportunity to respond. Section 15 gives the Controller the power to refuse an application, but that power must be exercised through a fair procedure.

## 7. DEAKIN UNIVERSITY VS. THE CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADE MARKS[7]

**Case no.: WP(IPD) No. 22 of 2026**

**Court: HIGH COURT OF JUDICATURE AT MADRAS**

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[7] DEAKIN UNIVERSITY VS. THE CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADE MARKS

**Bench: HON'BLE DR. JUSTICE A.D.MARIA CLETE**

**Date of Judgement/Order:** October 1, 2026

**Keywords**

Deemed Abandonment, Patent Application Restoration, Patent Agent Negligence, Condonation of Delay, COVID-19 Limitation Extension, Writ Jurisdiction

**Facts**

Deakin University (Petitioner), Australia, filed Indian Patent Application No. 201747029902 for an invention titled “Firefighter Training Unit.” The Controller issued the First Examination Report (FER) on 25 November 2020. However, the University's Indian patent agent failed to file the reply within the prescribed time, and the application was treated as deemed abandoned under Section 21(1). The University argued that its former patent agent had incorrectly advised it about the extension of deadlines during the COVID-19 pandemic and subsequently failed to respond to instructions and reminders.

After discovering the abandonment, the University appointed a new patent agent and filed a petition under Rule 137 seeking restoration of the application. As no decision was taken on the petition, it approached the Madras High Court.

**Provisions**

Section 21(1), Patents Act, 1970, Rules 24B(5), 24B(6) and 137, Patents Rules, 2003 and Article 226, Constitution of India

**Judgment**

The Madras High Court allowed the writ petition and ordered the restoration of Deakin University's patent application. The Court held that although the FER response deadlines are mandatory and the Controller cannot extend them beyond the prescribed period, the High Court may exercise its extraordinary writ jurisdiction in exceptional circumstances. The Court found that the University had never intended to abandon its application and that the failure resulted from its former patent agent's negligence. Accordingly, the Court condoned the delay, directed the Patent Office to accept the FER reply, and restore the application's

status within four weeks. It also directed the Patent Office to endeavour to complete examination within six months.

**Ratio**

In exceptional circumstances, the High Court may restore a patent application treated as deemed abandoned under Section 21(1) where the applicant demonstrates that it never intended to abandon the application and that the default occurred due to its patent agent's negligence. Although the Controller cannot extend the mandatory statutory deadline, the High Court may grant relief through its extraordinary writ jurisdiction.

**Issues Framed by the Court**

1. Whether Deakin University's patent application could be restored despite missing the statutory deadline for replying to the FER?
2. Whether the University should lose its patent application because of its patent agent's negligence when it had never intended to abandon the application?
3. Whether the High Court could condone the delay and restore the application even though the Controller had no power to extend the prescribed deadline?
4. Whether the University's conduct and correspondence demonstrated its continued intention to pursue the patent application?

**Points to be Considered**

FER response deadlines under Section 21(1) are mandatory, and the Controller cannot ordinarily extend them beyond the prescribed period. The High Court may intervene in exceptional cases where abandonment resulted from patent agent negligence. Evidence showing the applicant's continued intention to pursue the application is crucial when seeking restoration. Negligence of a patent agent does not automatically justify restoration; the applicant must establish exceptional circumstances. The Court distinguished between the Controller's limited statutory powers and the High Court's extraordinary writ jurisdiction.

## 8. AVENTOSE ENERGY PRIVATE LIMITED VS. THE ASSISTANT CONTROLLER OF PATENTS & DESIGNS[8]

[8] AVENTOSE ENERGY PRIVATE LIMITED VS. THE ASSISTANT CONTROLLER OF PATENTS & DESIGNS

**Case no.: CMA(PT) No. 62 of 2024**

**Court: HIGH COURT OF JUDICATURE AT MADRAS**

**Bench: HON'BLE MR.JUSTICE K.KUMARESH BABU**

**Date of Judgement/Order:** October 16, 2026

**Keywords**

Patentability, Novelty, Inventive Step, Technical Advancement, Patent Refusal

**Facts**

Aventose Energy Private Limited (Appellant) filed Patent Application No. 202141019671 for an invention titled “System and Method for Operating Automobiles with an Electric Drivetrain.” The invention was designed to detect faults in an electric vehicle and activate a safe operating mode to protect passengers and prevent the vehicle from becoming stranded. The Controller initially accepted novelty in the First Examination Report (FER) but subsequently rejected the application on 20 October 2023 for lack of novelty and inventive step, relying on prior-art documents D1–D4. Aventose challenged the refusal, arguing that the Controller had not properly compared the claimed invention with the prior art and had failed to provide sufficient reasons for rejecting the application.

**Provisions**

Section 2(1)(j) and Section 2(1)(ja) Patents Act, 1970

**Judgment**

The Madras High Court allowed the appeal, set aside the Controller's refusal order, and directed the Controller to grant the patent. The Court found that the cited prior-art documents did not adequately support the refusal. D2, identified as the closest prior art, concerned monitoring whether a vehicle was operating within predetermined safe limits, whereas Aventose's invention provided a fault-responsive safe mode with a user control module to extend the vehicle's operating range and prevent the rider from being stranded. The Court also found that D3 and D4 addressed different technical problems and that the Controller had failed to explain why these documents justified rejecting the invention. Accordingly, the

Court held that the prior art relied upon by the Controller did not establish a sufficient basis for refusing the application.

**Ratio**

A patent application cannot be refused for lack of inventive step without a proper technical comparison between the claimed invention and the cited prior art. The Controller must identify the relevant technical features and explain how the prior art supports the conclusion that the claimed invention is obvious. Prior-art documents addressing different technical problems cannot justify refusal without adequate reasoning.

**Issues Framed by the Court**

1. Whether the Controller correctly rejected Aventose's invention for lack of novelty and inventive step?
2. Whether the cited prior-art documents D1–D4 disclosed the essential technical features of Aventose's invention?
3. Whether the Controller had properly considered the technical differences between Aventose's safe mode system and the closest prior art, D2?
4. Whether the Controller could reject the invention for lack of novelty when the FER had not raised that objection, without giving the applicant a proper opportunity to respond?

**Points to be Considered**

Inventive step must be assessed through a proper comparison of the claimed invention with the cited prior art. The closest prior art should be examined carefully to identify the technical differences from the claimed invention. Prior-art documents addressing different technical problems should not be relied upon without explaining their relevance. The Controller must provide clear reasons when concluding that an invention lacks novelty or inventive step.

## 9. GERNAERT VS. THE CONTROLLER OF PATENTS AND DESIGNS[9]

**Case no.: CMA(PT) No. 2 of 2025**

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[9] GERNAERT VS. THE CONTROLLER OF PATENTS AND DESIGNS

**Court: HON'BLE MR.JUSTICE P.B. BALAJI**

**Bench: HIGH COURT OF JUDICATURE AT MADRAS**

**Date of Judgement/Order:** October 12, 2026

**Keywords**

Patentability, Inventive Step, Prior Art, Common General Knowledge, Natural Justice

**Facts**

Manuel-Rene Gernaert (Appellant) filed Patent Application No. 202147029741 for an invention titled “Control Device for Controlling Real or Virtual Airborne Objects.” The invention involved a two-handed control device with a spring mechanism that automatically returns the controls to the zero position. The Controller rejected the application, citing four prior-art documents (D1–D4) and common general knowledge to conclude that the invention lacked inventive step. The appellant challenged the refusal, arguing that the cited prior-art devices were operated with one hand and did not disclose the distinguishing features of his invention. The appelant also argued that the Controller had failed to identify the source of the common general knowledge relied upon for rejection.

**Provisions**

Section 2(1)(ja) of Patents Act, 1970

**Judgment**

The Madras High Court allowed the appeal and set aside the Controller's refusal order. The Court found that the appellant's invention had two important distinguishing features: two-handed operation and a spring mechanism that automatically returned the device to the zero position. These features were absent from the cited prior art and had not been properly considered by the Controller. The Court also held that when the Controller relies on common general knowledge to reject an application, it must identify and substantiate the source of that knowledge. Failure to do so denies the applicant a fair opportunity to respond. Accordingly, the Court remanded the application to a different Controller for fresh examination, limited to the objection based on common general knowledge.

**Ratio**

The Controller must consider the distinguishing technical features of an invention when assessing inventive step. Where common general knowledge is relied upon to refuse a patent application, the Controller must clearly identify its source and provide supporting evidence. An unsupported reference to common general knowledge cannot justify rejection.

**Issues Framed by the Court**

1. Whether the Controller properly considered the differences between the appellant's invention and the cited prior-art documents D1–D4?
2. Whether the two-handed operation and automatic spring-return mechanism distinguished the claimed invention from the prior art?
3. Whether the Controller could reject the application based on common general knowledge without identifying its source?
4. Whether the failure to disclose the source of common general knowledge denied the appellant a fair opportunity to respond?

**Points to be Considered**

Inventive step must be examined by considering the distinguishing technical features of the claimed invention. The Controller must properly compare the invention with the cited prior art before concluding that it lacks inventive step. Common general knowledge cannot be relied upon without identifying and substantiating its source. Applicants must have a fair opportunity to respond to the technical knowledge relied upon against their inventions.

**10. VERSUNI HOLDING B.V VS. UNION OF INDIA & ANR.[10]**

**Case no.: W.P. (I.P.D.) No. 8 of 2026**

**Court: HIGH COURT OF JUDICATURE AT MADRAS**

**Bench: HONOURABLE DR. JUSTICE A.D. MARIA CLETE**

**Date of Judgement:** October 9, 2026

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[10]VERSUNI HOLDING B.V VS. UNION OF INDIA & ANR.

**Keywords**

Request for Examination (RFE), Deemed Withdrawal, Statutory Deadline, Patent Agent Negligence, Software Error, Condonation of Delay, Writ Jurisdiction

**Facts**

Versuni Holding B.V. (Petitioner), a Netherlands-based company, filed five PCT national-phase patent applications in India. Under the Patents (Amendment) Rules, 2024, the deadline for filing a Request for Examination (RFE) was reduced from 48 months to 31 months for applications filed on or after 15 March 2024. Versuni missed the RFE deadlines because its patent management software, supplied by Clarivate, had not been updated to reflect the amended Indian rules. The company discovered the mistake in March 2025 and attempted to file the RFEs, but the Controller's portal did not accept them. Versuni approached the Madras High Court, arguing that the delay was unintentional, it had never intended to abandon the applications, and the mistake should not result in the loss of five patent applications.

**Provisions**

Section 11B(4) of the Patents Act, 1970, Rule 24B and Rule 138 of the Patents Rules, 2003 and Article 226, Constitution of India

**Judgment**

The Madras High Court dismissed the writ petition and refused to restore the five patent applications. The Court held that the applications were deemed withdrawn under Section 11B(4) because the RFEs were not filed within the prescribed time. It was observed that the delay resulted from Versuni's own failure to update its internal patent management system, rather than negligence by an independent patent agent.

The Court clarified that exceptional relief may be available where an applicant proves that it intended to pursue the application and that the loss occurred due to its patent agent's negligence, without fault on the applicant's part. However, merely showing that the delay was unintentional is not sufficient. Since Versuni had missed the statutory deadlines and had not sought relief under Rule 138 within the permitted period, the Court declined to intervene.

**Ratio**

A patent application is deemed withdrawn under Section 11B(4) if the Request for Examination is not filed within the prescribed period. Exceptional relief under Article 226 requires evidence that the applicant intended to pursue the application and that the default was caused by its agent rather than the applicant itself. An internal administrative mistake or failure to update patent management software does not, by itself, justify restoration.

**Issues Framed by the Court**

1. Whether appelant's five patent applications could be restored despite missing the statutory RFE deadlines?
2. Whether an unintentional mistake in updating patent management software was sufficient to justify condonation of delay?
3. Whether negligence by a software service provider or an in-house patent team could be treated in the same way as negligence by an independent patent agent?
4. Whether the High Court could grant exceptional relief under Article 226 when the applicant itself was responsible for missing the deadlines.
5. Whether the applications were correctly treated as deemed withdrawn under Section 11B(4)?

**Points to be Considered**

Filing an RFE within the prescribed period is mandatory. Under the 2024 amendments, the RFE deadline is 31 months for applications filed on or after 15 March 2024. Section 11B(4) operates automatically: an application is deemed withdrawn if the RFE deadline is missed. Rule 137 cannot be used to correct a missed deadline under Rule 24B(1). Rule 138 provides limited relief, subject to its six-month limit and filing requirements. An honest mistake or absence of intention to abandon is not enough by itself to restore an application. Negligence by an independent patent agent may justify exceptional judicial relief, but mistakes attributable to the applicant's own systems or staff ordinarily do not. Companies remain responsible for monitoring changes in patent laws and filing deadlines, even when using third-party software.

## Copyrights

### 1. ARJUN KAPOOR v. ARTIST BOOKING COMPNY & ORS[11]

**Citation:** CS(COMM) 454/2026

**Court:** High Court of Delhi

**Date of Judgment:** October 14, 2026

**Bench:** Justice Purushaindra Kumar Kaurav

**Keywords:** Personality rights, publicity rights, deepfakes, AI-generated content, merchandise, deemed admission, takedown, decree without trial

**Facts:**

Arjun Kapoor sued for protection of his personality rights, saying his name, image, and likeness cannot be used without his consent. The defendants were online sellers of merchandise (posters, T-shirts and similar items), YouTube channels, Facebook pages, intermediary platforms (Google, Meta), the Ministry of Electronics and Information Technology (MeitY), the Department of Telecommunications (DoT), and unknown persons (John Does).

By interim order of 29.04.2026, the Court restrained defendants 1 to 11, 13 to 15 and 19 from using his name, image, likeness or persona through any technology, including AI, deepfakes and face morphing, and from making merchandise or content with it. It directed the takedown of the impugned links and disclosure of subscriber details. During the suit, defendants 5 and 6 were deleted, and defendant 1 asked to be removed because it had complied. None of the defendants denied the plaint. The plaintiff said the suit needs no full trial.

**Provisions:** Rule 3 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018, Copyright Act, 1957.

**Judgment:**

The suit is decreed and disposed of along with the pending applications. DoT and MeitY must take down the infringing links attributable to defendant 3 that remain active, and the links listed in prayers (v) to (viii) of the plaint. The interim directions of 29.04.2026 are made absolute against the defendants named in the decree. The plaintiff may give Meta and Google

[11] ARJUN KAPOOR v. ARTIST BOOKING COMPNY & ORS

(YouTube) the details of any newly found URLs or content that misuse his name, likeness, image, voice or other persona, supported by an affidavit. The platform must examine the request independently and act under its policies, and if it does not act, the plaintiff may approach the Court. The decree sheet is to be drawn up, and the hearing of 14.12.2026 before the Joint Registrar is cancelled.

The Court looked at the impugned links and was satisfied they were being used without the plaintiff's consent and for commercial exploitation. No defendant filed a written statement or an affidavit of admission or denial. Under Rule 3 of Chapter VII, the plaint's averments are treated as admitted and the documents filed with it are deemed admitted. No disputed question of fact therefore arises that needs a trial. The Court followed its approach in Rajat Sharma v. Tamara Doc, which protected artists against unauthorised use.

**Ratio:**

A suit for personality rights can be decreed without a trial where the defendants file no written statement and do not deny the documents. Under Rule 3 of Chapter VII, the plaint's averments and documents are then deemed admitted and no disputed question of fact remains. The use of a person's name, image, likeness and persona without consent and for commercial gain, including through AI, deepfakes and face morphing, can be restrained. The plaintiff can be allowed to report newly found infringing URLs to the platforms on affidavit, and to approach the Court if they do not act, without filing a fresh suit.

**Issues Framed by the Court:**

1. Whether, on the uncontroverted plaint and documents, the suit can be decreed without a trial?
2. Whether the plaintiff is entitled to protection of his name, image, likeness, and persona against unauthorised commercial use, including through AI, deepfakes, and face morphing?
3. Whether DoT, MeitY and the intermediary platforms can be directed to take down the infringing links?

**Points to be considered:**

- By interim order of 29.04.2026, the Court restrained defendants 1 to 11, 13 to 15 and 19. Defendants 5 and 6 were deleted during the suit, and defendant 1 asked to be removed as it had complied.

- No defendant filed a written statement or an affidavit of admission or denial, so the plaint's averments and documents are deemed admitted under Rule 3 of Chapter VII.
- The decree rests on the deemed admission of the plaint and not on evidence of the plaintiff's personality rights.
- The plaintiff may report newly found URLs to Meta and Google (YouTube) on affidavit. The platform must examine each request independently and act under its policies, and the plaintiff may approach the Court if it does not.

## 2. M/s ARPAN BIRI FACTORY v. M/s MOMIN BIRI FACTORY[12]

**Citation:** CRP/196/2026 with I.A.(Civil)/3638/2026, CNR GAHC010226962026

**Court:** Gauhati High Court

**Date of Judgment:** October 9, 2026

**Bench:** Justice Mridul Kumar Kalita

**Keywords:** Artistic work, passing off, counter-claim, temporary injunction in appeal, Section 107 CPC, commercial appellate court, remand

**Facts:**

M/s Momin Biri Factory sued Arpan Biri Factory in Commercial Suit No. 02/2024 before the Civil Judge (Senior Division), South Salmara, for passing off its copyright in the artistic work "MOMIN". Its application for a temporary injunction was dismissed, and it did not appeal. Arpan Biri Factory filed a written statement with a counter-claim seeking an injunction against Momin's use of its artistic work on the label of "Momin Biri". Its application for a temporary injunction (Misc.(J) Case No. 16/2025) was rejected on 19.08.2026.

It appealed to the Commercial Appellate Court under Section 13(1) of the Commercial Courts Act and Order XLIII Rule 1(r) (Misc. Appeal No. 04/2026). In that appeal it filed Misc.(J) Case No. 11/2026 under Order XXXIX Rules 1 and 2 read with Section 107(2) CPC, seeking an interim injunction while the appeal is pending. On 18.09.2026 the District Judge dismissed that application without notice to the other side, only because the appeal itself sought the same injunction. The petitioner also pointed out that the Registrar of Copyrights issued it a registration certificate for the artistic work "Momin Biri" on 28.01.2026.

[12] M/s ARPAN BIRI FACTORY v. M/s MOMIN BIRI FACTORY

**Provisions:** Section 107 CPC; Order XXXIX Rules 1 and 2 CPC; Section 13(1) of Commercial Courts Act, 2015; Order XLIII Rule 1(r) CPC; Article 227 of the Constitution, Copyright Act, 1957.

**Judgment:**

The civil revision petition is disposed of. The Court agreed that while its appeal is pending, the petitioner can ask for a temporary injunction under Order XXXIX Rules 1 and 2. The appellate court has the same powers as the court of original jurisdiction under Section 107 CPC and should have dealt with the application. The matter is sent back to the Commercial Appellate Court, South Salmara. It must give notice to the respondent in Misc.(J) Case No. 11/2026, hear both sides and decide the application on merits. The application is revived and will be taken up on 03.11.2026, the next date in Misc. Appeal No. 04/2026. A copy of the order goes to the Commercial Appellate Court.

**Ratio:**

A party who has appealed against the refusal of a temporary injunction can ask for an interim injunction while the appeal is pending, because Section 107 CPC gives the appellate court the powers of a court of original jurisdiction. Such an application cannot be dismissed as redundant merely because the appeal asks for the same relief. It must be heard on merits after notice to the other side.

**Issues Framed by the Court:**

1. Whether, during the pendency of an appeal against refusal of a temporary injunction, the appellant can apply for an interim injunction under Order 39 Rules 1 and 2 CPC read with Section 107 CPC?
2. Whether the Commercial Appellate Court could dismiss such an application without notice as redundant because the appeal itself prayed for the same relief?

**Points to be considered:**

- The petitioner pointed out that the Registrar of Copyrights, by an order dated 28.01.2026, had issued a copyright registration certificate for the artistic work titled “Momin Biri” in its favour, and that this was a relevant fact for the injunction

application but was not considered. The High Court did not decide the effect of the registration.

- The High Court expressed no view on the merits of the infringement or passing off claims or of the injunction application. Its order is limited to the procedural error of dismissing the application without notice.
- The order records the submissions of the petitioner's counsel only, and no advocate is shown for the respondent. ●
- copy of the order was directed to be sent to the Commercial Court of the District Judge, South Salmara, for compliance.

### 3. JAPAN TOBACCO INC & ANR v. THE CENTRAL WAREHOUSE & ANR[13]

**Citation:** C.O.(COMM.IPD-CR) 814/2022

**Court:** High Court of Delhi

**Date of Judgment:** October 5, 2026 (reserved on 25.04.2026)

**Bench:** Justice Tushar Rao Gedela

**Keywords:** Rectification of Register of Copyrights, CAMEL, CAMEL COLLECTION, artistic work, first owner, originality, International Copyright Order 1999, burden of proof

**Facts:**

Japan Tobacco Inc. and its affiliate Worldwide Brands Inc. own various "CAMEL" artworks and marks, used for tobacco since 1913 and for garments and other non-tobacco goods since the late 1970s. They petitioned under Section 50 of the Copyright Act to remove Copyright Registration No. A-54242/97 dated 22.10.1997, held by Mrs. Veena R. Hinduja (respondent 1), for an artistic work of "CAMEL" and "CAMEL COLLECTION". They said it copies their earlier artworks and marks. They also said it lacks originality and the mandatory clearance certificate under Section 45(1) was not obtained.

They said Gokaldas Exports, a sister concern of respondent 1, made garments in 1992 for their German licensee Dornbusch, so respondent 1 knew of their mark. They relied on the International Copyright Order, 1999 and Section 40 for protection of works first published in

[13] JAPAN TOBACCO INC & ANR v. THE CENTRAL WAREHOUSE & ANR

Berne Convention countries. Respondent 1 said it adopted the label in 1992, registered it as a copyright and in Class 24 as trade marks, and was the true proprietor. She also said the petitioners never sold garments in India and left the Indian market in 2011, and that their Indian registration was only on a "proposed to be used" basis. She argued the petitioners are not a "person aggrieved".

**Provisions:** Sections 2(c), 2(d)(iii), 3, 13, 14, 17, 40, 45(1), 48 and 50 of the Copyright Act, 1957; International Copyright Order, 1999; Rule 16(3) of the Copyright Rules, 1958 / Rule 70 of the Copyright Rules, 2013; Sections 101 to 106 of the Indian Evidence Act, 1872.

**Judgment:**

The petition is dismissed. The Court held that the petitioners could not get the entry removed unless they first proved that they are the "first owner" of the original artistic work, and they did not. Their only proof was the narrative in some books on the history of CAMEL cigarettes. The photocopied pages were not proved in accordance with law, although respondent 1 had denied them in her affidavit of admission and denial. Section 17 contains no deeming rule, so ownership must be proved as a fact, and a trade mark registration alone does not make the owner the first owner of the copyright. Under the Evidence Act, the burden shifts only after the initial burden is discharged. Section 48 also gives a presumption in favour of the registered entry.

The Court accepted that Section 40 and the International Copyright Order, 1999, allow copyright to extend across borders, but that does not remove the need to prove first ownership. The statements in respondent 1's written statement in the connected trade mark suit (CS(COMM) 644/2018) were not clear and unequivocal admissions, and they came in a suit that concerned trade marks, not copyright. The Court said the territorial principle applies to trade marks and is different for copyright. The point on Section 45(1) and the Rules was academic once first ownership failed. The Court's remarks on the connected suit are not an expression on the merits of that suit.

**Ratio:**

A person seeking rectification of a registered copyright must first prove that it is the first owner of the original artistic work under Section 17, which has no deeming rule. A trade mark registration does not by itself make the proprietor the first owner of the copyright in the artwork. Section 40 and the International Copyright Order, 1999 extend protection to foreign

works but do not remove the need to prove first ownership. Documents relied on as evidence must be proved in accordance with law, especially when the other side denies them. Unclear statements in a written statement in a trade mark suit do not carry the petitioner's case in a copyright rectification petition.

**Issues Framed by the Court:**

1. Whether the Petitioners, as claimed owners of the CAMEL artwork, could have the Respondent's copyright registration for CAMEL COLLECTION expunged under Section 50 of the Copyright Act, 1957?
2. Whether the Petitioners established that they were the 'first owner' of the original artistic work under Section 17 of the Act, with Section 40 and the International Copyright Order, 1999 in aid?
3. Whether statements in the Respondent's written statement in CS(COMM) 644/2018 amounted to admissions that could substitute for proof of the Petitioners' first ownership?

**Points to be considered:**

- The Petitioners relied solely on pages from three books on the history of the CAMEL brand, but these were not brought to the Court's notice or proved. The Respondent had denied them in her affidavit dated 09.03.2023, and the Court found no other tangible proof of first publication or ownership.
- The Court found the statements in the Respondent's written statement in CS(COMM) 644/2018 not to be unequivocal or unambiguous admissions. They were made in a trademark suit, not a copyright proceeding, and at most allowed an inference, which could not establish the Petitioners' first ownership.
- The Respondent also relied on her trademark registrations, user since 1992, sales and advertising, the Petitioners' exit from the Indian market in 2011 and the lack of any sale of garments by the Petitioners in India. The Court did not rule on these contentions and decided the petition on the Petitioners' failure to prove first ownership.

## 4. RAJKUMAR THEATRES PVT LTD v. M/s WIDE ANGLE CREATIONS & ORS[14]

**Citation:** OA (C.D.) No. 1050 of 2026

**Court:** High Court of Madras

**Date of Judgment:** October 1, 2026

**Bench:** Justice K. Govindarajan Thilakavadi

**Keywords:** Drishyam 3, remake rights, Hindi remake, Section 9 Arbitration Act, interim injunction, subsequent assignment, disputed copyright

**Facts:**

Rajkumar Theatres applied under Section 9(1)(d) of the Arbitration and Conciliation Act, 1996 to stop the release of the Hindi remake of the Malayalam film "Drishyam 3" until arbitration. By an agreement of 22.12.2013 with the producer (respondent 2) and director (respondent 3), it acquired the exclusive Telugu remake rights in "Drishyam" and its sequels. On the same day, Wide Angle Creations (respondent 1) acquired Hindi and other North Indian language remake rights, funded by the applicant (Rs 50 crore). An agreement of 12.06.2014 recorded the 50 per cent sharing of those rights, which the applicant says made it a joint owner. In 2021 the two jointly gave an NOC for the Hindi remake rights of "Drishyam 2" alone.

In May 2026 the producer made "Drishyam 3" in Malayalam. The applicant filed a suit over a Telugu dubbed release and settled it. It then learned that a Hindi remake (starring Ajay Devgn) was set for release on 02.10.2026, without its consent. The respondents said Section 62 of the Copyright Act has no application to a Section 9 petition, and the applicant showed no subsisting exclusive right. They said the film is an independent Hindi sequel made under the right assigned to Viacom 18 under the 2014 Assignment, which the applicant itself signed and which the 2022 settlement agreements preserved. They said there is no privity of contract with the applicant.

**Provisions:** Section 9(1)(d) of the Arbitration and Conciliation Act, 1996; Section 62 of the Copyright Act, 1957; Order XIV Rule 8 of Original Side Rules

**Judgment:**

[14] RAJKUMAR THEATRES PVT LTD v. M/s WIDE ANGLE CREATIONS & ORS

The original application is dismissed. The relief asked for would stop the release and exploitation of the Hindi remake anywhere in the world, with serious consequences for the respondents and for third parties deriving rights from later arrangements. The applicant had to place clear material before the Court showing a subsisting, enforceable right facing imminent infringement. The Court held that the material did not show with enough clarity that the applicant still holds an exclusive or joint copyright in the Hindi remake rights of "Drishyam 3", in view of the later assignment and settlement documents relied on by the respondents. Whether the 2013 agreement extended to the second sequel, and whether those rights survived later transactions, needs examination of the contracts and the parties' later conduct. The respondents' claim that the applicant assigned the Hindi and derivative rights also needs adjudication. Because the applicant's rights were seriously disputed on the strength of later documents, it had not shown the foundation for such a sweeping restraint.

**Ratio:**

An interim injunction under Section 9 restraining the worldwide release of a film needs clear material showing a subsisting, enforceable right facing imminent infringement. Where the applicant's right is seriously disputed on the strength of later assignment and settlement documents, the competing contractual claims need examination of the contracts and conduct, and are not decided at the interim stage. Such relief is therefore refused.

**Issues Framed by the Court:**

1. Whether the Applicant established a subsisting exclusive or joint copyright in the Hindi remake rights of “Drishyam 3” sufficient to justify an interim injunction against release of the film worldwide?
2. Whether, in view of the competing contractual claims and the subsequent assignment and settlement documents, the Applicant was entitled to interim protection under Section 9(1)(d) of the Arbitration and Conciliation Act, 1996, pending arbitration?

**Points to be considered:**

- The Court noted that granting the relief would have serious consequences for the respondents and third parties deriving rights under later arrangements, and that a clear prima facie right therefore had to be shown.
- Whether the 2013 agreement’s rights extended to the second sequel and survived the later transactions, and whether the Applicant had itself assigned or dealt with the

Hindi and derivative rights, were both held to be matters requiring adjudication, not to be decided at the interim stage.

- The Court did not separately rule on the respondents' objection that Section 62 of the Copyright Act has no application to a Section 9 application. It decided the application on the absence of a clearly established subsisting right.
- The dismissal is at the interlocutory stage and the Court recorded no final view on the parties' rights, which remain open for adjudication in the arbitration.

## 5. UNIVERSAL CITY STUDIOS LLC & ORS v. 123MOVIESHUB.TC & ORS[15]

**Citation:** CS(COMM) 116/2022 with I.A. 2717/2022, CNR DLHC010074222022

**Court:** High Court of Delhi

**Date of Judgment:** October 7, 2026

**Bench:** Justice Purushaindra Kumar Kaurav

**Keywords:** Rogue websites, online piracy, cinematograph films, website blocking, summary judgment, Order XIIIA, Rule 27 IPD Rules, dynamic injunction

**Facts:**

Six studios, Universal City Studios, Warner Bros., Columbia Pictures, Netflix Studios, Paramount Pictures and Disney Enterprises, sued over pirate streaming websites. Their films, including Aquaman, Wonder Woman, Friends, Stranger Things, Mulan and Finding Dory, are "cinematograph films" protected in India under Sections 5, 13, 40 and 17 of the Copyright Act. They claimed the rights in Section 14(d).

Defendants 1 to 34 are websites, many operating through several domains (such as "123movies" and "putlocker"), that host and stream the films free of cost without a licence. Defendants 35 to 43 are internet service providers, defendant 44 is the Department of Telecommunications and defendant 45 is the Ministry of Electronics and Information Technology. On 21.02.2022, the Court granted ex parte directions to block the websites. It found them anonymous and actively streaming pirated content. Defendants 47 to 75 were later added and the directions were extended to them. Only the Union of India appeared, as a

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non-contesting party, and no written statement was filed. The plaintiffs did not press damages or costs. They had been given four weeks on 04.05.2026 to file a summary judgment application, but filed none, and said the suit is ready for final adjudication.

**Provisions:** Section 51 of the Copyright Act, 1957; Order XIIIA Rules 1 to 3 CPC; Rule 27 of the Delhi High Court Intellectual Property Rights Division Rules, 2022; Order VIII Rule 5(2) CPC

**Judgment:**

The suit is decreed. Defendants 1 to 34 and 47 to 75, their owners and those acting for them, are permanently restrained from hosting, streaming, reproducing, distributing or making available to the public, or facilitating that, any cinematograph work in which the plaintiffs hold copyright. Defendants 35 to 43 must block access to the websites of defendants 1 to 34 (as listed in the order of 21.02.2022) and 47 to 75. Liberty is reserved to the plaintiffs to add mirror, redirect or alphanumeric websites that merely give new means of accessing the injuncted sites. The decree benefits each plaintiff for the works in which that plaintiff holds copyright. The suit and pending applications are disposed of.

On procedure, the Court held that Rule 27 of the IPD Rules allows summary judgment without a specific application, and the failure to file one despite the liberty of 04.05.2026 does not take that power away. The concern in Bright Enterprises (a summary judgment given without notice or an adversary) does not arise here. Summons were served, the defendants have had notice of the claim for over four years, no issues are framed, and the Court only tested the uncontroverted pleadings and documents. Requiring affidavits of evidence would only repeat the plaint, so the plaintiffs need not lead oral evidence.

On the merits, applying the test of UTV Software v. 1337X.to for a "rogue website", the Court found that defendants 1 to 34 and 47 to 75 are rogue websites whose primary purpose is to commit and facilitate copyright infringement. Their anonymity and non-response to notices were pleaded and uncontested. They have no real prospect of defending the claim of infringement under Section 51.

**Ratio:**

In a suit before the IP Division, the Court can pass a summary judgment without a specific application under Order XIIIA, because Rule 27 of the IPD Rules dispenses with the application, while the test of Order XIIIA Rule 3 still applies. Where the defendants do not

appear and the plaint and documents are uncontroverted, the plaintiffs need not lead oral evidence. A website whose primary purpose is to commit or facilitate piracy, which is anonymous and ignores notices, is a rogue website under the UTV Software factors. The Court can direct internet service providers, DoT and MeitY to block such websites, and allow mirror websites to be added later.

**Issues Framed by the Court:**

1. Whether the Court can pass a summary judgment in the absence of an application under Order XIIIA CPC?
2. Whether, in the facts of the case, the Plaintiffs are required to lead oral evidence before the suit can be decreed?
3. Whether the defendant websites are 'rogue websites' under the test laid down in UTV Software Communication Ltd. v. 1337X.to, so as to warrant a permanent injunction and website-blocking directions?

**Points to be considered:**

- The Court noted that six distinct studios joined in one suit, which is not a practice to be encouraged, but did not split it, as separate court fees had been paid.
- The relief against the Union of India and the internet service providers was only to ensure compliance with the decree.
- Damages and costs were not pressed.

## Designs

### 1. MR. ABDUL NAZER VS. THE CONTROLLER OF PATENTS & DESIGNS[16]

**Case no.: WPA-IPD 3 of 2026**

**Court: HIGH COURT AT CALCUTTA**

**Bench: Hon'ble Mr. Justice Arindam Mukherjee**

**Date of Judgement/Order:** October 8, 2026

**Keywords**

Industrial Design, Restoration of Registered Design, Renewal of Design, Lapsed Registration, Delay in Disposal, Opportunity of Hearing, Writ Petition

**Facts**

Mr. Abdul Nazer (Petitioner) obtained registration of his design titled "Package for Food", bearing Design No. 260874-001, under Class 09-05 on 24 July 2014. The design was initially registered for ten years, with the possibility of extension for another five years. However, the petitioner failed to apply for extension before the expiry of the initial registration period. He subsequently filed an application for restoration of the design on 24 November 2025, along with the prescribed fees. As the Controller had not decided the application, he approached the Calcutta High Court seeking directions for restoration of his design registration.

**Provisions**

Designs Act, 2000, and Article 226, Constitution of India

**Judgment**

The Calcutta High Court disposed of the writ petition by directing the concerned Controller to decide the pending restoration application by 31 December 2026. The Court observed that the authority under the Designs Act was empowered to consider the restoration application and restore the registration if the applicable legal requirements were satisfied. The Court

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directed the concerned Controller, Deputy Controller or Assistant Controller to provide the petitioner an opportunity of hearing and decide the application within the specified period.

**Ratio**

A pending application for restoration of a registered design must be considered and decided by the competent authority within the prescribed timeframe and after providing the applicant an opportunity of hearing. The High Court may direct timely disposal of such an application without deciding its merits.

**Issues Framed by the Court**

1. Whether the Controller was required to decide the petitioner's pending application for restoration of the registered design?
2. Whether the delay in deciding the restoration application justified intervention by the High Court?
3. Whether the Court should directly order restoration or direct the competent authority to examine the application and take a decision?

**Points to be Considered**

Registered designs initially receive protection for ten years, which may be extended for a further five years. Failure to apply for extension within the prescribed period may require the proprietor to seek restoration under the applicable law. Restoration is not automatic: the competent authority must examine whether the statutory requirements are satisfied. Restoration applications must be processed within the timelines prescribed by the Designs Rules. The Court directed disposal of the application by 31 December 2026; it did not order restoration of the design.

## Trademarks

### 1. DEEPANSHU BANSAL vs. POONAM BHATT[17]

**Citation:** Appeal From Order No. 332 of 2026
**Court:** Uttarakhand High Court (Nainital)
**Date of Judgement/ Order:** October 7, 2026
**Bench:** HON'BLE JUSTICE RAVINDRA MAITHANI
**Keywords:** Trademark, Infringement, Deceptive Similarity, Anti-Dissection Rule, Interim Injunction

**Facts**

The Appellant, Deepanshu Bansal, trades in gold, silver, diamond and platinum jewellery. He applied for registration of the trademark "SUNAREKA", under Section 23 of the Trade Marks Act. The Respondent, Poonam Bhatt, runs a jewellery business under the name "SWARNIKA Gems and Jewels", which she says is derived from the word "Swarn" (gold). She applied for registration of her mark and began dealing in gold jewellery. Both shops are on the same street, less than 500 metres apart.

The Appellant sued for infringement and passing off and applied for a temporary injunction under Order 39 Rules 1 and 2 CPC. The First Additional District Judge, Udham Singh Nagar, dismissed the application, after separately examining the two words and noting differences in spelling. The Appellant appealed to the High Court.

**Provisions**

Sections 23, 27(2), 29, 134 and 135 of the Trade Marks Act, 1999; Order 39 Rules 1 and 2 and Section 151 of the Code of Civil Procedure, 1908.

**Judgment**

The Uttarakhand High Court allowed the appeal and set aside the order of the district court. It allowed the Appellant's application under Order 39 Rules 1 and 2 CPC and, as an ad-interim measure, restrained the Respondent, directly or through her partners, agents, distributors, dealers and others, from manufacturing, selling, using, displaying, advertising,

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importing/exporting or otherwise dealing with the mark/label “SWARNIKA”, or any mark deceptively similar to “SUNAREKA”, until disposal of Civil Suit No. 01 of 2024.

**Ratio**

Deceptive similarity must be judged by comparing the marks as a whole (the anti-dissection rule), through the eyes of an unwary purchaser of average intelligence and imperfect recollection who does not have the two marks side by side. A trial court errs when it splits the rival words into parts and relies on differences in spelling.

An appellate court will not ordinarily disturb a discretionary order refusing an interim injunction, but it will do so where the discretion was exercised contrary to the principles of law. Where the marks are similar, the goods identical, the Appellant holds the registration and the Respondent entered the field later, a prima facie case, balance of convenience and irreparable loss are made out.

**Issues Framed by the Court**

1. Whether the trial court erred in refusing an interim injunction by dissecting the marks “SUNAREKA” and “SWARNIKA” instead of comparing them as a whole?

2. Whether the Appellant had made out a prima facie case, balance of convenience and irreparable loss for an interim injunction against the use of “SWARNIKA”?

**Points to be considered**

- The scope of appeal against an order refusing a temporary injunction is limited. Interference is warranted only if the discretion was arbitrary, capricious or contrary to law (Wander Ltd. v. Antox India; Ramakant Ambalal Choksi v. Harish Ambalal Choksi).
- The Court relied on Amritdhara Pharmacy v. Satya Deo Gupta, Parle Products v. J.P. & Co. and Under Armour Inc. v. Anish Agarwal for the tests of overall similarity and imperfect recollection.
- Chronology: the Appellant applied for registration in September 2022; the Respondent entered the gold jewellery business only in June 2023; the Appellant’s registration was granted on 28.07.2023. The Respondent’s own reply notice described her gold business as “recent”.

- Both parties deal in jewellery, so the goods are similar or identical, and the shops are less than 500 metres apart on the same street. The Court held that a registered trademark is the lifeline of a business, and that its violation causes irreparable loss.

## 2. DR. DEVI PRASAD SHETTY & ANR. vs. MEDICINE ME (FACEBOOK PAGE) & ORS.[18]

**Citation:** CS(COMM) 1053/2024
**Court:** Delhi High Court
**Date of Judgement/ Order:** October 5, 2026
**Bench:** HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV
**Keywords:** Trademark, Personality Rights, Deepfake, Artificial Intelligence, N-1 Device Mark, Permanent Injunction, Intermediaries

**Facts**

Plaintiff No. 1, Dr. Devi Prasad Shetty, is a renowned cardiac surgeon (Padma Shri 2004, Padma Bhushan 2012) and founding chairman of Plaintiff No. 2, Narayana Hrudayalaya Ltd. Plaintiff No. 2 owns registrations for 'NARAYANA HRUDAYALAYA', 'NARAYANA HEALTH' and the 'N-1' device marks in Classes 5, 10, 41 and 44.

Defendant Nos. 1 to 8 (Facebook pages and YouTube channels) and unknown persons (Defendant No. 13) circulated fabricated audio-visual content, including AI-generated and deepfake videos, using the name, image and voice of Plaintiff No. 1. The videos showed him promoting cures for diabetes and hypertension, and some also displayed the 'N-1' device mark or used 'Narayana Health' as a hashtag. A member of the public wrote to Plaintiff No. 2 asking about the authenticity of one such video. Meta Platforms and Google were impleaded as the hosting platforms, and the Department of Telecommunications and MeitY for implementing blocking directions.

On 28.11.2024 the Court granted an ex parte ad interim injunction with takedown and disclosure directions, which the defendants and intermediaries complied with. Defendant Nos. 1 to 8 did not file written statements, Defendant No. 13 is a John Doe, and no defendant contested the suit. The plaintiffs did not press for damages or costs.

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**Provisions**

Section 29 and Sections 2(1)(zg) and 11(6) of the Trade Marks Act, 1999; Order VIII Rule 10 CPC; Rule 24 of Chapter XI and Rule 3 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018.

**Judgment**

The Delhi High Court made the interim order dated 28.11.2024 absolute and decreed the suit. A permanent injunction was granted against Defendant Nos. 1 to 8 and 13 in terms of prayers (a), (b) and (c) of the plaint. The takedown, disclosure and blocking directions to Defendant Nos. 9 to 12 were made absolute.

The plaintiffs were given liberty to notify Meta and Google of any subsequently discovered URLs or content relating to the misuse of Plaintiff No. 1's persona or the registered marks of Plaintiff No. 2. The platforms must independently examine each request and act under their policies, and the plaintiffs may return to the Court if they do not act. The prayer for a declaration that Plaintiff No. 2's marks are well-known was reserved, because the Section 11(6) factors had not been examined. The prayers for damages and costs were dismissed as not pressed.

**Ratio**

Where the defendants have not filed written statements, the plaint is verified and supported by affidavit, the documents are unimpeachable and no disputed question of fact arises, the Court may decree the suit on the pleadings and documents without ex parte evidence. The caution in C.N. Ramappa Gowda applies only where the plaint itself shows two versions of the facts.

The personality and publicity rights of a well-known individual (name, image, voice, likeness and persona) are protected against misuse through AI and deepfake technology. Use of a registered mark in such content, without licence, to suggest association with the proprietor amounts to infringement under Section 29. Where such content falsely attributes medical claims to a surgeon, the harm extends to the public, and the Court may grant the plaintiffs continuing liberty to have future similar content taken down.

**Issues Framed by the Court**

1. Whether the suit could be decreed on the pleadings and documents, without ex parte evidence, where the defendants had not filed written statements?
2. Whether the misuse of Plaintiff No. 1's persona through AI and deepfake content, and the use of Plaintiff No. 2's registered marks, warranted a permanent injunction?
3. Whether the plaintiffs were entitled to continuing directions against Meta and Google for subsequently discovered infringing content, and to a declaration that Plaintiff No. 2's marks are well-known?

**Points to be considered**

- The Court reconciled C.N. Ramappa Gowda v. C.C. Chandregowda (decree only where no fact needs proof) with Nirog Pharma v. Umesh Gupta and Satya Infrastructure v. Satya Infra & Estates (no purpose in ex parte evidence that merely repeats the plaint).
- Since no written statement or affidavit of admission/denial was filed, the plaint's averments were taken as admitted and the documents as deemed admitted under Rule 3 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018.
- The Court relied on Anil Kapoor v. Simply Life India, Global Health Ltd. v. Denish P. Kalariya and Rajat Sharma v. Tamara Doc (deepfake videos and the INDIA TV marks).
- Defendant No. 5 had stated that it would remove the videos and not upload them again, and was held bound by that statement.
- The declaration of well-known status was left open, with the rights of the plaintiffs reserved.

### 3. DR. REDDY'S LABORATORIES LIMITED vs. THE REGISTRAR OF TRADEMARKS & ANR.[19]

**Citation:** CMA(TM) No. 31 of 2025 | CMP No. 32017 of 2025
**Court:** Madras High Court
**Date of Judgement/ Order:** October 26, 2026
**Bench:** HON'BLE DR. JUSTICE A.D. MARIA CLETE
**Keywords:** Trademark, Opposition, Deceptive Similarity

[19] DR. REDDY'S LABORATORIES LIMITED vs. THE REGISTRAR OF TRADEMARKS & ANR.

**Facts**

Dr. Reddy's Laboratories (the Appellant) has used the mark "NISE" since 1995 for pain-relief medicines containing Nimesulide and holds Class 5 registrations for NISE and its formatives. The second respondent, Nice Neotech Medical Systems Pvt. Ltd., incorporated on 10.07.2001, makes neonatal intensive-care equipment. On 11.09.2008 it applied for the device mark "nice" in Class 10 (medical equipment and apparatus), claiming use from 10.07.2001. The application was advertised in 2012 with a restriction to South India.

The Appellant opposed the application (Opposition No. 797238) on 03.01.2013, alleging visual and phonetic similarity, well-known status and dishonest adoption. The second respondent denied this and said that "NICE" stands for "Neonatal Intensive Care Equipment". It also undertook not to use the mark for pharmaceutical preparations. By order dated 22.08.2025 the Assistant Registrar disallowed the opposition and accepted the application, finding that the goods, trade channels and purchasers were different. The Appellant appealed under Section 91 of the Trade Marks Act.

**Provisions**

Sections 7, 9(1)(a), 9(2)(a), 11(1), 11(2), 11(3), 11(6), 11(7), 11(10), 12, 18(1), 18(4), 29(2)-(4) and 91 of the Trade Marks Act, 1999; Rule 51 of the Trade Marks Rules, 2002.

**Judgment**

The Madras High Court dismissed the appeal and confirmed the order dated 22.08.2025 disallowing Opposition No. 797238 and accepting Application No. 1730955. It held that the marks "NISE" and "nice" are phonetically similar. However, the differences in the nature and purpose of the goods, the purchasers, their degree of care and the mode of purchase weighed against any likelihood of confusion or association. The Appellant failed to establish well-known status under Section 11(2), dishonest adoption, or passing off under Section 11(3)(a). There was no order as to costs.

**Ratio**

Phonetic similarity between marks is not conclusive. Under Section 11(1), the Court must also weigh the nature of the goods, the class of purchasers, trade channels, mode of purchase and the likelihood of association with the earlier mark, applying the Cadila Health Care

factors. Where the goods are materially different and the purchasers (hospitals buying specialised equipment through technical procurement) exercise a high degree of care, registration of a phonetically similar mark in another class is not barred merely because both goods relate to healthcare.

To succeed under Section 11(2), the opponent must prove that its mark is well known in India and that use of the later mark without due cause takes unfair advantage of, or harms, its distinctive character or repute. Dishonest adoption cannot be inferred from phonetic similarity alone, without evidence of deliberate imitation.

**Issues Framed by the Court**

1. Whether the second respondent's device mark "nice" is phonetically, visually and deceptively similar to the Appellant's registered mark "NISE"?
2. Whether, given the nature of the goods, class of purchasers, trade channels and mode of purchase, registration of "nice" is likely to cause confusion or association within Section 11(1)?
3. Whether the Appellant had established well-known status, dishonest adoption and the other grounds under Sections 11(2) and 11(3)?
4. Whether the order dated 22.08.2025 warranted interference by the Court?

**Points to be considered**

- The Appellant argued that classification under Section 7 is only administrative and that pharmaceuticals and medical equipment are allied and cognate goods. It relied on Corn Products, FDC v. Docsuggest and Wipro v. Himalaya.
- The second respondent relied on Cadila, Nandhini Deluxe v. KMF and RSPL Health v. Sun Pharma. It argued that the doctrine of natural expansion could not be invoked without material showing that NISE would expand into neonatal equipment.
- The Court applied the seven Cadila factors and Nandhini Deluxe, which held that "NANDHINI" and "NANDINI" could coexist despite phonetic similarity because of the differences in goods and trade.
- The second respondent's Rule 51 evidence affidavit was missing from the digitised Registry records, which were damaged in the December 2015 floods. The Court did not rely on the disputed evidence, and held that the objection did not change the result on the merits.

## 4. EXPONENT ENERGY PRIVATE LIMITED vs. THE REGISTRAR OF TRADEMARKS[20]

**Citation:** C.M.A.(TM) No. 5 of 2026 | C.M.P. No. 1615 of 2026
**Court:** Madras High Court
**Date of Judgement/ Order:** October 15, 2026
**Bench:** HON'BLE DR. JUSTICE A.D. MARIA CLETE
**Keywords:** Trademark, Refusal, Reasoned Order, Remand

**Facts**

Exponent Energy Pvt. Ltd., a Bengaluru company engaged in EV battery packs and charging equipment, applied for the word mark "EXPONENT" in Class 42 (scientific and technological services, research and design, industrial analysis and design, vehicle design). The Registry raised an objection under Section 11(1), citing (i) "EXPONENT" of Exponent, Inc., USA and (ii) "EXPONENTIAL TECHNOLOGIES GROUP" of Mouser Electronics.

The Appellant replied with an affidavit of use and written submissions, invoking Sections 12, 16(1), 18(4) and 20, and offered to restrict its specification. After several hearings, the Assistant Registrar refused the application, holding in a short order that the mark was phonetically similar to the cited marks and the services were similar. The Appellant appealed.

**Provisions**

Sections 11(1), 12, 16(1), 18(4), 18(5) and 20 (proviso) of the Trade Marks Act, 1999.

**Judgment**

The Madras High Court set aside the Assistant Registrar order and remanded the matter to the Registrar for fresh consideration after giving the Appellant a hearing on at least two weeks' notice. It declined to direct acceptance or advertisement of the mark. The Appellant may file the exact wording of its restricted specification before the hearing.

The Registrar must deal with each cited mark separately, compare the marks and the services, verify the present status of the cited marks, consider the evidence of use, and decide by express findings and with reasons the Appellant's requests under Section 12, Section 18(4)

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and the proviso to Section 20. The order must be passed within three months of the first hearing. All questions on merits remain open. There was no order as to costs.

**Ratio**

Section 18(5) makes it mandatory for the Registrar to record in writing the grounds of refusal and the materials used. A bare finding of "phonetic similarity" covering two different cited marks, without comparing each mark and the specific services, does not satisfy this requirement.

Section 11(1) begins with "Save as provided in section 12". A refusal under Section 11(1) that does not decide a Section 12 plea (honest concurrent use or other special circumstances) is incomplete, and the Registrar must also consider requests for advertisement before acceptance under the proviso to Section 20 and for restriction of specification under Section 18(4). Where the Registrar has not exercised these statutory discretions at all, the appellate court may remit the matter instead of deciding it finally.

**Issues Framed by the Court**

1. Whether the impugned order satisfies the requirement of recording reasons under Section 18(5) of the Act?
2. Whether a refusal under Section 11(1) can stand without dealing with Section 12, which that provision expressly saves?
3. Whether the Registrar properly considered the Appellant's requests under Sections 12, 18(4) and 20?

**Points to be considered**

- The Registrar did not discuss the status of the second cited mark (shown as "Objected"), which matters in deciding whether it is an "earlier trade mark" under the Explanation to Section 11.
- The Court rejected the Appellant's reliance on Section 16(1). Association of marks regulates assignment and transmission and is not a route to registration, and the Appellant's existing Class 42 registrations ("epack" and "epump" by exponent) are composite marks that do not entitle it to register "EXPONENT" alone.
- The Court did not direct acceptance because the applied word is identical to the first cited mark and the specification applied for is widely drawn. A trademark is registered for the specification applied for, not for the business as carried on.

- The earliest invoice relied on for use was an invoice issued to the Appellant for machined components. The Registrar must examine whether the evidence shows use for the services applied for.
- The Appellant's offer to restrict its services was unsupported by any proposed wording on the record, so it could not be evaluated.

## 5. STRYTEN ENERGY LLC vs. NIDHI AGARWAL & ORS.[21]

**Citation:** W.P.(C)-IPD 16/2026
**Court:** Delhi High Court
**Date of Judgement/ Order:** October 13, 2026
**Bench:** HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV
**Keywords:** Trademark, Artificial Intelligence, Squatting, Guidelines, Controller General of Patents, Designs & Trade Marks, Stakeholder Consultation

### Facts

Stryten Energy LLC is the petitioner in this writ petition against Nidhi Agarwal and others. The Controller General of Patents, Designs & Trade Marks is represented through the Senior Panel Counsel for Respondent No. 3. The order is short and does not set out the facts of the dispute or the relief sought in the petition.

During the hearing the Court found that comprehensive guidelines are needed on the use and misuse of Artificial Intelligence (AI) and on "squatting", which the order calls a "menace".

### Provisions

Trade Marks Act 1999.

### Judgment

Before taking a final view, the Delhi High Court directed the Controller General of Patents, Designs & Trade Marks to invite suggestions and objections on these aspects from all stakeholders within three weeks of receiving a copy of the order. The Controller General must then compile them and suggest comprehensive, workable guidelines within three weeks

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after that. The matter was listed for 14.12.2026. The order does not decide the petition on its merits.

**Ratio**

Where a case raises issues of wider concern, such as the misuse of AI and squatting, the High Court may, before deciding, direct the Controller General of Patents, Designs & Trade Marks to consult stakeholders and propose workable guidelines. The order gives no ruling on the rights of the parties.

**Issues Framed by the Court**

1. Whether comprehensive guidelines are needed to deal with the use and misuse of Artificial Intelligence (AI) and the menace of squatting?
2. Whether stakeholders should be allowed to assist the Controller General of Patents, Designs & Trade Marks in framing such guidelines before the Court takes a final view?

**Points to be considered**

- The order is an interim, directions-only order. It records no findings on the facts or the merits.
- Timeline: suggestions and objections to be invited within three weeks of receipt of the order, then guidelines to be compiled and suggested within a further three weeks, with the next hearing on 14.12.2026.
- The order does not define "squatting" or describe how AI misuse arose in this case. The Court's concern is stated in general terms.

### 6. ACC STEEL PVT. LTD. vs. ACC LIMITED[22]

**Citation:** COMMERCIAL APPEAL No. 273 of 2025
**Court:** Karnataka High Court (Bengaluru)
**Date of Judgement/ Order:** October 1, 2026
**Bench:** HON'BLE MR. JUSTICE D K SINGH | HON'BLE MR. JUSTICE H. SHANTHI BHUSHAN

[22] ACC STEEL PVT. LTD. vs. ACC LIMITED

**Keywords:** Trademark, Infringement, Passing Off, Well-known Mark, Different Classes, Trade Name

**Facts**

ACC Limited (the plaintiff), a cement and ready-mix concrete maker that has used the mark "ACC" since 1938, sued ACC Steel Pvt. Ltd. (the defendant) in the Commercial Court, Bengaluru Rural. The defendant sold TMT steel bars as "ACC TMT 500" and used "ACC" in its company name. The plaintiff alleged infringement of its registered trademark and logo, copyright infringement and passing off. The defendant held a Class 6 registration, which the plaintiff challenged in rectification proceedings.

The defendant said that "ACC TMT 500" had been used since 2015 by a partnership firm, Prime Alloys, and assigned to it by a deed, and that "ACC" was coined from the first letters of the names of the partners' fathers and their place of business. It also said that steel (Class 6) and cement (Class 19) are different goods. After an ex parte interim injunction that was confirmed, the Commercial Court decreed the suit in part. It granted a permanent injunction, including against use of "ACC" in the company name, ordered the defendant to amend its corporate name, to deliver infringing goods for destruction and to render accounts of profits, and declined the Rs. 10 lakh damages claim but kept it open in the accounts proceedings. The defendant appealed.

**Provisions**

Sections 11(2), 11(6), 11(7), 28, 29(4), 29(5), 31, 51, 122 and 135 of the Trade Marks Act, 1999; Rule 124 of the Trade Marks Rules, 2017; Section 13(1A) of the Commercial Courts Act, 2015.

**Judgment**

The Karnataka High Court dismissed the appeal and upheld the decree dated 05.11.2024 passed by the Commercial Court. There was no order as to costs, and the pending applications were disposed of.

**Ratio**

A difference in the class of goods (here steel in Class 6 and cement in Class 19) does not by itself defeat a claim by the owner of a well-known mark. Sections 11(2) and 29(4) protect a well-known or reputed mark even against use on dissimilar goods, where the use without due cause takes unfair advantage of, or harms, the mark's distinctive character or repute. Recognition as well-known rests on the factors in Sections 11(6) and 11(7), such as duration of use, publicity, registrations and enforcement record, and not on registration alone.

Rights from registration under Section 28 are "subject to the other provisions of this Act", and Section 31 makes registration only prima facie evidence of validity. A defendant's own registration, which here had been stayed in rectification proceedings, is not a defence against an earlier, reputed mark. Using the identical essential mark as part of the corporate name (Section 29(5)) is an independent basis for an injunction. Sections 51 and 122 give no right to use another's registered mark.

**Issues Framed by the Court**

1. Whether the judgment and decree of the Commercial Court, granting a permanent injunction and other reliefs against the defendant, called for interference by the High Court?

**Points to be considered**

- The Commercial Court had framed seven issues on infringement, copyright infringement, passing off, profits, the defendant's good faith and relief, and answered Issues 1 to 4 for the plaintiff and Issue 5 against the defendant.
- The High Court noted that "ACC" had been included in the Registry's list of well-known marks under Rule 124 of the 2017 Rules, and that this rested on cumulative circumstances: long use, publicity, sales, distribution, registrations in several classes and reputation in the construction industry.
- Cement and steel are both used in construction, with overlapping trade channels and purchasers, and the Commercial Court considered evidence of actual market inquiries by people who thought the defendant's products were associated with the plaintiff.
- The defendant's explanation for coining "ACC" was unsupported by documents, and the alleged assignment deed from Prime Alloys was not produced. Adding "TMT 500" did not remove the appropriation of "ACC", which was used in the same font, colour combination and get-up.

- The Court summed up its finding as resting on the plaintiff's earlier use, reputation, well-known status, identical mark, use in the company name, similar presentation, market confusion and the defendant's failure to prove independent origin.

## 7. HAVELLS INDIA LIMITED & ANR. vs. M/S HAVELLS PVC PIPES INDUSTRY[23]

**Citation:** CS(COMM) 571/2025
**Court:** Delhi High Court
**Date of Judgement/ Order:** October 7, 2026
**Bench:** HON'BLE MR. JUSTICE VIKAS MAHAJAN
**Keywords:** Trademark Infringement, Ex Parte Decree, Imported Goods, Domain Name

### Facts

Havells India Ltd. and another plaintiff, who have made electrical and electronic goods and own the mark HAVELLS and formatives in Classes 7, 9, 11, 35 and 37, sued M/s Havells PVC Pipes Industry. The defendant used the unregistered mark HAVELLS, the trade name "Havells PVC Pipes Industry" and the domain name havellspvc.com. By order the Court restrained the defendant and appointed a Local Commissioner to visit its Faridabad premises.

The Local Commissioner reported that the defendant's accountant stated that goods under the impugned mark were imported from China via UAE in December 2024, valued at Rs. 22,86,240, and sold in northern India. The defendant did not appear after service, its right to file a written statement was closed and it was proceeded against ex parte.

### Provisions

Trade Marks Act, 1999.

### Judgment

The Delhi High Court decreed the suit in terms of prayer clauses (a) to (e) of the plaint. The plaintiffs confined their claim for damages to costs, relying on the court fee of Rs. 2,01,000, the Local Commissioner's fee of Rs. 2,00,000 and out-of-pocket expenses. The Court decreed a sum of Rs. 5,00,000 in their favour against the defendant, directed a decree sheet to be drawn up, and disposed of the suit and pending applications.

[23] HAVELLS INDIA LIMITED & ANR. vs. M/S HAVELLS PVC PIPES INDUSTRY

**Ratio**

Where the defendant has been proceeded against ex parte, has filed no written statement and the plaint and documents (including the Local Commissioner's report) are uncontroverted, no ex parte evidence need be recorded and the suit may be decreed on the pleadings and documents (Imagine Marketing v. Green Accessories, following Disney Enterprises v. Balraj Muttneja).

Adopting a mark, trade name and domain name identical to a prior registered and well-known mark is infringement. Where the plaintiffs limit damages to actual costs, the Court may award costs based on the court fee, the Local Commissioner's fees and other expenses.

**Issues Framed by the Court**

1. Whether the suit could be decreed without ex parte evidence, as the defendant was ex parte and had filed no written statement?
2. Whether the defendant's use of HAVELLS as mark, trade name and domain name infringed the plaintiffs' registered trademark, and what monetary relief was appropriate?

**Points to be considered**

- The Court restrained the defendant by order from using HAVELLS or any identical or deceptively similar mark, trade name, domain name or packaging.
- The defendant's own accountant admitted to the Local Commissioner that the goods had been imported and sold, and the Court treated this as establishing the infringement.
- In Imagine Marketing, damages of Rs. 5 lakh and Rs. 10 lakh were awarded by reference to the quantity of counterfeit goods seized. Here the plaintiffs sought only costs.
- The plaintiffs are the prior adopters and registered proprietors of a well-known mark, and the defendant's mark and domain name were phonetically, visually and structurally identical. The adoption was held to be illegal and mala fide.

## 8. ANNAPURNA SWADISHT LIMITED vs. GEF FOODS INDIA PRIVATE LIMITED[24]

[24] ANNAPURNA SWADISHT LIMITED vs. GEF FOODS INDIA PRIVATE LIMITED

**Citation:** A. Nos. 3875 & 3876 of 2026 | O.A. Nos. 778 & 779 of 2026 | C.S.(Comm.Div.) No. 223 of 2026

**Court:** Madras High Court

**Date of Judgement/ Order:** October 9, 2026

**Bench:** HON'BLE DR. JUSTICE A.D. MARIA CLETE

**Keywords:** Trademark Infringement, Passing Off, Phonetic Similarity, Interim Injunction, Vacation of Injunction, Acquiescence

**Facts**

GEF Foods India Pvt. Ltd. (the plaintiff) owns the mark ANNAPOORNA, used by its predecessor "Sree Annapoorna Foods" since about 1980 for spice powders, masalas and allied products. The predecessor held Class 30 registrations (Nos. 988210, 988211 and 988212, applied for in 2001) and a Class 29 registration (No. 1803022, applied for in 2009), and assigned its business, marks and goodwill to the plaintiff by deeds dated 31.01.2025. Annapurna Swadisht Ltd. (the defendant), a listed Kolkata company, sells snacks, fryums and namkeens as "ANNAPURNA SNACKS" and "ANNAPURNA SWADISHT", and says that it began in 2015 as a firm making papads and fryums.

The plaintiff sued for infringement and passing off in July 2026, saying it learnt of the defendant only in March 2026. On 05.08.2026 the Court granted an ex parte ad interim injunction in O.A. Nos. 778 and 779 of 2026. The defendant applied (A. Nos. 3875 and 3876 of 2026) to vacate it. It argued suppression of facts, because the plaintiff's predecessor had opposed the defendant's trademark applications since February 2023, and also argued delay and acquiescence, the narrow range of the plaintiff's goods, hardship to its business and the common religious meaning of "Annapurna". In the end it asked only for modification so that it could continue selling packaged snacks.

**Provisions**

Sections 29(2), 29(3), 29(4), 34 and 37 of the Trade Marks Act, 1999; Order XXXIX Rule 4 and Order VII Rule 11 CPC; Section 12A of the Commercial Courts Act, 2015.

**Judgment**

The Madras High Court allowed O.A. Nos. 778 and 779 of 2026 and made the ad interim injunction of 05.08.2026 absolute until disposal of the suit, but confined to the goods and uses identified in the order. The applications to vacate the injunction (A. Nos. 3875 and 3876 of 2026) were dismissed, with no order as to costs.

The Court held that the earlier restraint on "any goods" was too wide and must be limited to the goods in dispute and allied goods where a likelihood of confusion is shown. The passing off injunction (O.A. No. 779) is confined to blended spices, which the defendant says it does not sell and has undertaken not to sell under ANNAPURNA.

**Ratio**

Registration in a class does not give a monopoly over every product in that class. However, under Section 29(2), protection extends to similar or allied goods where the closeness of the marks and goods is likely to cause confusion or an association with the registered mark. "ANNAPOORNA" and "ANNAPURNA" sound the same, and low-priced foodstuffs bought from memory, often by people who cannot read English, can create the impression of one maker's product range. Using the name for ready-to-eat snacks instead of cooking spices does not remove the likelihood of association, and the word "SWADISHT" (tasty) is descriptive and does not distinguish the source.

The following are not defences at the interim stage: the common religious meaning of the name, a difference in geographical markets (unless the registration is territorially restricted), the lack of proof of actual confusion, an assignment clause between the plaintiff and its predecessor (to which the defendant is a stranger), and later business growth made despite pending oppositions. Mere delay or knowledge, without conduct showing assent, is not acquiescence, and an opposition is an assertion of rights. An inaccurate statement in an ex parte application is disapproved, but it does not always require the injunction to be vacated entirely, and the injunction can be modified to cover only the goods where confusion is likely.

**Issues Framed by the Court**

1. Whether the ex parte interim injunction dated 05.08.2026 should be vacated because of alleged suppression of facts, delay and acquiescence?
2. Whether the plaintiff had made out a prima facie case of infringement under Section 29(2) for use of "ANNAPURNA" on packaged snacks, against its mark "ANNAPOORNA" for spices and allied goods?

3. Whether the restraint on use for "any goods" needed to be modified, and whether the defendant's hardship and undertakings justified excluding snacks and namkeens?

**Points to be considered**

- The defendant fairly accepted that the two marks, though different to look at, are phonetically similar. The defendant's adoption began in 2015, around three decades after the predecessor's use and 14 years after its registrations, so the prior-use defence under Section 34 was not available.
- The Court found the plaintiff's statement that it learnt of the defendant only in March 2026 inaccurate, since the predecessor had opposed the defendant's applications from February 2023, and disapproved it. It also disapproved the plaint's statement that the plaintiff was incorporated in 2008, when the certificate shows 23.12.2024. It held that this did not justify complete vacation, as the oppositions were disclosed in the plaint and the plaintiff's registered rights were unaffected.
- The Court did not decide whether the plaintiff's mark has the "reputation in India" needed under Section 29(4), the objection under Section 12A of the Commercial Courts Act, or the allegation that three early invoices of the defendant were fabricated. Each is left for the trial or for any Order VII Rule 11 application.
- The defendant's hardship (factories, workers, bank loans and listed-company status) was considered, but the injunction only stops use of the mark, so the defendant can sell snacks under another name. The Court said that any real difficulty could be addressed by a limited time to change labels and packaging, and that disclosing its corporate identity on packets may not remove confusion.

## 9. INEXO CAST METAL SOLUTIONS PVT. LTD. vs. FEDERAL EXPRESS CORPORATION & ANR.[25]

**Citation:** CMA(TM) No. 4 of 2025

**Court:** Madras High Court

**Date of Judgement/ Order:** October 15, 2026

**Bench:** HON'BLE DR. JUSTICE A.D. MARIA CLETE

**Keywords:** Trademark, Opposition, Well-known Mark, Unfair Advantage, Dissimilar Goods

[25] INEXO CAST METAL SOLUTIONS PVT. LTD. vs. FEDERAL EXPRESS CORPORATION & ANR.

**Facts**

INEXO Cast Metal Solutions Pvt. Ltd. (the appellant), a Chennai maker of foundry materials such as exothermic sleeves, applied on 26.11.2009 to register the word mark “FEDEXO” in Class 1 (foundry chemicals, binders and moulding preparations), claiming continuous use since 05.09.2007. The Registry objected only on the basis of a mark “FEDEX500” (later removed from the Register). The application was advertised in 2012, and Federal Express Corporation (FedEx, the first respondent) opposed it in 2013 (Opposition No. 800164), claiming that FEDEX is a well-known mark used in India since 1984, with registrations from 1986.

The appellant’s own papers showed that it first used “FEDEX” and changed it to “FEDEXO” only after an objection dated 04.11.2009 from Foseco International, owner of “FEEDEX”, and that its invoices up to March 2010 described products as “FEDEX 55” or “FEDEX 50”, with the first “FEDEXO” invoice dated 13.05.2010. By order dated 21.10.2024 the Assistant Registrar allowed the opposition and refused registration. The appellant appealed under Section 91 of the Trade Marks Act.

**Provisions**

Sections 2(1)(zg), 9(1)(a), 11(2), 11(6), 11(7), 11(8), 11(9), 11(10), 12, 18(1), 20(1), 29(4) and 91 of the Trade Marks Act, 1999.

**Judgment**

The Madras High Court dismissed the appeal and confirmed the order dated 21.10.2024 refusing registration of “FEDEXO” under Application No. 1888861 in Class 1. The Assistant Registrar’s wrong reference to a letter dated 28.11.2011 is to be read as the appellant’s letter dated 28.11.2009 to Foseco International. The findings are confined to the appellant’s right to registration and do not decide any question of infringement or passing off. There was no order as to costs.

**Ratio**

Under Section 11(2), a later mark that is similar to an earlier well-known mark can be refused even for dissimilar goods, if its use without due cause would take unfair advantage of, or harm, the earlier mark’s distinctive character or repute. These conditions are cumulative, but

actual confusion is not required. Inclusion in the Registry's list of well-known marks (here in February 2024) records, and is not the only proof of, reputation already earned. The question is whether the mark was well known when the appellant applied (26.11.2009).

An applicant that wrongly claims use since an earlier date, and has no consistent explanation for adopting a mark that contains the whole of a well-known mark with one letter added, cannot show due cause or honest concurrent use under Section 12, and such misstatements indicate bad faith under Section 11(10)(ii). An appellate court may uphold a refusal on its own examination of the record despite errors or thin reasoning by the Registrar, where the evidence is all documentary and both sides have been fully heard.

**Issues Framed by the Court**

1. Whether the mark "FEDEXO" is identical with or similar to the mark "FEDEX"?
2. Whether "FEDEX" was already a well-known trade mark in India on 26.11.2009, and what effect its inclusion in the Registry's list in February 2024 has on that question?
3. Whether the appellant had due cause to adopt and use "FEDEXO", can claim honest concurrent use under Section 12, or acted in bad faith?
4. Whether, though the goods and services are different, use of "FEDEXO" would take unfair advantage of, or harm, the distinctive character or reputation of "FEDEX" under Section 11(2)?
5. Whether the remaining contentions (no actual confusion, no infringement suit, FEDEX not cited in the examination report, FEDEX500 on the Register, and Section 29(4)) make any difference?

**Points to be considered**

- The Assistant Registrar made two errors: he treated the appellant's letter as dated 28.11.2011 and as a reply to FedEx, when it is dated 28.11.2009 and was addressed to Foseco. He also went straight from FEDEX's presence in the well-known list to his conclusion without examining the evidence of reputation or the other requirements of Section 11(2). The Court said these errors did not entitle the appellant to registration, and examined the whole record itself.
- FEDEXO contains FEDEX in full with only the letter "O" added, and the appellant's Managing Director himself called the change "insignificant". The marks are substantially similar to an average buyer with imperfect recollection (Amritdhara Pharmacy v. Satya Deo Gupta).

- FedEx's evidence (use since 1984, Indian registrations from 1986, advertising, Reader's Digest Asia Trusted Brands awards from 2004, foreign decisions from 1991 to 2007 and worldwide revenue of US$35.5 billion in 2009) showed it was well known before 26.11.2009. The Court relied on Lego Juris v. Gurumukh Singh and distinguished Paragon Polymer Products v. Sumar Chand Nahar ("no mark is born as a well-known mark"), as honest prior use of FEDEXO was not shown.
- The appellant's explanation for "EXO" changed (its trading style INEXO, or "exothermic sleeves"). Its claim of use since 2007 conflicted with its own correspondence, invoices and the admission in its memorandum of appeal that FEDEXO was adopted in 2009.
- Different goods and trade channels (foundry chemicals against courier and transport services) do not prevent Section 11(2) from applying, because it is designed for dissimilar goods. The comparison is by the specification applied for, not by the appellant's present business.

### 10. ITC LIMITED AND ANR. vs. MR. UMESH ARORA AND ANR.[26]

**Citation:** C.O. (COMM.IPD-TM) 48/2026 & I.A. 4244/2026

**Court:** Delhi High Court

**Date of Judgment:** October 5, 2026

**Bench:** HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

**Keywords**

Cancellation of registered mark, well-known mark BUKHARA, unrebutted averments, abandonment and non-use, proposed-to-be-used application

**Facts**

ITC Limited and ITC Hotels Limited, the latter running the Bukhara restaurant at ITC Maurya, New Delhi, asked the Court to remove Trade Mark Registration No. 4064296 in Class 43 under Sections 47 and 57 of the Trade Marks Act, 1999. The mark in question is the device mark THE BREW BUKHARA, which Mr. Umesh Arora applied for on 22.01.2019 on a proposed-to-be-used basis, covering services as varied as sweets, grill foods, restaurants,

[26] ITC LIMITED AND ANR. vs. MR. UMESH ARORA AND ANR.

hotels, catering and bar services. It was registered on 21.07.2019 and is valid till 22.01.2029. The petitioners called it phonetically, structurally, visually and conceptually close to their earlier mark BUKHARA, registered for identical services that would reach the same customers through the same channels.

Petitioner no. 1 filed its first application for BUKHARA on 23.04.1985 and claimed continuous use for about four and a half decades. It also pointed to *ITC Limited v. Central Park Estates Pvt. Ltd.* (2022:DHC:5190, decided 14.11.2022), where the mark was declared well-known, and to its place at Sl. No. 50 in the list of well-known marks notified in Trade Marks Journal No. 2177 dated 07.10.2024.

Notice was issued on 16.02.2026. Respondent no. 1 was served by courier on 25.03.2026 and by e-mail on 18.04.2026, and on 07.05.2026 the Court gave one final opportunity to serve him by all permissible modes. He filed no reply, and neither did the Registrar of Trade Marks (respondent no. 2). His trade mark attorney, Balaji IP Practice, did write back by e-mail on 26.02.2026. The firm said the brand was never commercially exploited for any substantial gain that the brief use during the COVID-19 period only caused a loss and was stopped soon after, that he has no plan to use or apply for the mark again, and that he is ready to formally withdraw and permanently give it up. That e-mail had already been extracted in the order of 07.05.2026.

**Provisions**

Sections 47 and 57 of the Trade Marks Act, 1999. Section 47(1)(b) is the provision applied in the earlier decisions the Court relied on for non-use.

**Judgment**

The petition was allowed. The Court directed cancellation of Registration No. 4064296 in Class 43 standing in the name of respondent no. 1, and the Registry was given six weeks from receipt of a copy of the judgment to carry this out. I.A. 4244/2026 was disposed of. Delivering the judgment orally, Justice Kaurav built the order on the respondent's own stand: he had not contested the petition, and through his attorney he had accepted that the mark was not in real use and would not be used again.

The Court then went through its earlier rulings on the point. In *Wilhelmsen Ships Service AS v. Vishal Anand* (C.O. (COMM.IPD-TM) 258/2024, 22.01.2026), an unanswered plea of non-use was taken as admitted and the mark removed under Section 47(1)(b). In *Russell Corp Australia v. Ashok Mahajan* (2023 SCC OnLine Del 4796), the proprietor himself had said the mark was discontinued. In *Shri Rajesh Chugh v. Mehruddin Ansari* (C.O. (COMM.IPD-TM) 28/2024, 05.08.2024), a Class 43 restaurant mark, counsel's statement that the mark would not be used was read as abandonment. And in *Boon Rawd Brewery v. Yunnan Xiangkeng Trading* (C.O. (COMM.IPD-TM) 25/2025, 01.05.2025), a proposed-to-be-used device mark that copied a prior mark was cancelled under Section 57, the failure to contest being seen as a sign of bad faith. The Court found these decisions fully applicable here.

**Ratio**

Where a registered proprietor, despite being served, does not contest a rectification petition, the petitioner's averments stand unrebutted and are treated as admitted. If he also states, directly or through his counsel or trade mark agent, that the mark was never meaningfully used, has been discontinued and will not be used again, the Court can direct its removal on that basis without a contested hearing.

The Court put the whole reasoning in one line: *"The ratio of the aforesaid decisions squarely applies to the facts of the present case."* Its final direction is just as short, resting on *"the position taken by respondent no.1"* rather than on any finding about the marks themselves.

**Issues Framed by the Court**

- Whether, with respondent no. 1 having filed no reply despite service, the averments in the rectification petition could be treated as unrebutted and admitted?
- Whether, in light of respondent no. 1's stated position that the mark was never commercially used, was discontinued and would not be used again, Registration No. 4064296 in Class 43 should be cancelled under Sections 47 and 57?

**Points to be considered**

The judgment is brief and never places THE BREW BUKHARA beside BUKHARA. Deceptive similarity, the well-known status of BUKHARA and bad faith in the 2019 application are all left undecided; the petitioners' submissions on them are only recorded, and the bad faith observation belongs to the *Boon Rawd* decision, cited as precedent. The Court

also does not say whether the cancellation rests on Section 47 or Section 57, and treats both lines of authority as covering the case.

The attorney's account of a short, loss-making use during COVID-19 was taken as stated and not tested. For practitioners, the lesson is a practical one: an informal e-mail from a proprietor's agent was extracted in a court order and ended up deciding the matter.

### 11. TREGUM REMEDIES PRIVATE LIMITED vs. THE SENIOR EXAMINER OF TRADEMARKS[27]

**Citation:** CMA(TM) No. 1 of 2026

**Court:** Madras High Court

**Date of Judgement/ Order:** October 9, 2026

**Bench:** HON'BLE JUSTICE P.B. BALAJI

**Keywords:** refusal of registration, composite mark, non-speaking order, non-application of mind

**Facts:**

Tregum Remedies applied in Class 3 for the trade mark "THE SKIN COMPANY" (application No. 5728063). The Examination Report raised objections under Sections 9(1)(b) and 11(1) of the Trade Marks Act. The appellant replied that the mark is a composite of three words and makes no exclusive claim to any single word. By the impugned order of December 2024, the Senior Examiner refused the application. The grounds were lack of distinctiveness under Section 9(1)(a) and deceptive similarity to earlier marks under Section 11(1).

The appellant said the order gave no reasons and ignored its reply. It also said the Registry had already registered "SKINN" and "SKINN ESCAPADE" for similar goods. The Registry said the goods are the same and the marks are similar. In the alternative, it asked that the matter be sent back for a fresh decision.

**Provisions:** Sections 9(1), 11(1) and 20(1) of the Trade Marks Act, 1999; Rule 39 of the Trade Marks Rules, 2017.

**Judgment:**

[27] TREGUM REMEDIES PRIVATE LIMITED vs. THE SENIOR EXAMINER OF TRADEMARKS

The appeal is allowed and the refusal order is set aside. The Registry's request for a remand was rejected, because the appellant had adequately answered both objections. The Registrar must advertise the application in the Trade Marks Journal under Section 20(1) read with Rule 39 of the Trade Marks Rules, 2017, and then decide it in accordance with law. There is no order as to costs.

The Court found that the order looked like a pre-conceived, standard-format decision. It said the mark was "significantly identical with and/or deceptively similar" to the cited marks, without saying which. It also refused the mark under Section 9(1)(a) when the objection raised was under Section 9(1)(b). It did not consider the appellant's detailed reply. A composite mark cannot be dissected so that registration is refused because of one word, "SKIN". The Registry had also accepted "SKINN" as distinctive, so a different yardstick could not be applied to the appellant. Viewed as a composite mark, the Court saw no room for confusion with the cited marks, and the Registry had not pinpointed identity or deceptive similarity. Acceptance only leads to publication, and anyone can then oppose the mark.

**Ratio:**

The Registrar must consider the applicant's reply to the examination report and give reasons, and cannot refuse an application on a ground different from the one raised in the report. An order that calls a mark "identical and/or deceptively similar" without saying which is not a reasoned order, as these are different grounds. A composite mark cannot be dissected so that it is refused because of one word. The Registry cannot apply a stricter test to an applicant after accepting a similar mark as distinctive. Where the applicant has adequately answered the objections, the Court need not remit the matter and can direct advertisement, since third parties can still oppose after publication.

**Issues Framed by the Court:**

1. Whether the refusal of "THE SKIN COMPANY" under Sections 9(1) and 11(1) can be sustained?
2. Whether the impugned order is a reasoned order?
3. Whether the matter should be remitted to the Registry or the application directed to be advertised?

**Points to be considered:**

- Application No. 5728063 in Class 3 drew objections under Sections 9(1)(b) and 11(1) in the Examination Report. The appellant replied, and the Senior Examiner refused the application by an order of December 2024.
- The Court noted that the order refused the mark under Section 9(1)(a) although the objection raised was under Section 9(1)(b), and that it did not consider the appellant's reply.
- The order described the mark as "significantly identical with and/or deceptively similar" to the cited marks without saying which cited marks or which ground.
- A composite mark cannot be dissected to refuse registration because of one word. The Registry had already registered "SKINN" and "SKINN ESCAPADE" for similar goods.
- The Court did not finally hold that the mark is free from confusion with the cited marks, since third parties can oppose after advertisement.

## 12. KIEHBERG GMBH AND ANR. vs. CAPITAL AIRGUN MANUFACTURERS PRIVATE LIMITED AND ANR.[28]

**Citation:** C.O. (COMM.IPD-TM) 187/2024 & I.A. 39793/2024

**Court:** Delhi High Court

**Date of Judgment:** October 13, 2026

**Bench:** HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

**Keywords**

Cancellation under Section 57, prior user, person aggrieved, proposed to be used application, dishonest adoption, passing off

**Facts**

Kiehberg GmbH, a German company, and Syndicate Innovations International Limited of Delhi, which jointly promote the mark in India, petitioned under Section 57 of the Trade Marks Act, 1999 to remove Registration No. 6103985 for KIEHBERG in Class 13, held by Capital Airgun Manufacturers Private Limited, Lucknow. The company had applied on 11.09.2023 on a proposed-to-be-used basis for firearms, ammunition, explosives, fireworks

[28] KIEHBERG GMBH AND ANR. vs. CAPITAL AIRGUN MANUFACTURERS PRIVATE LIMITED AND ANR.

and air guns. The Registry found no conflicting mark in its examination report of 24.11.2023, advertised the mark on 04.12.2023, received no opposition, and registered it on 26.05.2024.

The petitioners said they conceived KIEHBERG in 2011, have used it in India since 21.03.2012, and deal in shooting and outdoor sports equipment sourced from Germany and other European countries. Their own applications for the word and device mark KIEHBERG in Class 13 (nos. 6490574 and 6490576), filed on 21.06.2024, were objected to under Section 11(1) because of the impugned registration. They also said their enquiries in the trade turned up no product sold under the mark by the respondent, whose website offered air rifles and air pistols under other names.

Notice was issued on 19.09.2024 with status quo on the registration. Respondent no. 1 was served with the paperbook on 25.10.2024, filed no reply, had its right to reply closed on 06.02.2025, and never appeared. The Registrar of Trade Marks, respondent no. 2, defended the registration as properly examined and pointed out that the petitioners had not opposed it under Section 21. The prayer for costs was not pressed.

**Provisions**

Section 57(2), Sections 9(2)(a), 11(1) and 11(3)(a), Section 18(1) and Section 21 of the Trade Marks Act, 1999.

**Judgment**

The petition was allowed and Registration No. 6103985 in Class 13 was cancelled. The Registrar must remove it and rectify the Register within four weeks of receiving a copy of the order, and there was no order as to costs. The Court began by saying that a missing reply does not mean an automatic order: it still had to see whether the petitioners' case was made out on the record (*Balraj Taneja v. Sunil Madan*; *Asma Lateef v. Shabbir Ahmad*).

On standing, the Court noted that the Registrar had itself said the petitioners' applications were objected to because of this registration, so it was a direct obstacle to them and they were persons aggrieved, locus standi in such cases being judged liberally (*Hardie Trading v. Addisons Paint*). On the merits, the petitioners had placed the certificate of incorporation, master data, the WHOIS record of kiehberg.in registered on 15.12.2012, social media extracts from 2012, and a Chartered Accountant's certificate showing sales of about INR 5.45 billion

and promotional spend of about INR 173 million from 2012-13 to 2023-24. Their use thus began more than a decade before the respondent's application.

The respondent, by contrast, had picked an identical coined word for goods in the same field and offered no explanation. The Court held that *"the only reasonable inference is that the adoption was not honest."* Use of the mark for identical goods would be restrained as passing off, so the registration was barred by Sections 9(2)(a) and 11(3)(a). The Court relied on *Dorco*, *Russell Corp Australia* and *Amit Sood* for this.

**Ratio**

A later adopter's registration is wrongly on the Register, and liable to be removed under Section 57, where a prior user with goodwill shows that the registered mark is identical and for identical goods, so that its use would be passing off. A proprietor who gives no explanation of how it came to adopt a coined word already used by a trader in the same field cannot claim honest adoption, and, as in Dorco, such an application runs against Section 18(1).

Neither the Registry's clean examination nor the petitioner's silence at the opposition stage saves such a registration. The Registry compares an application only with its own records and *"has no means of knowing about an unregistered prior user"*, and a failure to oppose under Section 21 *"does not take away their right under Section 57."* The Court also quoted the Supreme Court's view that prior user rights are superior to registration, so that even the registered proprietor cannot disturb them.

**Issues Framed by the Court**

- Whether the petitioners were "persons aggrieved" within the meaning of Section 57(2)?
- Whether, on the petitioners' prior use and the respondent's unexplained adoption of an identical mark, the registration had been wrongly entered under Sections 9 and 11?
- Whether the Registry's examination and the petitioners' failure to oppose under Section 21 stood in the way of cancellation?

**Points to be considered**

The petitioners also claimed KIEHBERG was well known in India and that the respondent had never used it. Both claims are recorded, but neither is a ground of the decision, which rests on prior use, dishonest adoption and the bar under Sections 9(2)(a) and 11(3)(a). The Court itself expected no real defence from the respondent, yet treated the evidence on record as the basis for its order.

For practitioners, the order shows that a prior user who missed the opposition window can still succeed in a Section 57 petition, provided the use is documented from the start. Here the domain registration, early social media and a CA certificate with invoices did that work.

## 13. MALHOTRA INTERNATIONAL PRIVATE LIMITED vs. ROHAN MALHOTRA AND ORS.[29]

**Citation:** IP-COM/11/2026

**Court:** Calcutta High Court

**Date of Judgment:** October 14, 2026

**Bench:** HON'BLE JUSTICE ARINDAM MUKHERJEE

**Keywords**

Pre-institution mediation, Section 12A, Section 124 stay, infringement and passing off, pending rectification

**Facts**

Malhotra International Private Limited approached the Intellectual Property Rights Division of the Calcutta High Court to institute a suit for infringement and passing off against Rohan Malhotra and others, relying on its registered marks PANAMA and PANAMA PLUS. The plaint was only being presented; no defendant had yet been heard.

The plaintiff pleaded three things. Defendant no. 1 had filed a rectification application against the plaintiff's registered mark on 25.03.2026, to which the plaintiff filed its counter affidavit on 15.05.2026. Defendant no. 2, an associate of defendant no. 3, applied on 23.04.2026 for "Panamark" and other marks on a proposed-to-be-used basis, advertised on 29.06.2026.

[29] MALHOTRA INTERNATIONAL PRIVATE LIMITED vs. ROHAN MALHOTRA AND ORS.

Defendant no. 3, said to be controlled by defendant no. 1, applied on 01.09.2026 for PANAMA and other marks, again proposed to be used, advertised on 28.09.2026.

The plaintiff said its cause of action arose only at the end of September, and that the rectification application by itself gave it no cause of action for infringement; that came when it found the allegedly deceptive product in the market. It asked for leave under Order II Rule 2 of the Code of Civil Procedure, leave under Clause 14 of the Letters Patent, 1865, and dispensation from the pre-institution mediation required by Section 12A of the Commercial Courts Act, 2015, relying on Section 124(5) of the Trade Marks Act, 1999.

**Provisions**

Section 124(1)(a), (b) and (5) of the Trade Marks Act, 1999; Section 12A of the Commercial Courts Act, 2015; Order II Rule 2 of the Code of Civil Procedure, 1908; Clause 14 of the Letters Patent, 1865.

**Judgment**

The Court refused to dispense with Section 12A and directed that the plaintiff be returned to the plaintiff with the court fees, so that it can go through the mediation formalities and then institute the suit *"if permissible in accordance with law."* The fees may be used for the fresh institution. The Registry was told to de-register the suit number once the formalities are done, so that the suit does not show as pending merely because a number was allotted at the Central Filing Department.

The leave under Order II Rule 2 and Clause 14 was not the sticking point, since at the stage of presentation the Court accepts the plaintiff's statements as correct and makes no enquiry. The real question was Section 12A, which is mandatory (*Patil Automation Private Limited v. Rakheja Engineers Private Limited*, (2022) 10 SCC 1), and the Court must make a limited enquiry to see whether it is being bypassed (*Yamini Manohar v. TKD Keerthi*, 2023 SCC OnLine SC 1382).

On the facts, the rectification application was filed on 25.03.2026 and answered on 15.05.2026, so the plaintiff had known of the defendants' acts for at least six months. Section 124(5), which preserves interlocutory orders while an infringement suit is stayed, *"does not come to the plaintiff's aid"* because it presumes a pending suit in which a rectification

application is filed later; here the rectification came first and there was no suit. The Court found no urgent interim relief contemplated on the infringement claim. It accepted that urgency could be contemplated for passing off, but held the pleadings too interlinked to be separated.

**Ratio**

Where a rectification application against the plaintiff's registered mark is already pending when the plaintiff is presented, Section 124(5) cannot be relied on to show urgency and bypass Section 12A. A pending challenge to validity lets the Court stay the infringement claim under Section 124(1) and allow the passing off action to continue, so the infringement claim by itself does not call for urgent interim relief.

Nor can a plaintiff be split to give passing off an exemption from Section 12A. Where its statements are so interwoven that *"it is neither possible nor permissible in law to bifurcate the plaintiff"*, dispensation is refused for the whole of it.

**Issues Framed by the Court**

- Whether Section 124(5) of the Trade Marks Act, 1999 helped the plaintiff, when the rectification application had been filed before the suit was instituted?
- Whether any urgent interim relief was contemplated, on the infringement or the passing off claim, to justify dispensing with Section 12A?
- Whether the plaint could be bifurcated so that dispensation was allowed for passing off alone?

**Points to be considered**

This is an order at the stage of presentation, passed before any defendant was heard. It makes no finding on infringement, on the validity of PANAMA or PANAMA PLUS, on the similarity of the defendants' marks, or on the merits of passing off. Whether the suit can be instituted after mediation is left to the plaintiff and to the law, and the order says nothing on limitation or maintainability.

The order does not say so in terms, but for practitioners it suggests that a combined infringement and passing off plaintiff should be drafted so that the urgency of the passing off

claim can stand on its own, and that a rectification application already pending against the plaintiff's mark weakens any claim of urgency on infringement.

## 14. METIS EDUVENTURES PRIVATE LIMITED INDIA vs. CAREER POWER COACHING CENTRE PRIVATE LIMITED AND ORS.[30]

**Citation:** CS(COMM) 916/2022

**Court:** Delhi High Court

**Date of Judgment:** October 5, 2026

**Bench:** HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

**Keywords**

Passing off, unregistered mark, former franchisee, trading name, Order VIII Rule 10

**Facts**

Metis Eduventures Private Limited India runs coaching programmes for Staff Selection Commission, banking and other competitive examinations through institutes it owns or franchises under the mark CAREER POWER and its device (the words in blue and red with a blue underline, and a stylised figure in a white box). It said it adopted the mark in 2010, when its first branch opened in Noida, and claims more than 70 branches. The mark is unregistered: the first application of 08.10.2012 in Class 41 was refused, and the second, filed on 28.05.2019 as proposed to be used, was advertised on 21.03.2022 and opposed by defendant no. 3. The suit therefore stood on common law passing off and on copyright in the device mark.

The plaintiff had licensed the mark to defendant no. 4 under a Franchise Agreement and a Brand Licensing Agreement dated 31.12.2018. Defendant no. 2, M/s Metis Eduvantures, was reconstituted as a partnership in February 2019 with defendant nos. 3 and 4 among its partners, and on 01.04.2019 the plaintiff signed a further licensing and brand supply agreement with these franchisees, valid till 31.03.2021. The plaintiff said it was never renewed, and that on termination the licensees had undertaken to stop using the mark and not to apply for a similar one. After an unanswered cease and desist notice of 03.06.2022, it found that defendant no. 3, Arun Kumar, had applied for the impugned device mark, and in

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December 2022 it came across Facebook and Instagram pages named “Career Power Hisar” run by defendant no. 1, Career Power Coaching Centre Private Limited, which Arun Kumar directs.

On 23.12.2022 the Court issued summons and granted an ad interim injunction, with a take-down of the Facebook page. Defendant nos. 1 and 3 later renamed their centre and, on 03.04.2025, consented to a decree, which also required defendant no. 1 to change its corporate name and defendant no. 3 to withdraw his opposition to the plaintiff’s application. Defendant no. 4 was proceeded against ex parte on 04.10.2024 and defendant no. 2 on 03.04.2025. Neither filed a written statement. On 08.09.2025 the plaintiff did not press its application under Order XXXIX Rule 2A, as all four defendants had complied with the injunction, and sought a decree against defendant nos. 2 and 4, giving up damages and costs.

**Provisions**

Order VIII Rule 1 (proviso), Rule 5(2) and Rule 10, and Order XI Rule 4 of the Code of Civil Procedure, 1908.

**Judgment**

The suit was decreed against defendant nos. 2 and 4 in terms of paragraph 89(a) to (d) of the plaint. They are permanently restrained from using CAREER POWER, its device or anything deceptively similar in relation to education, training, entertainment, sporting and cultural activities so as to pass off as the plaintiff, and from using the name METIS EDUVANTURES or any name similar to the plaintiff’s trading name. The decree also covers unfair competition, dilution, tarnishment and infringement of copyright in the device mark. The earlier decree against defendant nos. 1 and 3 continues, the Registry is to draw up the decree sheet, and the suit and pending applications stood disposed of.

Defendant nos. 2 and 4 were both taken as served on 04.10.2024, and the 120-day outer limit for a written statement in a commercial suit ran out in the first week of February 2025. The Court said the consequence of missing it is *“no longer open to debate”*, relying on *SCG Contracts (India) v. K.S. Chamankar Infrastructure*, and that the case fell squarely under Order VIII Rule 10. It then went through *Balraj Taneja*, *C.N. Ramappa Gowda*, *Nirog Pharma* and *Satya Infrastructure* to make the point that a court may not act mechanically and must be satisfied that nothing needs proof. Here the plaintiff was verified, the plaintiff’s

documents stood admitted under Order XI Rule 4 as no affidavit of admission and denial was filed, and the injunction-only claim needed no ex parte evidence.

The caution in *Asma Lateef* about conflicting decrees where one of several defendants contests did not arise, because the only defendants who had appeared were bound by consent decree and no defence survived, which, in the Court's words, *"leaves nothing to be tried."* Compliance with the interim injunction did not change this: it was forced by an order that will not outlast the suit, and *"persistent absence despite service"* was itself a reason to secure the plaintiff's rights by a final decree.

**Ratio**

In a commercial suit, a defendant who has not filed a written statement within 120 days forfeits the right, and the Court can decree the suit under Order VIII Rule 10. It must still be satisfied that the verified plaint and the documents deemed admitted entitle the plaintiff to the relief claimed. Where the plaintiff seeks only an injunction, it need not be put to ex parte evidence that would merely repeat the plaint.

Compliance with an interim injunction, with no undertaking from the defaulting defendants, does not stand in the way of a final decree. And the caution of *Asma Lateef* does not apply where no co-defendant has a defence left to be tried.

**Issues Framed by the Court**

- Whether defendant nos. 2 and 4 had forfeited the right to file a written statement and the suit fell within Order VIII Rule 10?
- Whether, in light of Balraj Taneja and Asma Lateef, the Court could decree the suit without ex parte evidence when no defendant was left contesting?
- Whether the plaintiff was entitled to a permanent injunction against passing off, use of the trading name, unfair competition, dilution, tarnishment and copyright infringement, despite compliance with the interim order?

**Points to be considered**

The decree rests mainly on procedure. The Court did not separately examine goodwill, misrepresentation or the copyright claim; its reasoning turns on the admitted plaint and documents and the absence of any defence. The mark is still unregistered, with the plaintiff's

application no. 4189642 pending. The judgment also calls defendant no. 2 a proprietorship in one paragraph and a partnership in another, and leaves it there.

The licence terms did much of the work, since the licensees had acknowledged the plaintiff's ownership and agreed to stop use on termination. The plaintiff's decision to drop damages and costs also let the Court decide the suit on the pleadings.

## 15. THE PRESIDENT MATCH COMPANY & ORS vs. SRI BALAMURUGAN MATCH WORKS & ANR[31]

**Citation:** CRP(MD) No. 933 of 2026 & CMP(MD) No. 4308 of 2026

**Court:** Madras High Court (Madurai Bench)

**Date of Judgement/ Order:** October 1, 2026

**Bench:** HON'BLE JUSTICE R. POORNIMA

**Keywords:** Amendment of plaint, due diligence, registered trade mark, civil revision

**Facts:**

Sri Balamurugan Match Works (the plaintiff) sued the petitioners in C.O.S. No. 4 of 2024 before the Principal District Judge, Virudhunagar at Srivilliputhur. The suit, filed on 15.06.2024, seeks a permanent injunction for infringement of its registered trade mark "Acha Dholak" (Reg. No. 4321837), which uses the device of a musical instrument, and for infringement of its copyright in the artistic work. The defendants filed their written statement on 04.01.2025, and issues were framed on 21.01.2025.

The plaintiff then filed I.A. No. 4 of 2025 to amend the plaint. It sought to add the names of the partners and to plead that its father, Gurusamy, started the business in 1971. It also sought to plead that he obtained a licence in 1988 (Licence No. L4 No. 22/M-71, T.L. No. 120/88, dated 14.07.1988) and handed the business to the plaintiff in 2014. The Trial Court allowed the amendment on 01.12.2025. The defendants challenged it under Article 227. They said the amendment changes the plaintiff's case, adds a new cause of action, lacks due diligence and fills a gap in the plaintiff's case. The plaintiff said the documents were traced only later and that it moved at once on legal advice.

**Provisions:** Order VI Rule 17 of the Code of Civil Procedure, 1908; Article 227 of the Constitution of India; Trade Marks Act, 1999.

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**Judgment:**

The revision petition is dismissed. The Trial Court's order allowing the amendment is confirmed. The suit is to proceed in accordance with law. The petitioners may file an additional written statement if they wish. There is no order as to costs, and the connected miscellaneous petition is closed.

The Court held that the amendment only explains the origin and continuity of the plaintiff's business and the basis of its claim to the mark. It does not bring in a new cause of action, and the suit is still about infringement of the registered mark and artistic work. The mere framing of issues does not show that the trial had substantially begun, since evidence had not started. The plaintiff also explained that it traced the documents later and applied soon after on legal advice. Delay is not an absolute ground to refuse amendment, particularly where the amendment is needed to decide the real dispute (Revajeetu Builders). The petitioners' points on the licence, registered user status and Sections 52 and 53 of the Trade Marks Act are matters of defence for trial. No serious prejudice was shown, and the Trial Court's exercise of discretion shows no jurisdictional error or material irregularity.

**Ratio:**

An amendment that only explains the origin and constitution of the plaintiff's business does not change the nature of the suit or add a new cause of action. The mere framing of issues does not show that the trial has begun, and here the plaintiff also explained why the documents were pleaded later. Delay alone is not a ground to refuse an amendment, and an amendment cannot be refused only because the amended pleading may give rise to a defence on merits. Under Article 227, the High Court interferes with an amendment order only for a jurisdictional error or material irregularity.

**Issues Framed by the Court:**

1. Whether the proposed amendment alters the nature of the suit or introduces a new cause of action?
2. Whether the plaintiff showed due diligence for amending the plaint after issues were framed?
3. Whether the High Court should interfere under Article 227 with the order allowing the amendment?

**Points to be considered:**

- The suit was filed on 15.06.2024, the written statement on 04.01.2025 and issues were framed on 21.01.2025. The amendment application (I.A. No. 4 of 2025) was allowed on 01.12.2025 and the revision was decided on 01.10.2026.
- The Court noted that framing of issues does not by itself show that the trial has commenced, as evidence had not started.
- The Court relied on Revajeetu Builders for the view that delay is not an absolute ground to refuse an amendment needed to decide the real dispute.
- The petitioners' points on the licence, registered user status and Sections 52 and 53 of the Trade Marks Act are matters of defence. The Court did not decide them and left them to trial.

### 16. R. BOOMA RANI vs. THE REGISTRAR OF TRADE MARKS[32]

**Citation:** WP(IPD) No. 14 of 2026

**Court:** Madras High Court

**Date of Judgment:** October 1, 2026

**Bench:** HON'BLE DR. JUSTICE A.D. MARIA CLETE

**Keywords**

Renewal of registration, Rule 58(3), mark registered after renewal date, service of certificate, writ of mandamus

**Facts**

R. Booma Rani makes safety matches at Sattur under the name Ayyanar Match Works and owns THOTHA, written in Hindi with a picture of a parrot, registered under no. 1532336 in Class 34. She applied on 20.02.2007 through her then trade mark agents. The mark was advertised on 01.09.2008, Agarwal Gudakha Factory opposed it, and her agents filed the counter statement and evidence in 2009. After that nothing moved for about thirteen years. The opposition was dismissed on 06.02.2023 and the certificate was issued on 07.02.2023, nearly sixteen years after the application, by which time the first ten-year term, counted from the date of application, had ended on 20.02.2017.

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She said she had lost touch with her agents and that her door number had been changed from 2/222 to 2/656 although the premises were the same. The hearing notice of 29.12.2022 came back undelivered, and neither the order nor the certificate reached her. She learned of the registration only on 25.09.2025. When her counsel tried to renew online, the portal said "Application cannot be Renewed (Delay of more than 1 year)". The Registry told him Rule 58(3) time had expired, she wrote asking for condonation on 18.11.2025 with Form TM-P for her new address, and on 23.01.2026 she was told orally that the Registry has no power to condone. The Registry also admitted that her label mark had been entered as a word mark by a data-entry error.

The Registry said the certificate was served on her counsel by e-mail and published in the Journal, that the Act has no provision to condone delay, and that she should have applied with surcharge by 07.02.2024. It accepted that no third party was involved and that the mark still showed as registered, with the status "likely to be removed". The petitioner answered that the e-mail column in her e-Register was blank, and that under the Public Notice of 28.07.2016 automated e-mailing of certificates covered only marks published in Journal No. 1720 (23.11.2015) and later.

**Provisions**

Article 226 of the Constitution of India; Sections 23(2) and 25 of the Trade Marks Act, 1999; Rules 50(4), 57(1), 58(3), 59 and 60 of the Trade Marks Rules, 2017.

**Judgment**

The writ petition was allowed. The Court read the scheme closely: a registration lasts ten years under Section 25, Rule 57(1) fixes only the earliest date for renewal and not the last, and Rule 58(3) gives six months from actual registration for a mark registered after its renewal date has passed, after which the Registrar shall, subject to Rule 60, remove it. Removal is advertised under Rule 59 and can be reversed under Rule 60, so it is *"a separate step that the Registrar must take, and take openly."* The Court followed *Jaisuryas Retail Ventures v. Registrar of Trade Marks* (2024:MHC:3109) and *P.G. Purushan* (08.04.2026), and noted the Delhi High Court's decision in *Amrit Singh Mehta*.

The e-mail claim was not proved. No address, date or dispatch record was produced, the Registry's own e-Register showed the column blank, its Public Notice did not cover a mark

published in Journal No. 1399, and the present counsel came on record only in 2025. The Court added that *"Publication in the Journal is not an issue of the certificate"* under Section 23(2). More importantly, the mark had not been removed even after three and a half years, the Registry saying only that it would be removed in due course, and *"The message on the portal is not an order under the Act."*

The Court directed that the petitioner file Form TM-R within four weeks of receiving the order, with the fee and any surcharge, and that the Registry enable online filing or accept a physical application. The Registry must then renew the registration for 20.02.2017 to 20.02.2027 within four weeks, and must not remove the mark until then. She may also apply for the renewal due on 20.02.2027, and the Registry must consider her request to correct the entry and her Form TM-P after hearing her if it proposes to refuse. No costs were awarded.

**Ratio**

Rule 58(3) does not by itself shut the door on renewal. Its only consequence for non-payment within six months is removal by the Registrar, a step that must be taken and advertised. So long as the mark stands on the Register in the proprietor's name, the Registrar cannot refuse the renewal fee, and a portal error message is not an order. The Court put the holding in these words: *"no time bar operates against renewal of a mark that is still on the register."*

Publication in the Journal is not the same as issuing the certificate to the applicant, and a claim of service by e-mail must be backed by a record of the address and dispatch.

**Issues Framed by the Court**

1. Whether, when a mark is registered only after its first renewal has fallen due and has not been removed from the register, the Registrar can refuse the proprietor's renewal application on the ground that time is over?
2. Whether the Registry had proved that the registration certificate was issued to the petitioner by e-mail or otherwise?

**Points to be considered**

The Court stressed that it was not condoning delay, and that its conclusion did not depend on the petitioner's argument that the six months run only from receipt of the certificate. It also left undecided her alternative plea that the 2002 Rules govern her application, since Rule 64(3) of those Rules is the same in substance. The relief rests on the mark not having been

removed, and the Court itself noted that the Delhi High Court allowed renewal even after removal on facts where the Registry could not show the certificate was sent.

The order decides only the petitioner's right to seek renewal and does not touch the rights, if any, of others. For practitioners, the practical points are to keep the address and e-mail on the Register current, and, where a registration issues years after filing, to check the Register for the actual status before assuming a mark is lost.

## 17. SURYA HOTELS AND PROPERTIES vs. REGISTRAR OF TRADE MARKS AND ANR.[33]

**Citation:** WP(IPD) No. 1 of 2026 & WMP(IPD) No. 1 of 2026

**Court:** Madras High Court

**Date of Judgment:** October 1, 2026 (reserved on 15.09.2026)

**Bench:** HON'BLE DR. JUSTICE A.D. MARIA CLETE

**Keywords**

Transfer of rectification proceeding, Section 125(2), Misty Mountain

**Facts**

Surya Hotels and Properties, a Kochi hospitality business, claims to use a composite mark containing the words "Misty Mountain Resort" for hotel and resort services, registered under Application No. 1969012 in Class 43. The dispute is over "Misty Mountain", Application No. 2441920 in Class 43, filed on 13.12.2012 by Misty Mountain Plantation Resort (respondent no. 2), claiming use since 01.08.1999.

The history of that mark is tangled. An opposition (MAS-940638) was treated as abandoned on 15.05.2019 and the registration certificate issued on 06.06.2019. Review and Section 57 proceedings followed, and by an order of 24.12.2021 the Registrar cancelled the certificate and directed the status to read "Review Filed", with further proceedings to continue before the Registry. Proceedings were also started before the Kerala High Court, and during all this the mark was renewed on 25.12.2022.

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Aggrieved by the renewal, the petitioner filed Rectification Proceeding No. MAS-279782 before the Registrar on 17.07.2023, saying pleadings are complete but the matter has not been taken up. It then filed this writ petition asking, among other things, to cancel the registration and its renewal, to call for the records including the order of 24.12.2021, and to direct transfer of the rectification to the Intellectual Property Division. When the petition came up on 08.09.2026 the Court asked whether such distinct reliefs could be pursued together. The petitioner filed a memo on 11.09.2026 giving up every prayer except transfer, and repeated this on 15.09.2026.

**Provisions**

Article 226 of the Constitution of India; Section 125(2) of the Trade Marks Act, 1999, with Sections 47 and 57; Rule 14 of the Madras High Court Intellectual Property Rights Division Rules, 2022.

**Judgment**

The writ petition was allowed only to the limited extent of transfer. The Registrar of Trade Marks, Chennai, must transfer Rectification Proceeding No. MAS-279782, with all its records, to the Intellectual Property Division within four weeks of receiving the order. The Registry of the Court will number it afresh under the 2022 Rules and place it before the appropriate Bench. The remaining prayers were dismissed as not pressed, and there was no order as to costs.

The Court began from Section 125(2), under which the Registrar may refer a rectification application under Section 47 or 57 to the High Court at any stage, and from *Asia Match Company v. Deputy Registrar of Trade Marks & GI* (2023 SCC OnLine Mad 8549), which accepts that writ jurisdiction can be used to direct such a transfer in appropriate circumstances. The rectification had been pending since 17.07.2023, the registration was the subject of several proceedings between the parties, and the petitioner sought only transfer and not a decision on merits. The Court rested its view on Section 125(2), the pendency, and, in its words, *"more importantly, the absence of any objection"* from respondent no. 2, which had filed a detailed counter but accepted that the petition could be allowed to this extent. No prejudice would be caused to either side, and the dispute on validity could be decided by the Intellectual Property Division.

**Ratio**

Section 125(2) shows that a rectification proceeding begun before the Registrar can, in an appropriate case, be brought before the High Court. Where such a proceeding has been pending for some time, the petitioner asks only for transfer, and the other side does not object, the High Court can direct the Registrar under Article 226 to transfer the proceeding with its records to the Intellectual Property Division.

The transferred proceeding is to be decided on its own merits after hearing everyone, *"uninfluenced by any observation made in the present order."*

**Issues Framed by the Court**

1. Whether Rectification Proceeding No. MAS-279782, pending before the Registrar of Trade Marks, Chennai, should be transferred to the Intellectual Property Division of the High Court, this being the only question left after the other prayers were given up?
2. Whether the Court could direct such a transfer in its writ jurisdiction in view of Section 125(2)?

**Points to be considered**

- The Court decided nothing on prior use, ownership, validity, renewal, the opposition and review proceedings or the Kerala High Court proceedings. It said these belong in the rectification and expressly left them open. The present status of Registration No. 2441920 is not stated beyond the renewal of 25.12.2022, and the order does not touch the civil suit pending at Thodupuzha, which the petitioner did not ask to transfer or consolidate.
- Section 125(2) speaks of the Registrar referring to a case, while here the transfer came by a writ direction. The Court relied on *Asia Match* for this and also stressed respondent no. 2's consent, so the order may be read as fact-specific. The case also shows how a petitioner narrowed a broad writ petition to a single prayer in order to get the transfer.

*Prepared by :*

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आनो भद्राः क्रतवो यन्तु विश्वतः

– ऋग्वेद – *1.89.1*

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