A HOLISTIC COMPENDIUM HIGHLIGHTING KEY TRADE MARK LITIGATION CASES

For 2025

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A Holistic Compendium:

Indian Trade Mark Cases Summary for 2025

Preface

The year 2025 witnessed significant IPR developments. The IPR regime underwent significant developments which contributed immensely to the interpretation of trade mark laws and the determination of the legislature's intent. There was an increase in the number of IP litigations before the Courts of Law, which brought about critical judgments. Staying true to the subject's essence, the Courts reaffirmed and reiterated certain essential principles of trade mark jurisprudence and also deliberated upon new principles. To mention a few:

1. A scientific, multi-dimensional representation of a scent that is clear, precise, and objective satisfies the statutory requirement for "graphical representation" under Section 2(1) (zb).

2. Right to a speedy and expeditious disposal of trademark applications is an integral part of the fundamental right to life guaranteed under Article 21 of the Constitution.

3. Numerals/ combinations can perform function of trademark and are registrable, can be inherently distinctive and registrable if arbitrary in relation to the goods/ help distinguish the goods in question), but no exclusive rights can be claimed over individual numbers.

4. Recognition of a mark as "well-known" is not an absolute or vested right, but a discretionary privilege subject to public policy and regulatory compliance.

5. Law mandates stricter trademark protection against counterfeiting in cases of edible goods, recognising that any imitation or misuse of marks in such products directly endangers public health and consumer safety.

This compendium aims to present summaries of significant judgments that reflect a range of issues discussed and adjudicated by the Indian judiciary in the year 2025 regarding the interpretation and implementation of various provisions of The Trade Marks Act, 1999, and accompanying Rules.

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1. **Historic Recognition of Registration of Smell Mark**

   APPLICATION NUMBER: 5860303

   No. TMR/DEL/SCH/2025/16

   Mark Description: *Floral fragrance/smell reminiscent of roses as applied to tyres*

   Class: 12

   Proprietor Name: Sumitomo Rubber Industries Ltd.

   India's Trade Marks Registry has made history by accepting the nation's first olfactory trademark, awarded to Sumitomo Chemical Co. Limited for a rose-like scent used in tyres. This marks a significant breakthrough for non-traditional trademarks, addressing the longstanding challenge of objectively representing scents under trademark law.

   To support the application, a seven-dimensional vector model was developed in collaboration with IIIT-Allahabad. This model represents the scent as a radar plot across key olfactory axes, including Floral, Fruity, Woody, Nutty, Pungent, Sweet, and Minty. The framework met the rigorous Sieckmann criteria for graphical representation, which had previously led to the rejection of most smell mark applications worldwide.

   The Registry's decision was also influenced by the appointment of an amicus curiae, who provided technical expertise and recommended objective parameters for scent identification. This structured approach enabled the Registry to determine that the scent met all statutory requirements for graphical representation, which resulted in the application's acceptance.

   While the registration is still subject to potential opposition, this landmark decision sets a clear precedent and methodology for future olfactory trademark applicants in India. It clarifies that only distinctive and non-functional scents, such as the rose scent for tyres, are eligible for trademark protection, ensuring both innovative branding opportunities and fair competition in the marketplace

2. NIRMALA KABRA V. REGISTRAR OF TRADE MARKS, 2025 SCC ONLINE RAJ 4072

PRONOUNCED ON AUGUST 07TH, 2025 (RAJASTHAN HIGH COURT)

PARTIES

a. The Petitioner, Nirmala Kabra, filed a writ petition seeking direction for the registrar to decide application filed on 25.06.2010 for registration of his trademark "Breastone", which has been pending for over 15 years, expeditiously now within a time-frame.

b. The Respondent is Registrar of Trade Marks and another.

BRIEF FACTS

A civil writ petition is filed by the petitioner seeking direction against the Registrar of Trademarks to decide the Trademark application for his mark "Breastone" which was filed on 25.06.2010 has been pending for its adjudication despite passing of considerable time (for more than 15 years). The said application has been opposed by the respondent No. 2 by way of filing opposition dated 07.03.2013, and after completion of pleadings of both the sides, the matter was posted for recording of evidence on 25.07.2017 thereafter nothing has been done so far in spite of passing of more than eight years since.

ISSUES

a. Can a direction be made to the Registrar for expeditious adjudication of applications due to heavy backlog?

b. Is the right of speedy and expeditious disposal of trademark applications guaranteed under Article 21 of the Constitution of India and principle of natural justice?

APPLICABLE STATUTES

Rule 50 of The Trade Mark Rules 2017

Rule 50(2) of The Trade Mark Rules 2017

Section 21 of The Trademarks Act, 1999

Section 132 of The Trademarks Act, 1999

Article 21 of The Constitution of India

Article 226, of The Constitution of India

RATIO

The court observed that Rule 50 provides a complete procedure and mechanism to expedite the disposal of the registration of an applications, for an application to be lying pending for over a decade and a half is shocking, surprising and a clear violation of the mandatory provisions contained under the Rule 50 of the Rules of 2017, which the registrar is required to follow in its letter and spirit, and they cannot be allowed to sit over the matter for an indefinite period of time. Excessive delays in resolving the applications seeking registration of Trade mark indeed undermines the very purpose of filing such applications. When the matter is unnecessarily prolonged, it can lead to a number of negative consequences, including the loss of evidence and increased costs along with a sense of injustice to the parties involved. When the applications drag on for an extended period without resolution, it can erode public confidence in the fairness and efficiency of the prescribed system. Prolonged delays can be particularly harmful to parties who are seeking a resolution to their case, as it can keep them in a state of uncertainty and prevent them from moving forward with their lives and businesses.

Excessive delays in disposal of the applications amounts to violation of principles of natural justice which requires that the statutory procedure should be conducted fairly and in a timely manner. The right of speedy and expeditious disposal of these applications is one of the most valuable and cherished rights of the applicant guaranteed under Article 21 of the Constitution of India. It is an integral and essential part of the fundamental right to life and enshrined under Article 21. The Court observes and expects from the Registrar of Trademarks to come up with a strategy to address this issue of backlog of pending applications and for registrar to decide applications expeditiously as early as possible within a stipulated time-frame, instead of keeping them pending for an indefinite time.

3. VINEET KAPUR V. REGISTRAR OF TRADE MARKS, 2025 SCC OnLine Del 2657

PRONOUNCED ON April 25TH, 2025 (Delhi High Court)

PARTIES

a. The Appellant, Vineet Kapur, is challenging the order dated 29th February 2024 wherein the numerical mark "2929" bearing application no. 5151862 in respect of Class 3 goods, including cosmetics, nail polish, soaps, shampoos, etc., was rejected on grounds of lacking inherent distinctiveness.

b. The Respondent is Registrar of Trade marks.

BRIEF FACTS

Present appeal was filed by Vineet Kapur against order dated 29th February 2024 that declined registration to the mark "2929" in Class 3, in respect of cosmetics, nail polish, soaps, shampoos etc. on grounds of being a numerical mark which is not inherently distinctive or capable of being registered.

The appellant had applied for the same on 28th September 2021.

ISSUES

Whether numerical marks are inherently distinctive and capable of being registered in case they are arbitrary/ creative or is a combination of common numbers incapable of registration since they cannot be monopolised?

APPLICABLE STATUTES

Section 2(1)(m) of The Trade Marks Act, 1999

Section 9 of The Trade Marks Act, 1999

Section 91 of The Trade Marks Act, 1999

Rule 156 of The Trade Marks Rules 2017

RATIO

The court found that Section 2 (1)(m) of the Trade Marks Act defines the term 'Mark', as including 'numerals' and any combinations thereof. Thus, they are capable of being registered if they fulfil registration requirement. A mark cannot be refused

registration merely on grounds that it contains a combination of common numbers. Appellant already has various numerical device and word marks registered in his favour. Marks containing combination of numbers have been previously protected by court in cases such as *Tata Oil Mills Company Ltd. v. Reward Soap Works, 1982 SCC OnLine Del 116*, *Alphavector India Pvt. Ltd. v. Sach Industries, 2023 SCC OnLine Del 615*, etc. A mark is said to be distinctive if it is of such a nature, so as to distinguish the goods of one manufacturer from those of the others and the public immediately correlates the mark with the source of a particular manufacturer.

The court also used *McCarthy on Trademarks and Unfair Competition (Volume 1, Fifth Edition)* to state that one or more numbers, either alone or in combination with other designations, can achieve trademark status to identify and distinguish the source of goods and services. If a numerical mark is not ordinarily used in trade with respect to the goods in question, and does not in any manner, directly or indirectly, describe the goods, then it is inherently distinctive. A combination of numbers, inherently distinctive and having no meaning or relation to the goods for which it is sought to be registered, is capable of being registered. The mark in question has been applied 'on a proposed to be used' basis. As noted, the said numerical mark is inherently distinctive, and thus, is capable of being registered without acquiring any secondary meaning. The order passed by the Registry dated 29th February, 2024 is set aside and appeal is allowed. Applied mark "2929" application no. 5151862 can proceed for advertisement, but no exclusive right can be claimed over the numbers '2' or '9' and the present order shall not bind any opposition proceedings that may be instituted by any third party.

4. **RSPL HEALTH PVT. LTD. V. SUN PHARMA LABORATORIES LIMITED & ANR, 2025 SCC OnLine Del 4461**

PRONOUNCED ON JUNE 12TH, 2025 (Delhi High Court)

PARTIES

a. The Appellant, RSPL Health Pvt. Ltd., is the proprietor of the trademark/label "PRO-EASE" and related marks, primarily used for sanitary napkins, sanitary towels, sanitary pads and allied hygienic products falling in Class 5 and allied classes.

b. The Respondent No., Sun Pharma Laboratories Ltd., a subsidiary of Sun Pharmaceutical Industries Ltd., uses the mark "PRUEASE" for medicinal and pharmaceutical preparations**,** particularly a constipation relief drug containing prucalopride, also in Class 5.

FACTS

The present appeal was filed by the appellant, proprietor of the registered marks PRO-EASE / PROEASE and formative marks in Class 5 (and others), against the refusal of an interim injunction in its suit for infringement and passing off, complaining of the respondents' use of the mark "PRUEASE"**,** alleged to be deceptively similar to "PRO-EASE". The appellant's mark has been in use since 2012 and is used for sanitary napkins/pads and other feminine hygiene products, with substantial sales and advertising figures. The respondents adopted "PRUEASE" around 2017 for a constipation relief medicine, claiming bona fide coining of the mark from the API "Prucalopride" (PRU) and the word "Ease" for relief from constipation, and applied for registration in Class 5. The first came to know of the adoption of the Impugned Mark by the respondents in December 2020, when it received a notice of opposition No. 1070676 dated 05.11.2020, against its trademark application No. 4491568 in Class 5 for registration of the said trademark. The Commercial Court refused the appellant's application for interim injunction under Order XXXIX Rules 1 & 2 CPC, holding inter alia that the goods were distinct, trade channels different, and there was no likelihood of confusion. Aggrieved thereby, RSPL preferred the present appeal under Section 13 of

the Commercial Courts Act, 2015 before the High Court of Delhi.

ISSUES

a) Whether the appellant, as registered proprietor of PRO-EASE in Class 5, could restrain the respondents from using "PRUEASE" for a constipation medicine under Section 29 of the Trade Marks Act, 1999, when the appellant uses its mark for sanitary napkins/hygiene products and not pharmaceuticals.
b) Whether goods such as sanitary napkins/pads and constipation relief medicines, both falling in Class 5, are to be treated as similar /allied and cognate for the purposes of infringement and likelihood of confusion.
c) Whether the appellant could rely on a right of expansion to pharmaceutical goods to obtain an interim injunction against the respondents' use of PRUEASE.

APPLICABLE STATUTES

Section 17 of The Trademarks Act, 1999
Section 28 of The Trademarks Act, 1999
Section 13 of The Commercial Courts Act, 2015
Order XXXIX Rules 1 & 2 of The Code of Civil Procedure, 1908
Section 2(h) of The Trade Marks Act, 1999
Section 29(1), 29(2), 29(3), 29(4) of The Trademarks Act, 1999
Section 124 of The Trademarks Act, 1999

RATIO

The Court held that no case of trademark infringement or passing off was made out by the appellant, as the goods in question, sanitary and menstrual hygiene products on one hand, and pharmaceutical preparations for constipation relief on the other were neither allied nor cognate (applying the principle explained in the case of *Ramakant Ambalal Choksi* v. *Harish Ambalal Choksi*, 2024 SCC OnLine SC 3538). Applying Section 29 statutorily with reference to court's analysis in the case of *Renaissance Hotel Holdings Inc.* v. *B. Vijaya Sai*, (2022) 5 SCC 1, the Court emphasized that infringement under Section 29(2) requires similarity or identity of both marks and goods, resulting in a likelihood of confusion. In the present case, the goods were

plainly dissimilar in nature, purpose, trade channels, and consumer base; therefore, Section 29(2) was inapplicable.

The Court further clarified that when goods are dissimilar, infringement can only be claimed under Section 29(4), which requires satisfaction of three cumulative conditions: (a) the impugned mark is identical or similar to the registered mark; (b) the registered mark possesses a reputation in India; and (c) the impugned use, without due cause, takes unfair advantage of or is detrimental to the distinctive character or repute of the registered mark. The appellant failed to establish reputation of the required degree, as well as any unfair advantage or detriment, thereby failing to satisfy Section 29(4).

Reaffirming the settled principle from *Nandhini Deluxe* and *Vishnudas Trading*, the Court held that a trademark proprietor cannot claim a monopoly over an entire class of goods when it actually manufactures or trades in only some products within that class. Merely because goods fall within the same class (Class 5, in this case) does not automatically render them similar for the purpose of assessing infringement. The rationale developed under the Trade and Merchandise Marks Act, 1958, continues to apply under the TM Act, 1999. Further, Section 11 restricts registration only in cases involving similar or deceptively similar marks for similar or related goods, not for all goods grouped under a broad class heading.

The Court also rejected the appellant's argument regarding its alleged future expansion into pharmaceuticals, holding that such expansion was speculative and unsupported by evidence. The appellant already used distinct trademarks such as GHARI, VENUS, REDCHIEF, and NAMASTE INDIA for different product lines, which undermined any claim that the PRO-EASE mark was intended for pharmaceutical use.

With respect to the respondents' adoption, the Court accepted their explanation of bona fide selection and continuous use of the mark PRUEASE since 2017, supported by invoices and promotional material. The derivation of "PRU" from the active ingredient Prucalopride, combined with "Ease" to signify relief, was consistent with industry practice for pharmaceutical nomenclature. No dishonest intent could therefore be inferred.

Finally, on the issue of interim injunction, the Court held that the appellant failed to satisfy the following: (i) no prima facie case was made out; (ii) the balance of convenience favored the respondents as prior users; and (iii) no irreparable harm was demonstrated, as any alleged injury could be compensated by damages. The appellant's lack of full disclosure, particularly its failure to place the respondents' user affidavit before the trial court also weighed against granting an equitable remedy. Consequently, the refusal of interim relief was upheld, and the appeal was dismissed, with the Court clarifying that all findings were purely prima facie and would not affect the final adjudication at trial.

5. VIP INDUSTRIES LTD VS. CARLTON SHOES LTD & ANR., 2025 SCC ONLINE DEL 4620

Pronounced on July 1, 2025 (High Court of Delhi)

PARTIES

The Appellant, VIP Industries Ltd, is a leading Indian entity in the luggage industry which acquired the "CARLTON" brand and associated intellectual property from a UK-based company in 2004, asserting rights based on global legacy and trans-border reputation.

The Respondents are Carlton Shoes Ltd & Anr. (CSL), an Indian enterprise engaged in the footwear and leather goods sector, which claims priority of use and registration of the "CARLTON" mark within the Indian territory dating back to the early 1990s.

BRIEF FACTS

The dispute involves cross-suits between two registered proprietors of the trademark "CARLTON". The Respondents (CSL) obtained registration for the mark in Class 18 in 1994 and demonstrated commercial usage in India since at least 2003. The Appellant (VIP) acquired the brand from Carlton International PLC (a UK entity) in 2004 and subsequently launched its luggage range in India. VIP contended that the international reputation of the "CARLTON" brand had spilled over into the Indian market prior to CSL's entry, thereby granting VIP superior rights.

The learned Single Judge, however, observed that VIP failed to produce Cogent evidence of a trans-border reputation in India before 2004, whereas CSL proved prior domestic use. Consequently, the Single Judge restrained VIP from using the "CARLTON" mark for goods falling under Class 18, leading to the present appeals before the Division Bench.

ISSUES

a. Whether the Appellant had established a "trans-border reputation" in India for the "CARLTON" mark prior to the Respondents' adoption and use of the mark in the Indian territory.

b. Whether a suit for infringement is maintainable when both the Plaintiff and the Defendant are registered proprietors of the same or identical trademarks.
c. Whether the protection of goodwill in a passing off action is restricted to the specific goods being sold or extends to the mark itself within the relevant class of goods.
d. Whether the plea of delay in instituting the suit by the Respondents acts as a bar to the grant of an injunction against the Appellant.

APPLICABLE STATUTES

Section 27 of The Trade Marks Act, 1999

Section 28(3) of The Trade Marks Act, 1999

Section 124 of The Trade Marks Act, 1999

Order XXXIX, Rules 1 and 2 of The Code of Civil Procedure, 1908

RATIO

The Court held that the fundamental premise of trademark protection in India remains the principle of territoriality, which dictates that a mark must have established a reputation within the domestic market to be protected against a prior user. The Division Bench affirmed the Single Judge's finding that the Appellant failed to provide substantial evidence such as volume of sales, extent of advertisements, or consumer surveys to prove that the Indian public associated the "CARLTON" mark with the UK entity prior to CSL's entry in 2003. In the absence of such "spillover" reputation, the rights of the prior domestic user prevail.

Regarding the maintainability of the action, the Court clarified that under Section 28(3) of the Trade Marks Act, 1999, an infringement action cannot be sustained by one registered proprietor against another. However, this does not preclude a passing off action, which is a common law remedy preserved by Section 27(2). The Court further reasoned that goodwill is inherent in the mark itself; therefore, since CSL had established significant goodwill in "CARLTON" for Class 18 goods (footwear), the use of the identical mark by VIP for luggage would inevitably lead to consumer confusion and the "dilution" of the Respondents' brand identity. Finally, the Court rejected the plea of delay, noting that in cases where a likelihood of confusion or dishonest adoption is prima facie apparent,

mere delay in approaching the court cannot deprive the prior user of their right to seek an injunction. The appeals were accordingly dismissed, maintaining the injunction against VIP Industries.

6. **FERRERO SPA AND OTHERS V. M.B. ENTERPRISES, 2025 SCC OnLine Del 5105**

PRONOUNCED ON July 28TH, 2025 (Delhi High Court)

PARTIES

a. The Plaintiffs, Ferrero S.P.A. and its group companies, form part of the globally renowned Ferrero Group, established in 1946 and one of the world's leading chocolate and confectionery producers. The Plaintiffs are the registered proprietors of the iconic trademark "NUTELLA", used for their hazelnut cocoa spread available across more than 170 countries.

b. The Defendant, trading as M/s M.B. Enterprises, was engaged in the large-scale manufacture, packaging, and sale of counterfeit "NUTELLA" products under unhygienic conditions, thereby infringing and passing off the Plaintiffs' well-known trademarks, trade dress, and goodwill.

BRIEF FACTS

The plaintiff adopted the mark "NUTELLA" for a novel hazelnut cocoa spread, back in the year 1964. In October 2021, following a raid conducted by the Food and Drug Administration (FDA) at the Defendant's premises in Thane, Maharashtra, approximately 9.53 lakh counterfeit units of "NUTELLA" by the name "NUTELLA FERRERO" and 4 lakh packaging materials (labels, bottles, and lids) were confiscated.

Upon the notice, the Plaintiffs filed the present suit in demand of a permanent injunction on infringement and passing off, and the damages. Although properly served, the Defendant did not appear nor did he file any written statement, but was proceeded ex-parte by order dated November 20, 2023.

The Plaintiffs demonstrated long-standing use, global recognition, and statutory registration of the "NUTELLA" mark and its device variants under multiple classes dating back to 1975. They also sought declaration of the "NUTELLA" mark as a well-known trademark under Section 2(zg) of the Trade Marks Act, 1999.

ISSUES

a. Whether the Defendant's acts constituted infringement and passing off of

the Plaintiffs' registered "NUTELLA" marks and trade dress.

b. Whether the Plaintiffs were entitled to damages and costs owing to the Defendant's mala fide conduct.

c. Whether the Plaintiffs' trademark "NUTELLA" qualifies to be declared a well-known trademark under Section 2(zg) of the Trade Marks Act, 1999.

APPLICABLE STATUTES

Section 28 of The Trade Marks Act, 1999

Section 29 of The Trade Marks Act, 1999

Section 2(zg) of The Trade Marks Act, 1999

Section 11(6) of The Trade Marks Act, 1999

Section 135 of The Trade Marks Act, 1999

Order VIII Rule 10 of the Code of Civil Procedure, 1908

Order XXXIX, Rules 1 & 2 of the Code of Civil Procedure, 1908

RATIO

The Court held that the Plaintiffs are the lawful registered proprietors of the "NUTELLA" marks and that the Defendant's activities amounted to clear infringement, counterfeiting, and passing off. The seized counterfeit goods bore identical marks, labels, and packaging, indicating deliberate and dishonest intent to exploit the Plaintiffs' established goodwill.

The Court underscored that edible goods require heightened scrutiny, applying the principle from *Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd.*, noting that any deceptive similarity in consumables could cause serious public harm. Given the Defendant's ex-parte conduct and the scale of infringement, the Court awarded ₹30,00,000/- as damages to the Plaintiffs; and ₹2,00,000/- as special costs payable to the *Delhi High Court Bar Association Lawyers' Social Security and Welfare Fund.* Relying on Sections 2(zg) and 11(6) of the Trade Marks Act, the Court observed that "NUTELLA" has acquired transnational reputation and consumer recognition through decades of continuous use, extensive promotion, and global sales. The Plaintiffs' advertising expenditure (₹3 crore, ₹7 crore, ₹16 crore) and sales figures (₹233 crore, ₹145 crore, ₹106 crore) across recent financial years substantiated their fame and distinctiveness. Accordingly, the Court formally declared

"NUTELLA" as well-known mark.

7. YATRA ONLINE LIMITED V. MACH CONFERENCES AND EVENTS LIMITED, 2025 SCC OnLine Del 5610

PRONOUNCED ON AUGUST 22ND, 2025 (Delhi High Court)

PARTIES

a. The Plaintiff, *Yatra Online Limited*, is a leading online travel company engaged in providing travel booking and related services through its website www.yatra.com and mobile applications since 2006. It is the registered proprietor of several "YATRA" formative trademarks, including *YATRA WITH DEVICE*, *YATRA.COM*, *YATRA FREIGHT*, and *YATRA FREIGHT (Device)*, covering classes related to travel and tourism.

b. The Defendant, *Mach Conferences and Events Limited*, operates in the MICE (Meetings, Incentives, Conferences and Exhibitions) segment and proposed to launch a travel booking website under the name "BookMyYatra.com", leading to the present dispute.

BRIEF FACTS

In November 2024, the Plaintiff discovered that the Defendant was planning to launch an online portal "BookMyYatra.com", and had filed trademark applications for "BookMyYatra" and "BookMyYatra.com" in Classes 9, 39, and 42 for travel-related services. The Plaintiff alleged that the Defendant's adoption was dishonest and mala fide, intended to ride upon the reputation of its well-known marks "YATRA" and "YATRA.COM."

An ex-parte ad-interim injunction was granted on 9 December 2024, restraining the Defendant from using the impugned marks. The Defendant contested, asserting that 'Yatra' is a generic and descriptive word, meaning "journey" in Hindi, widely used in the travel industry, and that the Plaintiff could not claim a monopoly over such a common term.

The Plaintiff sought to make the interim injunction absolute, whereas the Defendant prayed for its vacation.

ISSUES

a. Whether the word "YATRA", forming part of the Plaintiff's registered device marks, could be accorded exclusivity?

b. Whether the Defendant's marks "BookMyYatra" and "BookMyYatra.com" infringed or passed off the Plaintiff's registered marks?
c. Whether the disclaimer "*no exclusive right for the word YATRA*" in the Plaintiff's registration barred its claim of exclusivity?
d. Whether the term "YATRA" had acquired secondary meaning or distinctiveness entitling protection under trademark law?

APPLICABLE STATUTES

Section 2 (1) (zg) of The Trade Marks Act, 1999

Section 17 of The Trade Marks Act, 1999

Sections 28 of The Trade Marks Act, 1999

Section 29 of The Trade Marks Act, 1999

Section 30 of The Trade Marks Act, 1999

Rule 124 of The Trade Marks Rules, 2017

RATIO

The Court observed that the Plaintiff's registrations of "YATRA WITH DEVICE" and related marks were accompanied by a disclaimer denying exclusive rights over the word "YATRA". Since "Yatra" is the Hindi equivalent of "travel", it is a generic and descriptive term in relation to the Plaintiff's services.

The Plaintiff claimed long use and secondary meaning. The Court held that for a descriptive term to gain secondary meaning it must have displaced its primary meaning and become unmistakably associated with one source. The Plaintiff had not shown that "YATRA" had lost its primary descriptive meaning nor had it followed the statutory procedure (Rule 124, Trade Mark Rules, 2017) to have "YATRA" declared a well-known mark. The Court reiterated that generic or descriptive marks cannot be monopolised, as they describe the nature of the business rather than denote trade origin. The Plaintiff failed to establish that "YATRA" had acquired secondary meaning sufficient to identify it exclusively with the Plaintiff. The disclaimer and widespread third-party use further weakened its claim.

The Court reiterated that ".com" is a top-level domain and generic; therefore "YATRA.COM" cannot be afforded protection distinct from "YATRA"

where "YATRA" itself remains descriptive. That undermined any separate claim to exclusivity in "YATRA.COM".

The Court also held that the Defendant's mark, when viewed as a whole ("BookMyYatra"/ "BookMyYatra.com"), was visually, phonetically, and conceptually distinct, owing to the prefix "BookMy" and its different presentation. The expression "BookMy" is a common industry prefix used by multiple entities (e.g., *BookMyShow*, *BookMyBus*, *BookMyTrip*), and cannot confer distinctiveness upon the Plaintiff's mark.

The Court relied on *BigTree Entertainment Pvt. Ltd. v. Brain Seek Sportainment Pvt. Ltd.* (2017 DHC 7767) to hold that "BookMy" is descriptive, and that marks containing "BookMy" and a generic suffix cannot be monopolised.

As both "YATRA" and ".COM" were generic, the Court found no prima facie case of infringement or passing off against the Defendant.

On the cumulative assessment, the Court concluded that the Plaintiff had not established a prima facie case for interim injunction. The generic nature of "YATRA", the disclaimer, the presence of numerous third-party users and registrations, and the descriptive nature of the "BookMy" prefix pointed against the grant/confirmation of interlocutory relief. The Court therefore dismissed the Plaintiff's application for interim injunction.

8. **Dabur India Limited vs. Ashok Kumar and Ors., 2025 SCC OnLine Del 9651**

Pronounced on December 24, 2025 (Delhi High Court)

PARTIES

The Plaintiff, Dabur India Limited, is a leading Indian conglomerate established in 1884, engaged in the manufacture and marketing of pharmaceuticals, toiletries, and food products. The Plaintiff seeks to protect its well-known trademark "DABUR" against large-scale cyber fraud and impersonation.

The Defendants include Ashok Kumar (a pseudonym for unknown registrants of infringing domain names) and various Domain Name Registrars (DNRs) such as PDR Ltd., GoDaddy.com LLC, and Hosting Concepts B.V., along with government bodies including MeitY and the Department of Telecommunications.

BRIEF FACTS

The Plaintiff instituted a commercial suit seeking a permanent injunction and damages to restrain the misuse of its trademark "DABUR" through the registration of fraudulent domain names. Unknown third parties registered several domain names (e.g., www.daburdistributor.com, www.daburfranchise.in) that hosted websites deceptively similar to the Plaintiff's official site. These websites were utilized to solicit monies from the public under the guise of offering job opportunities, dealerships, and franchisees.

Investigation revealed that the registrants utilized fictitious or incomplete particulars in WHOIS records, complicating the identification of the actual perpetrators. The Plaintiff moved for ad-interim ex-parte injunctions to block access to these websites and sought disclosure of the registrants' identities from the DNRs. The matter further evolved into a systemic inquiry regarding the obligations of intermediaries in preventing financial fraud and protecting intellectual property rights on the internet.

ISSUES

a. Whether the registration of **domain names** incorporating a **well-known trademark** by unauthorized parties constitutes a violation of the trademark owner's proprietary rights and an act of impersonation.
b. What are the legal obligations and liabilities of **Domain Name Registrars** (DNRs) regarding the verification of registrants and the implementation of court orders to block infringing domains?
c. Whether the court can grant **Dynamic** and **Dynamic +** injunctions to restrain future infringing domain names that may be registered using the same or similar marks.

APPLICABLE STATUTES

Section 27 of the Trademarks Act, 1999
Section 151 of the Code of Civil Procedure, 1908
Section 20 of the Code of Civil Procedure, 1908
Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908
The Information Technology Act, 2000

RATIO

The Court observed that in the digital epoch, a domain name constitutes the "Online Soul" of a business entity, and its misappropriation through impersonation engenders the erosion of corporate goodwill and widespread consumer deception. In addressing the "Hydra-headed" nature of such cyber fraud, the Court held that Domain Name Registrars (DNRs) are obligated to exercise due diligence by disclosing complete registrant details and locking infringing domains upon notification. Recognizing that static injunctions are insufficient against distinct yet morphing infringements, the Court affirmed the grant of "Dynamic +" injunctions, thereby empowering the Plaintiff to block subsequent infringing websites via affidavit without the necessity of instituting fresh proceedings. Furthermore, the Court established that the enforcement of intellectual property rights in the digital sphere is inextricably linked to the prevention of financial crimes, thereby necessitating systemic reforms including robust banking verification mechanisms to ensure that the identity of account

holders corresponds with their claimed entities. Ultimately, the Court concluded that the protection of trademarks on the internet transcends private commercial rights, serving as a critical imperative for maintaining market integrity and shielding the public from organized financial fraud.

9. NOVENCO BUILDING AND INDUSTRY A/S VS. XERO ENERGY ENGINEERING SOLUTIONS PRIVATE LTD. & ANR., 2025 SCC ONLINE SC 2809

PRONOUNCED ON OCTOBER 27, 2025 (SUPREME COURT OF INDIA)

PARTIES

The Appellant, Novenco Building and Industry A/S, is a Danish company specialized in the manufacture of high-efficiency industrial fans under the brand "Novenco ZerAx", and is challenging the High Court's rejection of its plaint for alleged non-compliance with pre-institution mediation requirements.

The Respondents are Xero Energy Engineering Solutions Private Ltd. and Aeronaut Fans Industry Pvt. Ltd., who are alleged to have infringed upon the Appellant's patents and design registrations through the manufacture and sale of deceptively similar products.

BRIEF FACTS

The Appellant entered into a dealership agreement dated 01.09.2017 with Respondent No. 1 for the marketing of "Novenco ZerAx" fans in India. Subsequently, the Appellant alleged that the Director of Respondent No. 1 incorporated Respondent No. 2 to manufacture identical fans in violation of the agreement. After discovering competing products in July 2022 and conducting a technical inspection in December 2023, the Appellant filed a commercial suit in June 2024, alleging patent and design infringement.

The Appellant moved applications for an ad interim injunction and for exemption from the mandatory pre-institution mediation prescribed under Section 12A of the Commercial Courts Act, 2015. The Respondents moved for rejection of the plaint under Order VII Rule 11 of the CPC, contending a lack of urgency.

The High Court of Himachal Pradesh rejected the plaint, holding that the six-month delay between the technical inspection and the filing of the suit demonstrated a lack of urgency, thereby making pre-institution mediation mandatory. The Appellant sought redressal before the Supreme Court of India.

ISSUES

a. Whether the expression contemplates any urgent interim relief in Section 12A of the Commercial Courts Act, 2015, applies to actions seeking to restrain continuing intellectual property infringement.
b. Whether a delay in instituting a suit for infringement per se negates the element of urgency required to bypass pre-institution mediation.
c. Whether the court should evaluate the merits of the interim relief or the contemplatability of urgency from the standpoint of the plaintiff when applying Section 12A.

APPLICABLE STATUTES

Section 12A of The Commercial Courts Act, 2015

Order VII Rule 11 of The Code of Civil Procedure, 1908

Section 151 of The Code of Civil Procedure, 1908

Order XXXIX Rules 1 and 2 of The Code of Civil Procedure, 1908

RATIO

The Supreme Court allowed the appeal, quashed the High Court's judgments, and restored the commercial suit, holding that the High Court erred in its construction of the test for urgent relief.

The Court held that in matters involving intellectual property, each act of manufacture or sale constitutes a fresh wrong and a recurring cause of action. It was determined that "urgency" is inherent in the nature of such a wrong; the peril lies not in the "age of the cause" but in its persistence. The Court further clarified that the test under Section 12A is whether urgent interim relief is "contemplable" when viewed holistically from the standpoint of the plaintiff. The Court emphasized that intellectual property disputes involve a significant public interest element, as imitation masquerading as innovation taints the marketplace and deceives consumers. The Court concluded that insisting on pre-institution mediation in the face of ongoing, dishonest infringement would render a plaintiff effectively remediless, an anomalous result not intended by the legislature. Therefore, mere delay does not negate urgency when the infringement is continuing and causing irreparable harm to business reputation and goodwill.

10. TIKTOK LIMITED V. REGISTRAR OF TRADE MARKS (MUMBAI) 2025 SCC OnLine Bom 2323

PRONOUNCED ON JUNE 10TH, 2025 (Bombay High Court)

PARTIES

a. The Petitioner, TikTok Limited (a subsidiary of Bytedance Ltd., China), is a proprietor of the social-media platform "TikTok," seeking recognition of the mark "TIKTOK" as a well-known trademark under Rule 124 of the Trade Marks Rules, 2017.

b. The Respondent, Registrar of Trade Marks, Mumbai, who refused the Petitioner's request to include the mark "TikTok" in the list of well-known trademarks maintained under Section 11(8) and Rule 124 of the Trade Marks Act and Rules.

BRIEF FACTS

TikTok Limited filed an application before the Registrar of Trade Marks to declare its mark "TIKTOK" as a well-known trademark in India. The company produced voluminous documents to demonstrate market presence, user engagement, advertising expenditure, and global reputation prior to the ban on the TikTok app in India in June 2020.

The Registrar of Trade Marks, by an order dated 31 October 2023, rejected the application on the ground that the app had been banned in India by the Government under Section 69A of the Information Technology Act, 2000 for reasons linked to national security, sovereignty, and public order. The Registrar concluded that, in light of the government's continuing prohibition, declaring "TikTok" as a well-known trademark would be contrary to the public interest.

Aggrieved by this decision, TikTok Limited filed a writ petition under Article 226 of the Constitution of India before the Bombay High Court, seeking to quash the refusal order and to direct inclusion of "TIKTOK" in the list of well-known marks.

ISSUES

a. Whether the Registrar of Trade Marks was justified in refusing to recognise "TIKTOK" as a well-known trademark on the basis of its ban in India under

the Information Technology Act, 2000.

b. Whether the consideration of national interest, sovereignty, and public order falls within the permissible scope of assessment under Section 11(6) of the Trade Marks Act and Rule 124 of the Trade Marks Rules.
c. Whether the Registrar acted arbitrarily or beyond jurisdiction in declining recognition despite TikTok's prior market reputation and global recognition.

APPLICABLE STATUTES

Section 9 of The Trademarks Act, 1999

Section 11 of The Trademarks Act, 1999

Section 11(6) of The Trademarks Act, 1999

Section 11 (7) of The Trademarks Act, 1999

Section 11 (8) of The Trademarks Act, 1999

Section 11 (9) of The Trademarks Act, 1999

Rule 124 of The Trademarks Rules, 2017

Section 69A of The Information Technology Act, 2000

RATIO

The Bombay High Court, upheld the Registrar's decision refusing to recognise "TIKTOK" as a well-known trademark in India, holding that the authority was justified in considering factors of national interest, sovereignty, and public order while assessing such applications. The Court observed that under Section 11(6) of the Trade Marks Act, the Registrar is empowered to consider "any relevant fact," which includes the broader legal and regulatory environment affecting the mark's reputation. Since the Government of India had banned the TikTok app under Section 69A of the IT Act, 2000, due to concerns related to national security and public order, granting well-known status to the mark would have contradicted public policy. The Court clarified that recognition as a well-known mark is a discretionary privilege, not a vested right, and that global fame alone cannot override the national legal framework or ongoing prohibitions. Consequently, the petition was dismissed, and the Registrar's decision was affirmed as lawful and reasoned. This judgment is significant as it establishes that well-known trademark recognition in India should align with public policy and regulatory compliance, emphasising that

even internationally renowned brands cannot claim such status when their operations conflict with national interests, thereby reinforcing the balance between intellectual property protection and sovereign priorities. The court ended by stating that, it is obvious that due to the ban imposed by the Government of India, the aforesaid application bearing the trade mark TikTok cannot be used in India. This would be irrelevant for determining the question of inclusion of the trade mark in the list of well-known marks, but, since the said mark is already a registered trade mark in India, it does enjoy all statutory protection available under the Trade Marks Act. Inclusion in the list of well-known marks obviously gives added protection to a mark, but in the light of the fact that the application TikTok itself has been banned in India, which till date admittedly has not been set aside by any Competent Court or Authority, this Court finds that no error can be attributed to the said respondent in passing the impugned order while refusing the application of the petitioner for inclusion of its trade mark TikTok in the list of well-known marks.

11. ROYAL CHALLENGERS SPORTS PRIVATE LIMITED V. UBER INDIA SYSTEMS PRIVATE LIMITED AND ORS, 2025 SCC OnLine Del 2860

PRONOUNCED ON MAY 5TH, 2025 (Delhi High Court)

PARTIES

a. ROYAL CHALLENGERS SPORTS PRIVATE LIMITED is the franchise owner of the IPL cricket team Royal Challengers Bangalore (RCB). The plaintiff has registered its trademark for "ROYAL CHALLENGERS", "RCB" and associated logos and device marks used extensively in relation to sporting, entertainment and merchandising activities.
b. Defendant No. 1: Uber India Systems Private Limited is the Indian entity that was responsible for conceptualising and publishing the impugned advertisement.
c. Defendant No. 2: Uber Technologies Inc is the U.S based parent company of Uber India who is responsible for overseeing marketing and promotional strategies.
d. Defendant No. 3: An Australian Cricketer (Travis Head), who plays for the team Sunrisers Hyderabad an IPL franchise. He appeared in the advertisement and endorsed it

BRIEF FACTS

The Plaintiff, Royal Challengers Sports Pvt. Ltd. claimed exclusive ownership over the trademark "ROYAL CHALLENGERS BENGALURU", so the dispute arose when Uber India launched an IPL themed advertisement starring Defendant No. 3 an Australian cricketer who is part of the rival IPL team Sunrisers Hyderabad. The advertisement humoured over the RCB's inconsistent performance in the IPL, using a wordplay of its name. The Plaintiff alleged that the use of "ROYALLY CHALLENGED BENGALURU" in the advertisement amounted to trademark infringement, passing off, and disparagement, contending that it created confusion and tarnished the goodwill associated with RCB's brand.

Whereas the defendant contended that the advertisement was a parody made in a humorous way in the sporting context, and there was no intent to harm or mislead. They also further argued that no average consumer would

perceive it as originating from or endorsed by RCB.

The Plaintiff sought an interim injunction restraining the Defendants from using the impugned tagline under Order XXXIX Rules 1 & 2 of the Code of Civil Procedure, 1908.

ISSUES

a. Whether the impugned advertisement amounts to disparagement of the plaintiff's RCB trademark and cricket team?
b. Whether the provisions of Section 29(4) of the Trademarks Act, 1999 are attracted by the defendants' use of the RCB trademark in the impugned advertisement?
c. How to balance the rights of trademark protection against the right to freedom of speech and expression under Article 19(1)(a) of the Constitution of India?

APPLICABLE STATUTES

Article 19 of The Constitution of India

Article 19 (1) of The Constitution of India

Article 19 (2) of The Constitution of India

Section 29(1) to (4) of The Trademarks Act, 1999

Section 30(1) of The Trademarks Act, 1999

Order XXXIX, Rules 1 and 2 read with Section 151 of the CPC.

Section 151 of Code of Civil Procedure, 1908

RATIO

The Delhi High Court delivered a significant judgement that elaborated on the limits of trademark protection when faced with humorous or satirical advertising. The court refused to grant interim relief to the Plaintiff and dismissed the plea for injunction, saying that the Advertisement constituted a playful, good-natured parody rather than a commercial misuse of the Plaintiff's mark. The court also emphasised that parody is a legitimate form of expression, especially in entertainment and sports-related advertising, provided it does not defame, mislead or unfairly capitalise on another's goodwill.

In its analysis, the Court observed that the impugned phrase was clearly a humorous wordplay on the name of RCB, which was designed to evoke laughter rather than mislead consumers into believing any sponsorship or endorsement by the team. The advertisement, when viewed as a whole, was contextualised within the framework of IPL banter a very common culture rich in humour, rivalry, and satire, where fans and brands often engage in light-hearted commentary. The Court cautioned that extracting isolated words or phrases out of context to claim disparagement would distort the purpose and tone of such advertisements. Importantly, relying on *Gillette India v. Reckitt Benckiser (India) (P) Ltd., 2018 SCC OnLine Mad 1126*, it reiterated that disparagement, in the legal sense, must involve a defamatory or injurious message that directly harms the reputation, goodwill, or value of another brand's products or services, whereas mere satire or jest, particularly when not misleading, does not meet that threshold.

Addressing the question of trademark infringement, the Court clarified that Uber had not used "ROYAL CHALLENGERS BENGALURU" as a trademark to indicate origin or sponsorship but rather referenced it as part of a parody, which qualifies as permissible use under Section 30(1) of the Trade Marks Act, 1999, hence allowing use of a mark in accordance with honest commercial practices. The Court further emphasised that commercial humour is protected under the broader principle of freedom of expression, and overzealous enforcement of IP rights against satire could lead to a chilling effect on creativity and marketing innovation. The judgment drew a crucial distinction between legitimate humour that adds to cultural discourse and malicious ridicule that harms reputation, noting that only the latter warrants legal restraint.

Ultimately, the Court held that Uber's campaign did not mislead the public, defame RCB, or amount to unfair competition, and therefore declined the injunction. The decision allows Uber to continue using the impugned tagline, subject to the condition that it remains parodic and non-misleading. The Court also advised trademark owners to exercise commercial prudence before initiating litigation against humour-based advertisements, especially in competitive industries like sports and entertainment, where playful marketing and fan-based rivalry are integral to brand engagement.

On the issue of trademark infringement under Section 29(4) of the Trade Marks Act, the Court clarified that mere use of a similar or identical trademark, without demonstrable commercial exploitation causing detriment to the distinctive character or repute of the original trademark, fails to fulfil the stringent criteria of infringement under the Act.

This judgment is a milestone in Indian trademark jurisprudence, as it firmly acknowledges parody as a valid defence to trademark infringement and disparagement claims. It aligns Indian law with international standards seen in jurisdictions such as the U.S. and the U.K., where parody enjoys protection under doctrines of fair use and free speech. Further, keeping in mind the law laid down by the Supreme Court in *Bloomberg Television Production Services India (P) Ltd v. Zee Entertainment Enterprises Ltd., (2025) 1 SCC 741* read together with *Tata Press Ltd. v. MTNL, (1995) 5 SCC 139,* wherein it was held by the Supreme Court that commercial free speech is also protected under Article 19(1)(*a*) of the Constitution, this Court is of the view that the balance of convenience is not in favour of the plaintiff for grant of temporary injunction. By balancing the protection of intellectual property with the preservation of creative freedom, the Delhi High Court set a precedent that will likely influence future disputes involving satire, comparative advertising, and cultural references in commercial communication.

12. **Western Digital Technologies Inc. & Anr. v. Hansraj Dugar, 2025 SCC OnLine Del 3427**

PRONOUNCED ON MAY 16TH, 2025 (Delhi High Court)

PARTIES

a. Plaintiff No.1, the Western Digital Technologies, Inc. and Plaintiff 2, Western Digital U.K. Ltd., is a wholly owned subsidiary of Plaintiff 1, who are the manufacturers of hard disk drives (HDDs) that bear the registered trademarks "WESTERN DIGITAL" AND "WD"
b. Defendant: Hansraj Dugar, who is an importer/reseller importing second-hand HDDs bearing the "WESTERN DIGITAL"/ "WD" marks under bill entries.

BRIEF FACTS

The plaintiff alleged that the defendants imported used or second-hand HDDs bearing the Plaintiff's registered marks "WESTERN DIGITAL" / "WD" without authorisation and sought injunctive relief for trademark infringement and passing-off. The Defendants contended that the imports were lawful parallel or second-hand imports, and they offered full disclosure of origin (that the goods were "used/refurbished") and thereby did not infringe the Plaintiff's rights.

ISSUES

a. Whether the ex parte interim injunction restraining the defendant from dealing with imported goods bearing the plaintiffs' trademarks should be vacated.
b. Whether the import and sale of second-hand or refurbished goods bearing the plaintiffs' trademarks constitute trademark infringement under Section 29(6) of the Trademarks Act, 1999.
c. The applicability of the principle of international exhaustion of trademark rights under Section 30(3) and 30(4) of the Trademarks Act in the context of imported second-hand/ refurbished goods.
d. The extent and nature of disclosure required when selling refurbished goods.

APPLICABLE STATUTES

Section 29 of The Trademarks Act, 1999

Section 30 of The Trademarks Act, 1999

The Goods Enforcement Rules, 2007 (the Customs Rules)

Order XXXIX Rule 1, 2 and 4 of The Code of Civil Procedure,1908

RATIO

The Delhi High Court held that the import and sale of parallel or second-hand trademarked goods do not automatically constitute infringement, provided the importer ensures full and honest disclosure to consumers. The Court confirmed that no statutory bar exists against importing end-of-life goods into India. It affirmed international exhaustion principles under Sections 30(3) and 30(4) of the Trade Marks Act, noting that Section 29(6) must be read subject to Section 30(3) defences. The Court observed that when goods bearing a registered trademark have been lawfully sold anywhere in the world, the trademark rights in those goods are considered "exhausted", a principle known as international exhaustion that allows their subsequent resale or importation, so long as it does not mislead or deceive consumers. It also clarified that sellers of such goods must explicitly state that the products are used, refurbished, or not authorised by the trademark owner and should refrain from using misleading descriptions such as "brand new" or "officially authorised." The Court declined interim injunctive relief to the Plaintiff, Western Digital, holding that there was no prima facie case of trademark infringement since the defendants' activities did not mislead consumers or dilute the plaintiff's mark. The judgment is a significant step in Indian trademark law, balancing trademark protection with market freedom by allowing the resale of branded second-hand goods under conditions of transparency and fair disclosure. It offers clear guidance for importers and resellers on maintaining compliance and for trademark owners on framing enforcement strategies in the context of parallel imports and refurbished goods. The Court established distinct regulatory frameworks based on the nature of the goods for future importing activities:

a. Second-hand goods (sold without refurbishment): Must comply with disclosure standards from Xerox Corporation v. Shailesh Patel, requiring

clear identification as second-hand products, explicit statements about the absence of manufacturer warranty, and prominent disclosure on all packaging and promotional materials.

b. Refurbished goods: Must satisfy the disclosure requirements established in Daichi, including proper Identification of original manufacturers through word marks only, clear statements about warranty limitations, prominent "Used and Refurbished" labelling, accurate descriptions of product features and condition, and consistent disclosure across all promotional and marketing materials.

This bifurcated approach acknowledges the different consumer expectations and potential risks associated with second-hand versus refurbished products, while ensuring adequate protection for both consumers and trademark holders.

13. BODHISATTVA CHARITABLE TRUST AND ORS. V. MAYO FOUNDATION FOR MEDICAL EDUCATION AND RESEARCH, MANU/DE/8293/2025

PRONOUNCED ON July 28TH, 2025 (Delhi High Court)

PARTIES

a. The appellants, Bodhisattva Charitable Trust and Others, are the operators of medical and educational institutions in India under the name "Mayo Institute of Medical Sciences" and allied marks, primarily engaged in healthcare and medical education.
b. The respondent, Mayo Foundation for Medical Education and Research (MFMER), is a U.S. based non-profit entity that owns and operates the globally renowned "MAYO CLINIC", with multiple Indian trademark registrations for "MAYO", "MAYO CLINIC", and related formative marks across Classes 35, 41, 42, and 44.

BRIEF FACTS

MFMER filed a suit before the Delhi High Court that the Appellant's use of the mark "MAYO" and the name "Mayo Institute of Medical Sciences" amounted to infringement and passing off, of its registered marks "MAYO" and "MAYO CLINIC". The Single Judge by an order dated 11/4/2024, granted an injunction restraining the Appellant from using the impugned mark.

Therefore, aggrieved by this decision, the Appellants preferred an intra-court appeal contending that the word "MAYO" is geographical or descriptive and cannot be monopolised by the Respondent, their use of the mark was honest and bona fide, and the name was derived from the name of a local area and has been used since 2010. The Appellants also contended that the Respondent had no physical presence in India, and therefore its reputation did not extend here to justify an injunction. Whereas the Respondent opposed the appeal, asserting that "MAYO CLINIC" is a well-known global brand with substantial trans-border reputation in India through research collaborations, publications, digital presence, and patient engagement, and that the Appellants' adoption was calculated to ride on its goodwill.

ISSUES

a. Whether the use of the mark "MAYO" and "Mayo Institute of Medical Sciences" by the Appellants constitutes infringement and passing off of the Respondent's marks "MAYO" and "MAYO CLINIC."
b. Whether "MAYO" is a geographical expression incapable of trademark protection.
c. Whether a foreign proprietor's trans-border reputation can extend to India even without local operations or physical presence.

APPLICABLE STATUTES

Section 12 of The Trademarks Act, 1999
Sections 28 of The Trademarks Act, 1999
Section 29 of The Trademarks Act, 1999
Section 30 of The Trademarks Act, 1999
Section 31 of The Trademarks Act, 1999
Section 33 of The Trademarks Act, 1999
Section 34 of The Trademarks Act, 1999
Section 35 of The Trademarks Act, 1999
Section 46 of The Trademarks Act, 1999
Section 47 of The Trademarks Act, 1999
Section 57 of The Trademarks Act, 1999
Section 134 of The Trademarks Act, 1999
Section 135 of The Trademarks Act, 1999
Section 13(1A) of The Commercial Courts Act 2015
Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure 1908

RATIO

The Delhi High Court (Division Bench) dismissed the appeal and affirmed the injunction in favour of the Respondent. The Bench held that the mark "MAYO CLINIC" enjoys extensive global goodwill and trans-border reputation, which extends to India irrespective of the Respondent's physical presence. Relying on precedents such as *Milmet Oftho Industries v. Allergan Inc.* (2004) 12 SCC 624 and *Whirlpool Corp. v. N. R. Dongre* (1996) 5 SCC 714, the

Court reiterated that a mark's reputation and recognition among Indian consumers through global channels, digital platforms, research, and patient interactions warrant protection against unauthorised local adoption.

The Court rejected the Appellants' claim that "MAYO" is a geographical or descriptive term, observing that there was no credible evidence that the mark was derived from a geographic source. Instead, the adoption was found to be deliberate and commercially motivated, intended to exploit the Respondent's global reputation. It further noted that both entities operate within the same medical and educational domain, enhancing the likelihood of confusion and association in the public mind.

Accordingly, the Division Bench held that the Single Judge's findings were correct and that continued use of "MAYO" by the Appellants would amount to trademark infringement and passing off. The appeal was therefore dismissed, and the injunction was upheld, restraining the Appellants from using the marks "MAYO" or any deceptively similar variant in connection with healthcare or educational services.

This decision is significant for reaffirming India's protection of trans-border reputation and the principle that global trademark proprietors may obtain relief against infringing use in India even absent domestic operations. The ruling underscores that foreign marks with international goodwill enjoy robust protection where evidence shows their reputation among Indian consumers, and it also explained that simply claiming that a brand name refers to a local place is not enough to justify using it dishonestly when it is clearly meant to benefit from another brand's worldwide fame.

14. WOW MOMO FOODS PRIVATE LIMITED vs WOW BURGER & ANR., MANU/DE/8039/2025

PRONOUNCED ON OCTOBER 16TH, 2025 (DELHI HIGH COURT)

PARTIES

a. The Appellant, Wow Momo Foods Private Limited, is the registered proprietor of multiple trademarks including WOW MOMO, WOW DIMSUMS, and WOW MOMO INSTANT across various classes under the Trade Marks Act, 1999, and has been continuously using the "WOW + food item" family of marks since 2008.

b. The Respondents are Wow Burger and another entity, who proposed to operate food services under the mark WOW BURGER, which was alleged to be deceptively similar to the appellant's registered trademarks.

BRIEF FACTS

The plaintiff, Wow Momo Foods Pvt. Ltd., established in 2008, is a prominent Indian quick-service restaurant chain specializing in momos and related products, has grown to over 600 outlets across more than 30 cities. The company claims to have coined the trademark "WOW!" and uses it extensively across various brands like "WOW! MOMO," "WOW! CHINA," and "WOW! CHICKEN." In December 2024, Wow Momo discovered the intended launch of a new food venture under the name "WOWBURGER" by the defendants. The plaintiff argued that due to its extensive use of "WOW!" for over 15 years, a sales turnover of ₹453 crore in 2023-24, substantial promotional expenditure, and a strong brand reputation, the word "WOW" had acquired distinctiveness and secondary meaning in the minds of consumers, thereby entitling it to protection. Alleging trademark infringement and passing off, the plaintiff sought an interim injunction to restrain the defendants from using the mark "WOW BURGER" or any deceptively similar mark.

ISSUES

a. Whether the prefix "WOW", despite being a laudatory and common English word, had acquired a secondary meaning and distinctive character through the plaintiff's extensive, continuous, and voluminous use since 2008

b. Whether the defendants' use of the mark "WOW BURGER" for identical services (Quick Service Restaurants) creates a likelihood of confusion or

association with the plaintiff's business in the mind of an average consumer with imperfect recollection?

c. Whether the Learned Single Judge failed to correctly apply the principles of trademark dilution and the "dominant feature" test by focusing solely on the "anti-dissection" rule?.

APPLICABLE STATUTES

Section 9 of The Trade Marks Act, 1999

Section 11 of The Trade Marks Act, 1999

Section 12 of The Trade Marks Act, 1999

Section 17 of The Trade Marks Act, 1999

Section 21 of The Trade Marks Act, 1999

Section 23 of The Trade Marks Act, 1999

Section 28 of The Trade Marks Act, 1999

Section 29 of The Trade Marks Act, 1999

Section 30 of The Trade Marks Act, 1999

Section 134 of The Trade Marks Act, 1999

Section 135 of The Trade Marks Act, 1999

Section 96 of Code of Civil Procedure, 1908

RATIO

The Division Bench of the **Delhi High Court** set aside the order of the Learned Single Judge and granted an interim injunction in Favor of the plaintiff. The Court held that the plaintiff's extensive and long-term use of the prefix "WOW" across its family of marks, including **"WOW! MOMO"**, **"WOW! CHINA"**, and **"WOW! CHICKEN"** had resulted in the term acquiring a **secondary meaning** specifically associated with the plaintiff's food services. It was observed that the plaintiff had been using the "WOW" prefix since 2008, establishing a significant market presence and a "family of marks" that the consuming public uniquely identifies with their business. The Court found that while "WOW" may be a laudatory word in common parlance, its consistent use as a prefix by the plaintiff in the Quick Service Restaurant (QSR) sector had rendered it a **dominant and essential feature** of their brand identity. Relying on the "Family of Marks"

principle, the Bench noted that when a person uses a series of marks with a common prefix or suffix, the use of a similar feature by a competitor is likely to cause confusion in the minds of the public. The Court disagreed with the Single Judge's view on disclaimers, stating that a disclaimer on a word in a composite mark does not mean the word is entirely excluded from protection if it has become a distinctive identifier of the source. The Bench further observed that the defendants' use of **"WOW BURGER"** for identical services (fast food) was likely to lead an average consumer with imperfect recollection to believe that the defendant's outlet was a new vertical or brand extension of the plaintiff. The Court highlighted that the plaintiff's massive turnover and substantial investment in advertising had created a trans-border reputation and goodwill that deserved protection. It was held that allowing the defendants to continue using the mark would lead to the dilution of the plaintiff's brand equity. Consequently, the Court restrained the defendants from using the mark "WOW BURGER" or any other mark deceptively similar to the plaintiff's "WOW" family of marks until the final disposal of the suit.

15. MR. SUMIT VIJAY & ANR. V. MAJOR LEAGUE BASEBALL PROPERTIES INC. & ANR., 2026 SCC OnLine Del 2

PRONOUNCED ON JANUARY 15TH, 2026 (DELHI HIGH COURT)

PARTIES

a. The Appellants, Mr. Sumit Vijay & Anr., are Indian proprietors of the registered trademark "BLUE-JAY" in Class 25 for readymade garments, registered with effect from 19 August 1998, and claim continuous commercial use of the mark in India.

b. The Respondent No. 1, Major League Baseball Properties Inc., is the intellectual property holding and licensing entity of Major League Baseball (MLB), USA & Canada, and claims worldwide rights over the "BLUE JAYS" trademarks associated with the Toronto Blue Jays baseball team since 1976.

BRIEF FACTS

The appellants, Mr. Sumit Vijay and another, are Indian traders engaged in the business of manufacturing and selling readymade garments. They are the registered proprietors of the trademark "BLUE-JAY" in Class 25, covering clothing and apparel. The said trademark was applied for on 19 August 1998 and subsequently proceeded to registration under the Trade Marks Act, 1999.

The respondent, Major League Baseball Properties Inc., is the intellectual property holding and licensing entity of Major League Baseball (MLB), which operates professional baseball leagues in the United States and Canada. One of the MLB teams, the Toronto Blue Jays, has been using the mark "BLUE JAYS" since 1976 in relation to sporting activities, merchandise, and promotional materials. The respondent claimed that the "BLUE JAYS" mark enjoys extensive global reputation and goodwill, including spill-over reputation in India, owing to international broadcasts, online accessibility, merchandise sales, and media coverage. It was contended that such reputation existed much prior to the appellants' adoption of the "BLUE-JAY" mark in 1998. On this basis, the respondent filed a petition under Section 57(2) of the Trade Marks Act, 1999 before the Delhi High Court (Commercial Division), seeking rectification and cancellation of the appellants' registered trademark on the grounds that: the mark

was wrongly remaining on the register, it was adopted in bad faith, it was deceptively similar to the respondent's mark, and its continuance would result in passing off and confusion. The learned Single Judge accepted the respondent's contentions and held that the appellants' adoption of the "BLUE-JAY" mark was tainted with bad faith, that the respondent's mark enjoyed trans-border reputation, and that prior user rights of the respondent prevailed over the appellants' registration. Consequently, the Single Judge ordered the removal of the "BLUE-JAY" trademark from the Register. Aggrieved by this decision, the appellants preferred the present Letters Patent Appeal before the Division Bench of the Delhi High Court

ISSUES

a. Whether the trademark "BLUE-JAY", registered in favour of the appellants, was wrongly remaining on the Register so as to justify cancellation under Section 57(2) of the Trade Marks Act, 1999.

b. Whether the respondent's mark "BLUE JAYS" had acquired trans-border goodwill and reputation in India prior to the appellants' adoption of the mark in 1998.

c. Whether the appellants had adopted the trademark "BLUE-JAY" in bad faith, thereby attracting the application of Section 11(10)(ii) of the Trade Marks Act, 1999.

Whether the continuance of the appellants' mark was liable to be prevented under the law of passing off in terms of Section 11(3)(a) of the Trade Marks Act, 1999.

APPLICABLE STATUTES

Section 57(2) of the Trade Marks Act, 1999, r.w.

Section 11(3)(a) of the Trade Marks Act, 1999, r.w.

Section 11(10)(ii) of the Trade Marks Act, 1999

Section 2(1)(zg) of the Trade Marks Act, 1999

Section 18(1) of the Trade Marks Act, 1999

Section 47 of the Trade Marks Act, 1999

RATIO

The Division Bench allowed the appeal and set aside the judgment of the Single Judge, holding that the cancellation of the appellants' trademark was legally unsustainable, as the respondent neither possessed any subsisting registration nor had any pending application in India at the time when the appellants applied for registration in 1998, thereby rendering Sections 11(1) and 11(2) of the Trade Marks Act inapplicable; the Court further held that mere global fame or reputation is insufficient under Indian trademark law and that actual goodwill or reputation in India must be established at the relevant time, clarifying that website accessibility in India, international broadcasts, or sporadic availability of merchandise through third parties do not constitute "use" of a trademark in India, and since the respondent failed to produce credible evidence showing that Indian consumers associated the "BLUE JAYS" mark with the respondent prior to 1998, the claim of trans-border spill-over reputation was rejected; on the question of bad faith, the Court observed that bad faith cannot be presumed merely on the basis of similarity between marks and must be supported by clear evidence of dishonest intention, noting that the Single Judge had relied on conjecture rather than concrete proof; the Court also reiterated that goodwill in India is the sine qua non for a passing off action and, in the absence of proof of such goodwill, the essential elements of passing off goodwill, misrepresentation, and damage were not satisfied; it was further clarified that a trademark cannot be cancelled solely on the basis of foreign reputation without proof of recognition in the Indian market, and accordingly, the Court held that the appellants' trademark "BLUE-JAY" was validly registered, was not wrongly remaining on the register, did not warrant cancellation under Section 57(2) of the Trade Marks Act, and directed the Registrar of Trade Marks to restore the registration in favour of the appellants.

16. M/S LG ELECTRONICS INDIA P. LTD VS DIRECTOR OF INCOME TAX & ORS., W.P.(C) 15181/2004

PRONOUNCED ON DECEMBER 24TH, 2025 (DELHI HIGH COURT)

PARTIES

a. The Petitioner, M/s LG Electronics India Private Limited, is an Indian company engaged in the business of manufacturing and marketing electronic goods, and is challenging the order dated 27 April 2004 passed under Section 264 of the Income Tax Act, 1961, whereby a portion of the payment made to a Singapore-based entity was treated as royalty and subjected to tax deduction at source.

b. The Respondents are the Director of Income Tax and another, representing the Income Tax Department, who passed the impugned orders under Sections 195 and 264 of the Income Tax Act, 1961.

BRIEF FACTS

The petitioner, LG Electronics India Private Limited, entered into a Global Partnership Agreement dated 28.06.2002 with Global Cricket Corporation Pvt. Ltd. (GCC), a Singapore-based entity that had acquired commercial and sponsorship rights relating to ICC cricket events from ICC Development (International) Ltd. Under the agreement, LG was appointed as a "Global Partner" for ICC events and was granted extensive advertising and promotional rights, including the right to display its own trademark "LG" on perimeter boards, outfield mats, electronic screens, tickets, official event websites, and other promotional materials during cricket events held outside India. The agreement also permitted LG to use ICC Event Marks and ICC trademarks on advertising materials within the licensed territory, defined as "the world," during the term of the agreement. For these rights, a total consideration of USD 27.5 million was agreed upon, of which USD 11 million was paid by LG Electronics India Pvt. Ltd. LG Electronics applied under Section 195 of the Income Tax Act, 1961, seeking permission to remit the said amount without deduction of tax at source, contending that the payment was made purely for advertising and sponsorship services and did not constitute royalty. The tax authorities rejected the application, holding that the payment involved acquisition of rights to use ICC trademarks

and therefore amounted to royalty under Section 9(1)(vi) of the Income Tax Act read with Article 12 of the India–Singapore DTAA. Upon revision under Section 264 of the Income Tax Act, the Director of Income Tax partly allowed the petition and held that the consideration had two elements, advertising rights and the right to use ICC trademarks and accordingly apportioned two-thirds of the payment towards advertising and one-third towards royalty, directing withholding of tax at 15% on the royalty component. Aggrieved by this order, LG Electronics approached the Delhi High Court by way of a writ petition under Article 226 of the Constitution of India.

ISSUES

a. Whether any part of the payment made by LG Electronics to Global Cricket Corporation Pvt. Ltd. for sponsorship and advertising rights could be characterised as **royalty** under Section 9(1)(vi) of the Income Tax Act, 1961.
b. Whether the right to use ICC trademarks granted under the Global Partnership Agreement was merely **incidental to advertising** or constituted a **substantive licensed right** attracting tax liability.
c. Whether the apportionment of one-third of the payment as royalty by the tax authorities was legally valid.

APPLICABLE STATUTES

Section 195 of The Income Tax Act, 1961

Section 264 of The Income Tax Act, 1961

Section 9 (1) (vi) of The Income Tax Act, 1961

Section 90 of The Income Tax Act, 1961

RATIO

The Delhi High Court dismissed the writ petition and upheld the order passed by the Director of Income Tax under Section 264 of the Income Tax Act, holding that the impugned order did not suffer from any legal infirmity. The Court examined the terms of the Global Partnership Agreement, particularly Schedule 3, and observed that LG was granted an express license to use ICC and Event Marks across the licensed territory, including on advertising materials, websites, and other media,

and not merely at the event venues. The Court noted that the definition of "royalty" under Section 9(1)(vi) of the Income Tax Act and Article 12 of the India-Singapore DTAA expressly includes consideration for the use of trademarks, and therefore, payment made for such licensed use falls within the scope of royalty. The Court placed reliance on the petitioner's own admission during the Section 264 proceedings that there was an element of use of ICC trademarks, though it was sought to be described as incidental, and held that such use could not be trivialised given the wide commercial rights granted under the agreement. The Court distinguished the judgments relied upon by the petitioner, including *Formula One World Championship Ltd.* and *Sheraton International Inc.*, holding that in those cases the use of trademarks was strictly incidental, whereas in the present case the agreement conferred substantive and global rights to use ICC trademarks. The Court held that the tax authorities were justified in treating the payment as having two separable components advertising and royalty and that the apportionment of one-third of the payment towards royalty was reasonable and supported by the terms of the agreement. Accordingly, the Court concluded that the payment attributable to the right to use ICC trademarks was liable to tax as royalty, and the direction to deduct tax at source at 15% was valid.

17. M/S TRIOM HOSPITALITY V. M/S J.S. HOSPITALITY SERVICES PVT. LTD., 2025 SCC OnLine Del 8647

PRONOUNCED ON NOVEMBER 24TH, 2025 (DELHI HIGH COURT)

PARTIES

a. The Appellant, M/s Triom Hospitality, is a partnership firm running a restaurant business at Dwarka, New Delhi, and is challenging the order dated 28 August 2024 passed by the Commercial Court whereby its application under Section 8 of the Arbitration and Conciliation Act, 1996 seeking reference of disputes to arbitration was dismissed.

b. The Respondent, M/s J.S. Hospitality Services Private Limited, is a company engaged in the hospitality business and the registered proprietor of the trademark "Pind Balluchi", which instituted a civil suit alleging trademark infringement and passing off against the appellant.

FACTS

The appellant is a partnership firm constituted under a partnership deed dated 12.12.2022 and has been operating a restaurant under the trade name "Pind Balluchi" at Dwarka, New Delhi since October 2023, whereas the respondent is a hospitality company claiming to be the registered proprietor of the trademark "Pind Balluchi" under multiple classes and asserting nationwide goodwill and reputation in the restaurant sector; in July 2024, the respondent alleged that it discovered the appellant's unauthorised use of the identical mark, amounting to trademark infringement and passing off, and consequently instituted CS (COMM) No. 392/2024 before the Commercial Court seeking permanent and mandatory injunctions, pursuant to which an ex-parte ad-interim injunction was granted restraining the appellant from using the impugned mark; thereafter, the appellant filed an application under Section 8 of the Arbitration and Conciliation Act, 1996, relying on an alleged Memorandum of Understanding dated 22.06.2022 containing an arbitration clause and sought reference of the dispute to arbitration, which was denied by the respondent on the ground that the MOU was forged and fabricated, accompanied by initiation of criminal proceedings alleging cheating and forgery; the Commercial Court, by order dated 28.08.2024, dismissed the Section 8 application holding that the dispute was non-arbitrable

due to serious allegations of forgery and non-existence of a valid arbitration agreement, aggrieved by which the appellant preferred the present appeal under Section 37(1)(a) of the Arbitration and Conciliation Act, 1996 before the Delhi High Court.

ISSUES

a. Whether the Commercial Court was justified in refusing to refer the parties to arbitration under Section 8 of the Arbitration and Conciliation Act, 1996 on the ground of alleged forgery of the arbitration agreement.
b. Whether serious allegations of forgery relating to the underlying contract render the dispute non-arbitrable at the referral stage.
c. Whether the Commercial Court exceeded the permissible scope of prima facie judicial review by conducting a detailed examination akin to a mini-trial.

APPLICABLE STATUTES

Section 27 of The Trademarks Act, 1999
Section 28 of The Trademarks Act, 1999
Section 29 of The Trademarks Act, 1999
Section 134 of The Trademarks Act, 1999
Section 135 of The Trademarks Act, 1999
Section 8 of the Arbitration and Conciliation Act, 1996, r.w.
Section 37(1)(a) of the Arbitration and Conciliation Act, 1996, r.w.
Section 16 of the Arbitration and Conciliation Act, 1996
Section 13(1-A) of the Commercial Courts Act, 2015
Order XXXIX, Rules 1 & 2 of the Code of Civil Procedure, 1908

RATIO

The Division Bench of the Delhi High Court allowed the appeal and set aside the impugned order of the Commercial Court, holding that while exercising jurisdiction under Section 8 of the Arbitration and Conciliation Act, 1996, a referral court is confined to a prima facie examination of the existence and formal validity of the arbitration agreement and cannot delve into issues of substantive validity or undertake a detailed evaluation of evidence; relying on authoritative precedents such as *Vidya Drolia*, *Cox and Kings*, *Pravin Electricals*, and *Re: Interplay*,

the Court reiterated that allegations of fraud or forgery do not, by themselves, render disputes non-arbitrable when they arise from a contractual or civil relationship, and observed that the Commercial Court had exceeded its limited jurisdiction by conducting an extensive analysis of documents, signatures, and surrounding circumstances amounting to a mini-trial, which is impermissible at the referral stage; the Court further held that the mere requirement of extensive evidence, including forensic examination of signatures, cannot justify refusal of reference to arbitration since arbitral tribunals are empowered under the Act to record evidence, appoint experts, and seek court assistance, and that questions concerning the substantive validity of the arbitration agreement, including allegations of forgery, fall within the exclusive domain of the arbitral tribunal under Section 16 in consonance with the doctrine of kompetenz-kompetenz, and accordingly directed that the parties be referred to arbitration with all issues on merits left open for adjudication by the arbitral tribunal.

18. SUN PHARMACEUTICAL INDUSTRIES LTD. VS. ARTURA PHARMACEUTICALS P. LTD., 2025 SCC OnLine Del 8642

PRONOUNCED ON NOVEMBER 24TH, 2025 (HIGH COURT OF DELHI)

PARTIES

The Plaintiff, Sun Pharmaceutical Industries Ltd., is a pharmaceutical company that owns the registered trademarks "PEPFIZ" and "REVITAL" and has filed the suit to protect its intellectual property rights against alleged infringement.

The Defendant is Artura Pharmaceuticals P. Ltd., a company with its registered office in Chennai and manufacturing facility in Andhra Pradesh, which is alleged to be using the deceptively similar marks "PEPFIX" and "NEOVITAL" for its products.

BRIEF FACTS

The Plaintiff filed a commercial suit seeking a permanent injunction against the Defendant for trademark infringement, passing off, and unfair competition. The Plaintiff alleged that the Defendant's use of the marks "PEPFIX" and "NEOVITAL" was deceptively similar to its own well-known trademarks "PEPFIZ" and "REVITAL". The Court had previously granted an ex-parte ad-interim injunction on November 21, 2024, restraining the Defendant from dealing in goods bearing the impugned marks.

The Defendant filed an application under Order VII Rule 10 of the CPC seeking the return of the plaint on the grounds of lack of territorial jurisdiction. The Defendant argued that it has no office or sales in Delhi, manufactures goods only for export, and its website is not interactive enough to conclude commercial targeting of Delhi consumers. The Plaintiff countered that the Defendant's website and third-party listings are accessible in Delhi, contain "Contact Us" sections soliciting business, and thus constitute "purposeful availment" of the Delhi market.

ISSUES

a. Whether the "Contact Us" page on the Defendant's website renders it sufficiently "interactive" to confer territorial jurisdiction on the Delhi High Court under the principles of internet-based trademark disputes.

b. Whether the presence of the Defendant's products on third-party aggregator websites (like PharmaHopers) with inquiry forms constitutes "purposeful availment" of the forum state.

c. Whether the objection to territorial jurisdiction under Order VII Rule 10 CPC must be decided on the basis of a demurrer, accepting the Plaintiff's pleaded facts as true at the preliminary stage.

d. Whether the lack of actual sales invoices or completed commercial transactions in Delhi at the initial stage bars the jurisdiction of the Court when online accessibility and interactivity are pleaded.

APPLICABLE STATUTES

Section 11 of the Trade Marks Act, 1999
Section 29 of the Trade Marks Act, 1999
Section 151 of the Code of Civil Procedure, 1908
Order VII Rule 10 of the Code of Civil Procedure, 1908

RATIO

The Court dismissed the Defendant's application for the return of the plaint, holding that at the preliminary stage of Order VII Rule 10 CPC, the issue of jurisdiction must be decided on the principle of demurrer. This requires the Court to accept the Plaintiff's averments as true. The Court reasoned that the distinction between "passive", "passive plus", and "interactive" websites, as established in Banyan Tree, is not a rigid categorization to be mechanically applied at the threshold. Instead, the specific functionality of the "Contact Us" page and the listing on third-party platforms which explicitly solicit trade enquiries and promote products prima facie demonstrates "purposeful availment" of the Delhi jurisdiction. The Court emphasized that in the digital age, a website's "looming

presence" and the ability of customers to access it and initiate enquiries can create a likelihood of confusion and injury within the forum state. Therefore, the question of whether the website's interactivity actually resulted in commercial transactions is a mixed question of law and fact that must be adjudicated after a full trial, rather than leading to a summary dismissal of the plaint.

REFERENCES:

- **A scientific, multi-dimensional representation of a scent that is clear, precise, and objective satisfies the statutory requirement for "graphical representation" under Section 2(1)(zb)[1] of the Trade Marks Act, 1999.**

  The Registry determined that olfactory marks are registrable provided they meet the criteria of being self-contained, intelligible, durable, and objective. By utilizing a technical framework, such as a seven-dimensional scientific vector, a scent can be captured graphically to distinguish products in the market, especially when the fragrance is arbitrary to the nature of the goods (e.g., a rose scent for tyres).

- **Right to a speedy and expeditious disposal of trademark applications is an integral part of the fundamental right to life guaranteed under Article 21 of the Constitution.[2]**

  The court observed that Rule 50 provides a complete procedure and mechanism to expedite the disposal of the registration of an application, for an application to be lying pending for over a decade and a half is shocking, surprising and a clear violation of the mandatory provisions contained under the Rule 50 of the Rules of 2017, which the registrar is required to follow in its letter and spirit, and they cannot be allowed to sit over the matter for an indefinite period of time.

- **Numerals/ combinations can perform function of trademark and are registrable, can be inherently distinctive and registrable if arbitrary in relation to the goods/ help distinguish the goods in question), but no exclusive rights can be claimed over individual numbers.[3]**

  The court found that Section 2 (1)(m) of the Trade Marks Act defines the term 'Mark', as including 'numerals' and any combinations thereof. Thus, they are capable of being registered if they fulfil registration

[1] Sumitomo Rubber Industries Ltd. NO. TMR/DEL/SCH/2025/16
[2] 2025 SCC OnLine Raj 4072
[3] 2025 SCC OnLine Del 2657

requirement. A mark cannot be refused registration merely on grounds that it contains a combination of common numbers.

- **Companies cannot assume blanket protection over different goods in the same class without showing relatedness. speculative future business plans cannot be used to claim trademark rights.**[4]

  The Court held that no case of trademark infringement or passing off was made out by the appellant, as the goods in question, sanitary and menstrual hygiene products on one hand, and pharmaceutical preparations for constipation relief on the other were neither allied nor cognate (principle of Anand Prasad Agarwal v. Tarkeshwar Prasad, (2001) 5 SCC 568).

- **To succeed in a passing-off action, a claimant must demonstrate "territorial goodwill", actual reputation and market presence within India, as global or trans-border reputation alone is insufficient**[5]**.**

  The Court held that goodwill resides in the trademark itself as a source-identifier rather than being restricted to a specific category of goods. However, for a passing-off claim to be maintainable, such goodwill must be established through evidence of recognition among Indian consumers (e.g., sales, marketing, or local partnerships). Relying on the *Toyota v. Prius* precedent, the Court clarified that worldwide reputation is irrelevant unless accompanied by clear evidence of local goodwill, and mere priority of use does not suffice unless it has translated into an accumulated reputation within the Indian territory.

- **Law mandates stricter trademark protection against counterfeiting in cases of edible goods, recognising that any imitation or misuse of marks in such products directly endangers public health and consumer safety**[6]

  The Court held that the Plaintiffs are the lawful registered proprietors of the "NUTELLA" marks and that the Defendant's activities amounted to

[4] FAO (COMM) 65/2025 & CM APPL. 12743/2025
[5] FAO(OS) (COMM) 151/2023 & FAO(OS) (COMM) 152/2023
[6] 2025 SCC OnLine Del 5105

clear infringement, counterfeiting, and passing off. The seized counterfeit goods bore identical marks, labels, and packaging, indicating deliberate and dishonest intent to exploit the Plaintiffs' established goodwill.

- **Generic or descriptive terms like "YATRA" cannot be monopolised, and exclusivity cannot be claimed in the absence of proof of secondary meaning or distinctiveness.**[7]

  The Court observed that the Plaintiff's registrations of "YATRA WITH DEVICE" and related marks were accompanied by a disclaimer denying exclusive rights over the word "YATRA." Since "Yatra" is the Hindi equivalent of "travel", it is a generic and descriptive term in relation to the Plaintiff's services.

- **Mandatory e-KYC verification and the restriction of automatic privacy masking for domain registrants are essential safeguards to prevent the systemic misuse of well-known trademarks by fraudulent websites**[8]**.**

  The Court held that the recurring nature of domain-name fraud, where deceptive URLs are used to impersonate brands and divert consumer payments, necessitates a shift from case-specific relief to systemic regulatory oversight. By requiring Domain Name Registrars (DNRs) and payment intermediaries to implement identity verification and permanent blocking of "mirror" domains through dynamic injunctions, the Court clarified that intermediaries facilitating or profiting from infringing registrations may lose their "safe-harbour" protection under the Information Technology Act, 2000.

- **The determination of "urgent interim relief" under Section 12A of the Commercial Courts Act is to be made solely on the basis of the pleadings and the reliefs sought by the plaintiff at the time of institution**[9]**.**

  The Court held that in cases involving continuing intellectual property

[7] 2025 SCC OnLine Del 5238: (2025) DLT 412, CS (COMM) 1099/2024
[8] 2025 SCC OnLine Del 9651
[9] S.L.P. (C) No. 2753 of 2025

infringement, the requirement for pre-institution mediation is waived if the suit genuinely contemplates urgent relief. This urgency is inherent in the recurring nature of the harm affecting goodwill, reputation, and public trust and is not negated by mere delay in approaching the court. Since the plaintiff is the sole determinant of the pleadings, the court must assess the contemplation of urgency from the plaintiff's standpoint; the subsequent grant or denial of interim relief on merits does not retrospectively invalidate the institution of the suit or mandate a return to mediation.

- **Recognition of a mark as "well-known" is not an absolute or vested right, but a discretionary privilege subject to public policy and regulatory compliance.**[10]

  The Bombay High Court, upheld the Registrar's decision refusing to recognise "TIKTOK" as a well-known trademark in India, holding that the authority was justified in considering factors of national interest, sovereignty, and public order while assessing such applications.

- **The Court held that playful or humorous references to trademarks in advertising, when clearly intended as parody and not defamation, do not amount to infringement or disparagement. It recognised parody as a valid defence under trademark law, balancing brand protection with creative and commercial free expression.**[11]

  The Delhi High Court delivered a significant judgement that elaborated on the limits of trademark protection when faced with humorous or satirical advertising. The court refused to grant interim relief to the Plaintiff and dismissed the plea for injunction, saying that the Advertisement constituted a playful, good-natured parody rather than a commercial misuse of the Plaintiff's mark. The court also emphasised that parody is a legitimate form of expression, especially in entertainment and sports-related advertising, provided it does not defame, mislead or

[10] 2025 SCC OnLine Bom 2323
[11] 2025 SCC OnLine Del 2860

unfairly capitalise on another's goodwill.

- **The Court ruled that importing and selling second-hand goods bearing registered trademarks is not automatically infringement if the importer clearly discloses that the goods are used and not authorised by the brand owner. Transparency and honest labelling are key to the lawful resale of branded refurbished goods.**[12]

  The Delhi High Court held that the import and sale of parallel or second-hand trademarked goods do not automatically constitute infringement, provided the importer ensures full and honest disclosure to consumers. The Court confirmed that no statutory bar exists against importing end-of-life goods into India.

- **The Court confirmed that foreign marks with global goodwill are protected in India even without local business operations. It rejected the argument that "Mayo" was a geographical term, finding that its use by the appellants was dishonest and aimed at benefiting from the international reputation of "Mayo Clinic."**[13]

  The Delhi High Court (Division Bench) dismissed the appeal and affirmed the injunction in favour of the Respondent. The Bench held that the mark "MAYO CLINIC" enjoys extensive global goodwill and trans-border reputation, which extends to India irrespective of the Respondent's physical presence.

- **The Court affirmed the "Family of Marks" principle, holding that the consistent and extensive use of a common prefix ("WOW") across multiple products can lead to the acquisition of a secondary meaning. It established that even if individual components of a mark might be descriptive, their collective commercial success and brand identity entitle them to protection against deceptively similar marks that create a likelihood of consumer confusion.**

  The Delhi High Court granted an interim injunction in Favor of the

[12] CS(COMM) 586/2019, I.A. 14659/2019,
[13] FAO(OS) (COMM) 73/2024 & CM APPL. 22687/2024

Plaintiff. The Court found that "WOW BURGER" was deceptively similar to the Plaintiff's established brand ecosystem. It held that the Plaintiff had successfully demonstrated a strong prima facie case, as the adoption of the "WOW" prefix by the Defendant was likely to capitalize on the Plaintiff's market reputation and mislead the public into perceiving a common trade source.[14]

- **The Court clarified that trans-border reputation cannot be established on the basis of foreign reputation alone; rather, it requires concrete proof of goodwill and use within the Indian territory. It held that for a mark to be cancelled on the grounds of a prior international reputation, the party must demonstrate that their brand's fame had effectively spilled over into India and was recognized by the relevant local public at the time the contested mark was adopted.**

  The Delhi High Court restored the "BLUE-JAY" trademark, reversing the previous cancellation order. The Bench ruled that the mere existence of a mark in foreign jurisdictions does not automatically entitle it to protection in India under the trans-border reputation doctrine. Since the challenging party failed to provide sufficient evidence of Indian market penetration or localized goodwill, the Court upheld the validity of the registered Indian mark[15]

- **The Court established that sponsorship payments in cross-border sporting events are composite in nature and can be dissected for tax purposes. It held that while a portion of the payment pertains to advertising and visibility, any substantive right to use trademarks (such as event logos on packaging or promotional media) constitutes "Royalty" under Section 9(1)(vi) of the Income Tax Act and Article 12 of the India–Singapore DTAA. The Court rejected the argument that trademark usage is merely "incidental" when the agreement grants expansive global rights to exploit the**

[14] FAO(OS) (COMM) 143/2025 & CM APPL. 59063/2025
[15] LPA 475/2025, CM APPLs. 45526/2025 & 45579/2025

brand's commercial reputation.

The Delhi High Court upheld the revisional authority's order against LG Electronics India, affirming the apportionment of sponsorship fees. The Court found that the agreement granted more than just stadium visibility; it provided a license to use ICC marks across various media globally. Consequently, the Bench held that one-third (1/3rd) of the total payment was rightly characterized as royalty, justifying the demand for withholding tax (TDS) at the rate of 15% under the treaty[16].

- **The Court reaffirmed the principle of judicial non-interference at the pre-reference stage, holding that under Section 8 of the Arbitration and Conciliation Act, the court's role is limited to a prima facie examination of the existence of an arbitration agreement. It established that complex factual disputes, including allegations of forgery or fraud, do not automatically render an arbitration clause void; instead, such issues must be left to the Arbitral Tribunal to decide, as long as the arbitration agreement itself is not "manifestly and ex facie invalid."**

  The Delhi High Court directed the parties to arbitration, emphasizing that the "court-gatekeeping" function should not be used to conduct a mini-trial on the merits of the case. The Bench held that unless the arbitration agreement is non-existent or null and void on the face of it, the rule is to refer first and decide later. Consequently, the challenge regarding the forged nature of the underlying contract was deferred to the competence of the arbitrator.[17]

- **The presence of interactive website features, such as "Contact Us" pages and downloadable product brochures, constitutes "purposeful availment" of a forum's jurisdiction if they target consumers within that territory[18].**

  The Court held that in internet-based trademark disputes, establishing territorial jurisdiction does not require proof of concluded commercial

[16] W.P.(C) 15181/2004
[17] FAO (COMM) 174/2024
[18] 2025 SCC OnLine Del 8642

transactions or physical sales. Applying the *Banyan Tree* principles, the Court determined that if a defendant's online activity including listings on third-party trade platforms and invitations to "write to us" for services is specifically designed to target or facilitate trade with consumers in a particular jurisdiction, it gives rise to a "part of the cause of action" in that forum, allowing the plaintiff to maintain a suit at the threshold stage.

A Holistic Compendium:
Indian Trade Mark Cases Summary for 2025

Disclaimer

It is to be noted that the above illustration is provided to the reader for reference and understanding. It does not constitute legal opinion in any manner whatsoever.

While summarizing portions of judgments, maximum and honest effort has been taken to maintain the same effect and interpretation of the summarized text. However, due to linguistic, grammatical, and expressive deviations from the original text required for the summary, interpretation, and effect may not be absolutely congruent.

References used for judgments for the purpose of this document were reliable and ordinarily known to be accurate and it is believed that information provided therein is true to the best of our knowledge. If, however, there is any discrepancy or inaccuracy therewith, Khurana and Khurana disclaims any liability thereto, but invites the readers to highlight the same so that it can be checked and if relevant, rectified in this document.

A Holistic Compendium:

Indian Trade Mark Cases Summary for 2025

Glossary

- **TRADE MARKS ACT, 1999:**

Section 2(1)(h) of Trade Marks Act, 1999

2(1) (h) "deceptively similar". —A mark shall be deemed to be deceptively similar to another mark if it so nearly resembles that other mark as to be likely to deceive or cause confusion;

Section 2(1) (zg) of the Trade Marks Act 1999

2(1)(zg) "well known trade mark", in relation to any goods or services, means a mark which has become so to the substantial segment of the public which uses such goods or receives such services that the use of such mark in relation to other goods or services would be likely to be taken as indicating a connection in the course of trade or rendering of services between those goods or services and a person using the mark in relation to the first-mentioned goods or services.

Section 2(2)(b) of the Trade Marks Act 1999

2(2) In this Act, unless the context otherwise requires, any reference—
(b) to the use of a mark shall be construed as a reference to the use of printed or other visual representation of the mark;

Section 2(2)(c)(i) of the Trade Marks Act 1999

2(2) (c) to the use of a mark, — (i) in relation to goods, shall be construed as a reference to the use of the mark upon, or in any physical or in any other relation whatsoever, to such goods.

Sec 2(1)(s) of the Trade Marks Act 1999

Sec 2(1)(s) prescribed means,
(i) in relation to proceedings before a High Court, prescribed by rules made by the High Court; and

(ii) in other cases, prescribed by rules made under this Act;

Section 7 of Trade Marks Act, 1999

7. Classification of goods and services—

(1) The Registrar shall classify goods and services, as far as may be, in accordance with the international classification of goods and services for the purposes of registration of trade marks.

(2) Any question arising as to the class within which any goods or services falls shall be determined by the Registrar whose decision shall be final.

Section 9 of Trade Marks Act, 1999

9. Absolute grounds for refusal of registration. — (1) The trademarks**—**

which are devoid of any distinctive character, that is to say, not capable of distinguishing the goods or services of one person from those of another person; which consist exclusively of marks or indications which may serve in trade to designate the kind, quality, quantity, intended purpose, values, geographical origin or the time of production of the goods or rendering of the service or other characteristics of the goods or service;

which consist exclusively of marks or indications which have become customary in the current language or in the bona fide and established practices of the trade, shall not be registered:

Provided that a trade mark shall not be refused registration if before the date of application for registration it has acquired a distinctive character as a result of the use made of it or is a well-known trade mark.

(2) A mark shall not be registered as a trade mark if—

it is of such nature as to deceive the public or cause confusion;

it contains or comprises of any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India;

it comprises or contains scandalous or obscene matter; (d) its use is prohibited under the Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950).

(3) A mark shall not be registered as a trade mark if it consists exclusively of— the shape of goods which results from the nature of the goods

themselves; or the shape of goods which is necessary to obtain a technical result; or the shape which gives substantial value to the goods.

Explanation. —For the purposes of this section, the nature of goods or services in relation to which the trade mark is used or proposed to be used shall not be a ground for refusal of registration.

Section 11 of Trade Marks Act, 1999

Section 11. Relative grounds for refusal of registration. —

(1) Save as provided in section 12, a trade mark shall not be registered if, because of-

(a) its identity with an earlier trade mark and similarity of goods or services covered by the trade mark; or

(b) its similarity to an earlier trade mark and the identity or similarity of the goods or services covered by the trade mark, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.

(2) A trade mark which--

(a) is identical with or similar to an earlier trade mark; and

(b) is to be registered for goods or services which are not similar to those for which the earlier trade mark is registered in the name of a different proprietor, shall not be registered if or to the extent the earlier trade mark is a well-known trade mark in India and the use of the later mark without due cause would take unfair advantage of or be detrimental to the distinctive character or repute of the earlier trade mark.

(3) A trade mark shall not be registered if, or to the extent that, its use in India is liable to be prevented--

(a) by virtue of any law in particular the law of passing off protecting an unregistered trade mark used in the course of trade; or

(b) by virtue of law of copyright.

(4) Nothing in this section shall prevent the registration of a trade mark where the proprietor of the earlier trade mark or other earlier right consents to the registration, and in such case the Registrar may register the mark under special circumstances under section 12.

Explanation. For the purposes of this section, earlier trade mark means--

(a) a registered trade mark or an application under section 18 bearing an earlier date of filing or an international registration referred to in section 36E or convention application referred to in section 154 which has a date of application earlier than that of the trade mark in question, taking account, where appropriate, of the priorities claimed in respect of the trademarks;

(b) a trade mark which, on the date of the application for registration of the trade mark in question, or where appropriate, of the priority claimed in respect of the application, was entitled to protection as a well-known trade mark.

(5) A trade mark shall not be refused registration on the grounds specified in sub sections (2) and (3), unless objection on any one or more of those grounds is raised in opposition proceedings by the proprietor of the earlier trade mark.

(6) The Registrar shall, while determining whether a trade mark is a well-known trade mark, take into account any fact which he considers relevant for determining a trade mark as a well-known trade mark including--

(i) the knowledge or recognition of that trade mark in the relevant section of the public including knowledge in India obtained as a result of promotion of the trade

mark;

(ii) the duration, extent, and geographical area of any use of that trade mark;

(iii) the duration, extent, and geographical area of any promotion of the trade mark, including advertising or publicity and presentation, at fairs or exhibition of the goods or services to which the trade mark applies;

(iv) the duration and geographical area of any registration of or any application for registration of that trade mark under this Act to the extent that they reflect the use or recognition of the trade mark;

(v) the record of successful enforcement of the rights in that trade mark, in particular the extent to which the trade mark has been recognised as a well-known trade mark by any court or Registrar under that record.

(7) The Registrar shall, while determining as to whether a trade mark is known or recognised in a relevant section of the public for the purposes

of sub-section (6), take into account--

(i) the number of actual or potential consumers of the goods or services;

(ii) the number of persons involved in the channels of distribution of the goods or services;

(iii) the business circles dealing with the goods or services, to which that trade mark applies.

(8) Where a trade mark has been determined to be well known in at least one relevant section of the public in India by any court or Registrar, the Registrar shall consider that trade mark as a well-known trade mark for registration under this Act.

(9) The Registrar shall not require as a condition, for determining whether a trade mark is a well-known trade mark, any of the following, namely: --

(i) that the trade mark has been used in India;

(ii) that the trade mark has been registered;

(iii) that the application for registration of the trade mark has been filed in India;

(iv) that the trade mark--

(a) is well-known in; or

(b) has been registered in; or

(c) in respect of which an application for registration has been filed in, any jurisdiction other than India, or

(v) that the trade mark is well-known to the public at large in India.

(10) While considering an application for registration of a trade mark and opposition filed in respect thereof, the Registrar shall--

(i) protect a well-known trade mark against the identical or similar trademarks;

(ii) take into consideration the bad faith involved either of the Applicant or the opponent affecting the right relating to the trade mark.

(11) Where a trade mark has been registered in good faith disclosing the material informations to the Registrar or where right to a trade mark has been acquired through use in good faith before the commencement of this Act, then, nothing in this Act shall prejudice the validity of the registration of that trade mark or right to use that trade mark on the ground that such trade mark is identical with or similar to a well-known

trade mark.

Section 12 of Trade Marks Act, 1999

12. Registration in the case of honest concurrent use, etc.—

In the case of honest concurrent use or of other special circumstances which in the opinion of the Registrar, make it proper so to do, he may permit the registration by more than one proprietor of the trade marks which are identical or similar (whether any such trade mark is already registered or not) in respect of the same or similar goods or services, subject to such conditions and limitations, if any, as the Registrar may think fit to
impose.

Section 17 of Trade Marks Act, 1999

17. Effect of registration of parts of a mark. —

(1) When a trade mark consists of several matters, its registration shall confer on the proprietor exclusive right to the use of the trade mark taken as a whole.

(2) Notwithstanding anything contained in sub-section (1), when a trade mark—contains any part—which is not the subject of a separate application by the proprietor for registration as a trade mark; or which is not separately registered by the proprietor as a trade mark; or contains any matter which is common to the trade or is otherwise of a non-distinctive character, the registration thereof shall not confer any exclusive right in the matter forming only a part of the whole of the trade mark so registered.

Section 18, Trade Marks Act, 1999

18. Application for registration—

(1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him, who is desirous of registering it, shall apply in writing to the Registrar in the prescribed manner for the registration of his trade mark.

(2) A single application may be made for registration of a trade mark for

different classes of goods and services and fee payable therefor shall be in respect of each such class of goods or services.

(3) Every application under sub-section (1) shall be filed in the office of the Trade Marks Registry within whose territorial limits the principal place of business in India of the applicant or in the case of joint applicants the principal place of business in India of the applicant whose name is first mentioned in the application as having a place of business in India, is situate:

Provided that where the applicant or any of the joint applicants does not carry on business in India, the application shall be filed in the office of the Trade Marks Registry within whose territorial limits the place mentioned in the address for service in India as disclosed in the application, is situate.

(4) Subject to the provisions of this Act, the Registrar may refuse the application or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think fit.

(5) In the case of a refusal or conditional acceptance of an application, the Registrar shall record in writing the grounds for such refusal or conditional acceptance and the materials used by him in arriving at his decision.

Section 19, Trade Marks Act, 1999

19. Withdrawal of acceptance. —

Where, after the acceptance of an application for registration of a trade mark but before its registration, the Registrar is satisfied—

(a) that the application has been accepted in error; or

(b) that in the circumstances of the case the trade mark should not be registered or should be registered subject to conditions or limitations or to conditions additional to or different from the conditions or limitations subject to which the application has been accepted, the Registrar may, after hearing the Applicant if he so desires, withdraw the acceptance and proceed as if the application had not been accepted.

Section 21, Trade Marks Act, 1999

21. Opposition to registration. –

(1) Any person may, within four months from the date of the advertisement or re-advertisement of an application for registration, give notice in writing in the prescribed manner and on payment of such fee as may be prescribed, to the Registrar, of opposition to the registration.

(2) The Registrar shall serve a copy of the notice on the applicant for registration and, within two months from the receipt by the applicant of such copy of the notice of opposition, the applicant shall send to the Registrar in the prescribed manner a counterstatement of the grounds on which he relies for his application, and if he does not do so he shall be deemed to have abandoned his application.

(3) If the applicant sends such counter-statement, the Registrar shall serve a copy thereof on the person giving notice of opposition.

(4) Any evidence upon which the opponent and the applicant may rely shall be submitted in the prescribed manner and within the prescribed time to the Registrar, and the Registrar shall give an opportunity to them to be heard, if they so desire.

(5) The Registrar shall, after hearing the parties, if so required, and considering the evidence, decide whether and subject to what conditions or limitations, if any, the registration is to be permitted, and may take into account a ground of objection whether relied upon by the opponent or not.

(6) Where a person giving notice of opposition or an applicant sending a counterstatement after receipt of a copy of such notice neither resides nor carries on business in India, the Registrar may require him to give security for the costs of proceedings before him, and in default of such security being duly given, may treat the opposition or application, as the case may be, as abandoned.

(7) The Registrar may, on request, permit correction of any error in, or any amendment of, a notice of opposition or a counter-statement on such terms as he thinks just.

Section 23 of The Trade Marks Act, 1999

23. Registration —

1) Subject to the provisions of section 19, when an application for

registration of a trade mark has been accepted and either--

(a) the application has not been opposed and the time for notice of opposition has expired; or

(b) the application has been opposed and the opposition has been decided in favour of the applicant, the Registrar shall, unless the Central Government otherwise directs, register the said trade mark within eighteen months of the filing of the application and the trade mark when registered shall be registered as of the date of the making of the said application and that date shall, subject to the provisions of section 154, be deemed to be the date of registration.

(2) On the registration of a trade mark, the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof, sealed with the seal of the Trade Marks Registry.

(3) Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice to the applicant in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

(4) The Registrar may amend the register or a certificate of registration for the purpose of correcting a clerical error or an obvious mistake.

Section 25 of Trade Marks Act, 1999

25. Duration, renewal, removal and restoration of registration. —

(1) The registration of a trade mark, after the commencement of this Act, shall be for a period of ten years, but may be renewed from time to time in accordance with the provisions of this section.

(2) The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period and subject to payment of the prescribed fee, renew the registration of the trade mark for a period of ten years from the date of expiration of the original registration or of the last renewal of registration, as the case may be (which date is in this section referred to as the expiration of the last registration).

(3) At the prescribed time before the expiration of the last registration of

a trade mark the Registrar shall send notice in the prescribed manner to the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with the Registrar may remove the trade mark from the register:

Provided that the Registrar shall not remove the trade mark from the register if an application is made in the prescribed form and the prescribed fee and surcharge is paid within six months from the expiration of the last registration of the trade mark and shall renew the registration of the trade mark for a period of ten years under sub-section (2).

(4) Where a trade mark has been removed from the register for non-payment of the prescribed fee, the Registrar shall, after six months and within one year from the expiration of the last registration of the trade mark, on receipt of an application in the prescribed form and on payment of the prescribed fee, if satisfied that it is just so to do, restore the trade mark to the register and renew the registration of the trade mark either generally or subject to such conditions or limitations as he thinks fit to impose, for a period of ten years from the expiration of the last registration.

Section 28 of Trade Marks Act, 1999

28. Rights conferred by registration. —

(1) Subject to the other provisions of this

Act, the registration of a trade mark shall, if valid, give to the registered proprietor of the trade mark the exclusive right to the use of the trade mark in relation to the goods or services in respect of which the trade mark is registered and to obtain relief in respect of infringement of the trade mark in the manner provided by this Act.

(2) The exclusive right to the use of a trade mark given under sub-section (1) shall be subject to any conditions and limitations to which the registration is subject.

(3) Where two or more persons are registered proprietors of trade marks, which are identical with or nearly resemble each other, the exclusive right

to the use of any of those trademarks shall not (except so far as their respective rights are subject to any conditions or limitations entered on the register) be deemed to have been acquired by any one of those persons as against any other of those persons merely by registration of the trademarks but each of those persons has otherwise the same rights as against other persons (not being registered users using by way of permitted use) as he would have if he were the sole registered proprietor.

Section 29 of Trade Marks Act, 1999

29. Infringement of registered Trade Marks. —

(1) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which is identical with, or deceptively similar to, the trade mark in relation to goods or services in respect of which the trade mark is registered and, in such manner, as to render the use of the mark likely to be taken as being used as a trade mark.

(2) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which because of—

(a) its identity with the registered trade mark and the similarity of the goods or services covered by such registered trade mark; or

(b) its similarity to the registered trade mark and the identity or similarity of the goods or services covered by such registered trade mark; or

(c) its identity with the registered trade mark and the identity of the goods or services covered by such registered trade mark, is likely to cause confusion on the part of the public, or which is likely to have an association with the registered trade mark.

(3) In any case falling under clause (c) of sub-section (2), the court shall presume that it is likely to cause confusion on the part of the public.

(4) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which— (a) is identical with or similar to the registered trade mark; and

(b) is used in relation to goods or services which are not similar to those

for which the trade mark is registered; and

(c) the registered trade mark has a reputation in India and the use of the mark without due cause takes unfair advantage of or is detrimental to, the distinctive character or repute of the registered trade mark

(5) A registered trade mark is infringed by a person if he uses such registered trade mark, as his trade name or part of his trade name, or name of his business concern or part of the name, of his business concern dealing in goods or services in respect of which the trade mark is registered.

(6) For the purposes of this section, a person uses a registered mark, if, in particular he— (a) affixes it to goods or the packaging thereof;

(b) offers or exposes goods for sale, puts them on the market, or stocks them for those purposes under the registered trade mark, or offers or supplies services under the registered trade mark;

(c) imports or exports goods under the mark; or

(d) uses the registered trade mark on business papers or in advertising.

(7) A registered trade mark is infringed by a person who applies such registered trade mark to a material intended to be used for labelling or packaging goods, as a business paper, or for advertising goods or services, provided such person, when he applied the mark, knew or had reason to believe that the application of the mark was not duly authorised by the proprietor or a licensee.

(8) A registered trade mark is infringed by any advertising of that trade mark if such advertising—

(a) takes unfair advantage of and is contrary to honest practices in industrial or commercial matters; or

(b) is detrimental to its distinctive character; or

(c) is against the reputation of the trade mark.

(9) Where the distinctive elements of a registered trade mark consist of or include words, the trade mark may be infringed by the spoken use of those words as well as by their visual representation and reference in this section to the use of a mark shall be construed accordingly.

Section 30 of Trade Marks Act, 1999

30. Limits on effect of registered trade mark. —

(1) Nothing in section 29 shall be construed as preventing the use of a registered trade mark by any person for the purposes of identifying goods or services as those of the proprietor provided the use--

(a) is in accordance with honest practices in industrial or commercial matters, and

(b) is not such as to take unfair advantage of or be detrimental to the distinctive character or repute of the trade mark.

(2) A registered trade mark is not infringed where--

(a) the use in relation to goods or services indicates the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services or other characteristics of goods or services;

(b) a trade mark is registered subject to any conditions or limitations, the use of the trade mark in any manner in relation to goods to be sold or otherwise traded in, in any place, or in relation to goods to be exported to any market or in relation to services for use or available for acceptance in any place or country outside India or in any other circumstances, to which, having regard to those conditions or limitations, the registration does not extend;

(c) the use by a person of a trade mark--

(i) in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark if, as to those goods or a bulk of which they form part, the registered proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently removed or obliterated it, or has at any time expressly or impliedly consented to the use of the trade mark; or

(ii) in relation to services to which the proprietor of such mark or of a registered user conforming to the permitted use has applied the mark, where the purpose and effect of the use of the mark is to indicate, in accordance with the fact, that those services have been performed by the proprietor or a registered user of the mark;

(d) the use of a trade mark by a person in relation to goods adapted to

form part of, or to be accessory to, other goods or services in relation to which the trade mark has been used without infringement of the right given by registration under this Act or might for the time being be so used, if the use of the trade mark is reasonably necessary in order to indicate that the goods or services are so adapted, and neither the purpose nor the effect of the use of the trade mark is to indicate, otherwise than in accordance with the fact, a connection in the course of trade between any person and the goods or services, as the case may be;

(e) the use of a registered trade mark, being one of two or more trademarks registered under this Act which are identical or nearly resemble each other, in exercise of the right to the use of that trade mark given by registration under this Act.

(3) Where the goods bearing a registered trade mark are lawfully acquired by a person, the sale of the goods in the market or otherwise dealing in those goods by that person or by a person claiming under or through him is not infringement of a trade mark by reason only of--

(a) the registered trade mark having been assigned by the registered proprietor to some other person, after the acquisition of those goods; or

(b) the goods having been put on the market under the registered trade mark by the proprietor or with his consent.

(4) Sub-section (3) shall not apply where there exists legitimate reasons for the proprietor to oppose further dealings in the goods in particular, where the condition of the goods, has been changed or impaired after they have been put on the market.

Section 31 of Trade Marks Act, 1999

31. Registration to be prima facie evidence of validity. —

(1) In all legal proceedings relating to a trade mark registered under this Act (including applications under section 57), the original registration of the trade mark and of all subsequent assignments and transmissions of the trade mark shall be prima facie evidence of the validity thereof.

(2) In all legal proceedings as aforesaid a registered trade mark shall not be held to be invalid on the ground that it was not a registrable trade mark under section 9 except upon evidence of distinctiveness and that such

evidence was not submitted to the Registrar before registration, if it is proved that the trade mark had been so used by the registered proprietor or his predecessor in title as to have become distinctive at the date of registration.

Section 33 of Trade Marks Act, 1999

33. Effect of acquiescence. —

(1) Where the proprietor of an earlier trade mark has acquiesced for a continuous period of five years in the use of a registered trade mark, being aware of that use, he shall no longer be entitled on the basis of that earlier trade mark--

(a) to apply for a declaration that the registration of the later trade mark is invalid, or

(b) to oppose the use of the later trade mark in relation to the goods or services in relation to which it has been so used, unless the registration of the later trade mark was not applied in good faith.

(2) Where sub-section (1) applies, the proprietor of the later trade mark is not entitled to oppose the use of the earlier trade mark, or as the case may be, the exploitation of the earlier right, notwithstanding that the earlier trade mark may no longer be invoked against his later trade mark

Section 34 of The Trade Marks Act, 1999

34. Saving for vested rights. —

Nothing in this Act shall entitle the proprietor or a registered user of registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it in relation to goods or services in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date prior--

(a) to the use of the first-mentioned trade mark in relation to those goods or services by the proprietor or a predecessor in title of his; or

(b) to the date of registration of the first-mentioned trade mark in respect of those goods or services in the name of the proprietor of a predecessor in title of his;

whichever is the earlier, and the Registrar shall not refuse (on such use

being proved) to register the second mentioned trade mark by reason only of the registration of the first-mentioned trade mark.

Section 35 of The Trade Marks Act, 1999

35. Saving for use of name, address or description of goods or services. —

Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with any bona fide use by a person of his own name or that of his place of business, or of the name, or of the name of the place of business, of any of his predecessors in business, or the use by any person of any bona fide description of the character or quality of his goods or services.

Section 46 of The Trade Marks Act, 1999

46. Proposed use of trade mark by company to be formed, etc. —

(1) No application for the registration of a trade mark in respect of any goods or services shall be refused nor shall permission for such registration be withheld, on the ground only that it appears that the applicant does not use or propose to use the trade mark if the Registrar is satisfied that--

(a) a company is about to be formed and registered under the Companies Act, 1956 (1 of 1956) and that the applicant intends to assign the trade mark to that company with a view to the use thereof in relation to those goods or services by the company, or

(b) the proprietor intends it to be used by a person, as a registered user after the registration of the trade mark.

(2) The provisions of section 47 shall have effect, in relation to a trade mark registered under the powers conferred by this sub-section, as if for the reference, in clause (a) of sub-section (1) of that section, to the intention on the part of an applicant for registration that a trade mark should be used by him there were substituted a reference to the intention on his part that it should be used by the company or registered user concerned.

(3) The Registrar or the High Court, as the case may be, may, in a case to

which sub-section (1) applies, require the applicant to give security for the costs of any proceedings relating to any opposition or appeal, and in default of such security being duly given, may treat the application as abandoned.

(4) Where in a case to which sub-section (1) applies, a trade mark in respect of any goods or services is registered in the name of an applicant who, relies on intention to assign the trade mark to a company, then, unless within such period as may be prescribed or within such further period not exceeding six months as the Registrar may, on application being made to him in the prescribed manner, allow, the company has been registered as the proprietor of the trade mark in respect of those goods or services, the registration shall cease to have effect in respect thereof at the expiration of that period and the Registrar shall amend the register accordingly.

Section 47, Trade Marks Act, 1999

47. Removal from register and imposition of limitations on ground of non-use. —

(1) A registered trade mark may be taken off the register in respect of the goods or services in respect of which it is registered on application made in the prescribed manner to the Registrar or the High Court by any person aggrieved on the ground either--

(a) that the trade mark was registered without any bona fide intention on the part of the applicant for registration that it should be used in relation to those goods or services by him or, in a case to which the provisions of section 46 apply, by the company concerned or the registered user, as the case may be, and that there has, in fact, been no bona fide use of the trade mark in relation to those goods or services by any proprietor thereof for the time being up to a date three months before the date of the application; or

(b) that up to a date three months before the date of the application, a continuous period of five years from the date on which the trade mark is actually entered in the register or longer had elapsed during which the trade mark was registered and during which there was no bona fide use

thereof in relation to those goods or services by any proprietor thereof for the time being:

Provided that except where the applicant has been permitted under section 12 to register an identical or nearly resembling trade mark in respect of the goods or services in question, or where the Registrar or the High Court, as the case may be is of opinion that he might properly be permitted so to register such a trade mark, the Registrar or the High Court, as the case may be, may refuse an application under clause (a) or clause (b) in relation to any goods or services, if it is shown that there has been, before the relevant date or during the relevant period, as the case may be, bona fide use of the trade mark by any proprietor thereof for the time being in relation to--

(i) goods or services of the same description; or

(ii) goods or services associated with those goods or services of that description being goods or services, as the case may be, in respect of which the trade mark is registered.

(2) Where in relation to any goods or services in respect of which a trade mark is registered--

(a) the circumstances referred to in clause (b) of sub-section (1) are shown to exist so far as regards non-use of the trade mark in relation to goods to be sold, or otherwise traded in a particular place in India (otherwise than for export from India), or in relation to goods to be exported to a particular market outside India; or in relation to services for use or available for acceptance in a particular place in India or for use in a particular market outside India; and

(b) a person has been permitted under section 12 to register an identical or nearly resembling trade mark in respect of those goods, under a registration extending to use in relation to goods to be so sold, or otherwise traded in, or in relation to goods to be so exported, or in relation to services for use or available for acceptance in that place or for use in that country, or the tribunal is of opinion that he might properly be permitted so to register such a trade mark, on application by that person in the prescribed manner to the High Court or to the Registrar, the tribunal may impose on the registration of the first-mentioned trade mark

such limitations as it thinks proper for securing that that registration shall cease to extend to such use.

(3) An applicant shall not be entitled to rely for the purpose of clause (b) of sub-section (1) or for the purposes of sub-section (2) on any non-use of a trade mark which is shown to have been due to special circumstances in the trade, which includes restrictions on the use of the trade mark in India imposed by any law or regulation and not to any intention to abandon or not to use the trade mark in relation to the goods or services to which the application relates

Section 56 of the Trade Marks Act, 1999

56. Use of trade mark for export trade and use when form of trade connection changes. —

(1) The application in India of trade mark to goods to be exported from India or in relation to services for use outside India and any other act done in India in relation to goods to be so exported or services so rendered outside India which, if done in relation to goods to be sold or services provided or otherwise traded in within India would constitute use of a trade mark therein, shall be deemed to constitute use of the trade mark in relation to those goods or services for any purpose for which such use is material under this Act or any other law.

(2) The use of a registered trade mark in relation to goods or services between which and the person using the mark any form of connection in the course of trade subsists shall not be deemed to be likely to cause deception or confusion on the ground only that the mark has been or is used in relation to goods or services between which and the said person or a predecessor in title of that person a different form of connection in the course of trade subsisted or subsists.

Section 57 of the Trade Marks Act, 1999

57. Power to cancel or vary registration and to rectify the register. —

(1) On application made in the prescribed manner to the High Court or to the Registrar by any person aggrieved, the Register or the High Court, as the case may be, may make such order as it may think fit for cancelling

or varying the registration of a trade mark on the ground of any contravention, or failure to observe a condition entered on the register in relation thereto.

(2) Any person aggrieved by the absence or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may apply in the prescribed manner to the High Court or to the Registrar, and the Register or the High Court, as the case may be, may make such order for making, expunging or varying the entry as it may think fit.

(3) The Register or the High Court, as the case may be, may in any proceeding under this section decide any question that may be necessary or expedient to decide in connection with the rectification of the register.

(4) The Register or the High Court, as the case may be, of its own motion, may, after giving notice in the prescribed manner to the parties concerned and after giving them an opportunity of being heard, make any order referred to in sub-section (1) or sub-section (2).

(5) Any order of the High Court rectifying the register shall direct that notice of the rectification shall be served upon the Registrar in the prescribed manner who shall upon receipt of such notice rectify the register accordingly.

Section 91 of the Trade Marks Act, 1999

91. Appeals to High Court. —

(1) Any person aggrieved by an order or decision of the Registrar under this Act, or the rules made thereunder, may prefer an appeal to the High Court within three months from the date on which the order or decision sought to be appealed against is communicated to such person preferring the appeal.

(2) No appeal shall be admitted if it is preferred after the expiry of the period specified under sub-section (1):

Provided that an appeal may be admitted after the expiry of the period specified therefor, if the appellant satisfies the High Court that he had sufficient cause for not preferring the appeal within the specified period.

(3) An appeal to the High Court shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a copy of the order or decision appealed against and by such fees as may be prescribed.

Section 124 of the Trade Marks Act, 1999

124. Stay of proceedings where the validity of registration of the trade mark is questioned, etc—.

(1) Where in any suit for infringement of a trade mark--

(a) the Defendant pleads that registration of the Plaintiff's trade mark is invalid; or

(b) the Defendant raises a defence under clause (e) of sub-section (2) of section 30 and the Plaintiff pleads the invalidity of registration of the Defendants trade mark, the court trying the suit (hereinafter referred to as the court), shall, --

(i) if any proceedings for rectification of the register in relation to the Plaintiff's or Defendant's trade mark are pending before the Registrar or the High Court, stay the suit pending the final disposal of such proceedings;

(ii) if no such proceedings are pending and the court is satisfied that the plea regarding the invalidity of the registration of the Plaintiff's or Defendant's trade mark is prima facie tenable, raise an issue regarding the same and adjourn the case for a period of three months from the date of the framing of the issue in order to enable the party concerned to apply to the High Court for rectification of the register.

(2) If the party concerned proves to the court that he has made any such application as is referred to in clause (b) (ii) of sub-section (1) within the time specified therein or within such extended time as the court may for sufficient cause allow, the trial of the suit shall stand stayed until the final disposal of the rectification proceedings.

(3) If no such application as aforesaid has been made within the time so specified or within such extended time as the court may allow, the issue as to the validity of the registration of the trade mark concerned shall be deemed to have been abandoned and the court shall proceed with the suit

in regard to the other issues in the case.

(4) The final order made in any rectification proceedings referred to in sub-section

(1) or sub-section (2) shall be binding upon the parties and the court shall dispose of the suit conformably to such order in so far as it relates to the issue as to the validity of the registration of the trade mark.

(5) The stay of a suit for the infringement of a trade mark under this section shall not preclude the court from making any interlocutory order (including any order granting an injunction, directing account to be kept, appointing a receiver or attaching any property), during the period of the stay of the suit.

Section 132 of Trade Marks Act, 1999

132. Abandonment. —

Where, in the opinion of the Registrar, an applicant is in default in the prosecution of an application filed under this Act or any Act relating to trade marks in force prior to the commencement of this Act, the Registrar may, by notice require the applicant to remedy the default within a time specified and after giving him, if so, desired, an opportunity of being heard, treat the application as abandoned, unless the default is remedied within the time specified in the notice.

Section 134 of The Trade Marks Act, 1999

134. Suit for infringement, etc., to be instituted before District Court. —

(1) No suit--

(a) for the infringement of a registered trade mark; or

(b) relating to any right in a registered trade mark; or

(c) for passing off arising out of the use by the defendant of any trade mark which is identical with or deceptively similar to the plaintiff's trade mark, whether registered or unregistered,

shall be instituted in any court inferior to a District Court having jurisdiction to try the suit.

(2) For the purpose of clauses (a) and (b) of sub-section (1), a "District

Court having jurisdiction" shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or any other law for the time being in force, include a District Court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or proceeding, or, where there are more than one such persons any of them, actually and voluntarily resides or carries on business or personally works for gain

Section 135 of Trade Marks Act, 1999

135. Relief in suits for infringement or for passing off. —

(1) The relief which a court may grant in any suit for infringement or for passing off referred to in section 134 includes injunction (subject to such terms, if any, as the court thinks fit) and at the option of the plaintiff, either damages or an account of profits, together with or without any order for the delivery-up of the infringing labels and marks for destruction or erasure.

(2) The order of injunction under sub-section (1) may include an ex parte injunction or any interlocutory order for any of the following matters, namely: --

(a) for discovery of documents;

(b) preserving of infringing goods, documents or other evidence which are related to the subject-matter of the suit;

(c) restraining the defendant from disposing of or dealing with his assets in a manner which may adversely affect plaintiff's ability to recover damages, costs or other pecuniary remedies which may be finally awarded to the plaintiff.

(3) Notwithstanding anything contained in sub-section (1), the court shall not grant relief by way of damages (other than nominal damages) or on account of profits in any case--

(a) where in a suit for infringement of a trade mark, the infringement complained of is in relation to a certification trade mark or collective mark; or

(b) where in a suit for infringement the defendant satisfies the court--

(i) that at the time he commenced to use the trade mark complained of in

the suit, he was unaware and had no reasonable ground for believing that the trade mark of the plaintiff was on the register or that the plaintiff was a registered user using by way of permitted use; and

(ii) that when he became aware of the existence and nature of the plaintiff's right in the trade mark, he forthwith ceased to use the trade mark in relation to goods or services in respect of which it was registered; or

(c) where in a suit for passing off, the defendant satisfies the court--

(i) that at the time he commenced to use the trade mark complained of in the suit, he was unaware and had no reasonable ground for believing that the trade mark for the plaintiff was in use; and

(ii) that when he became aware of the existence and nature of the plaintiff's trade mark he forthwith ceased to use the trade mark complained of.

- **TRADE MARK RULES, 2017**

Rule 18, Trade Marks Rules, 2017

18. Service of Documents by the Registrar. —

(1) All communications and documents in relation to application or opposition matter or registered trademark may be served by the Registrar by leaving them at, or sending them by post to

the address for service of the party concerned or by email communication.

(2) Any communication or document so sent shall be deemed to have been served, at the time when the letter

containing the same would be delivered in the ordinary course of post or at the time of sending the email.

(3) To prove such service, it shall be sufficient to prove that the letter was properly addressed and put into the

post or the email communication was sent to the email id provided by the party concerned

Rule 44, Trade Marks Rules, 2017

44. Counterstatement. —

(1) The counterstatement required by sub-section (2) of section 21 shall be sent on Form TM-O within two months from the receipt by the applicant of the copy of the notice of opposition from the Registrar and shall set out what facts, if any, alleged in the notice of opposition, are admitted by the applicant. A copy of the counterstatement shall be ordinarily served by the Registrar to the opponent within two months from the date of receipt of the same.

(2) The counterstatement shall be verified in the manner as provided in sub-rules (2), (3) and (4) of rule 43.

Rule 45, Trade Marks Rules, 2017

45. Evidence in support of opposition. —

(1) Within two months from service of a copy of the counterstatement, the opponent shall either leave with the Registrar, such
evidence by way of affidavit as he may desire to adduce in support of his opposition or shall intimate to the Registrar and to the applicant in writing that he does not desire to adduce evidence in support of his opposition but intends to rely on the facts stated in the notice of opposition. He shall deliver to the applicant copies of any evidence including exhibits, if any, that he leaves with the Registrar under this sub rule and intimate the Registrar in writing of such delivery. If an opponent takes no action under sub-rule (1) within the time mentioned therein, he shall be deemed to have abandoned his opposition.

Rule 50(4), Trade Mark Rules, 2017

50. Hearing and decision. —

(4) If the opponent is not present at the adjourned date of hearing and at time mentioned in the notice, the opposition may be dismissed for want of prosecution and the application may proceed to registration subject to section 19.

Rule 53(1), Trade Mark Rules, 2017

53. Entry in the Register. —

(1) Where no notice of opposition to an application
advertised or re-advertised in the Journal is filed within the period specified in sub section (1) of section 21, or where an opposition is filed and it is dismissed, the Registrar shall, subject to the provisions of sub-section (1) of section 23 or section 19, enter the Trade Mark on the register.

Rule 58, Trade Marks Rule, 2017:

58. Notice before removal of trademark from register. **—**

(1) In case no application for renewal of the registration in the prescribed form together with the specified fee has been received, the Registrar shall send, not more than six months before the expiration of registration of the trademark, a notice in Form RG-3 at the address of service informing the registered proprietor of the approaching date of expiration and the conditions, if any, subject to which the renewal of the registration may be obtained. (2) Where, in the case of a trademark the registration of which (by reference to the date of application for registration) becomes due for renewal, the trademark is registered at any time within six months before the date on which renewal is due, the registration may be renewed by the payment of the renewal fee within six months after the actual date of registration and where the renewal fee is not paid within that period, the Registrar shall subject to rule 60, remove the trademark from the register. (3) Where, in the case of a trademark the registration of which (by reference to the date of application for registration) becomes due for renewal, the trademark is registered after the date of renewal, the registration may be renewed by the payment of the renewal fee within six months of the actual date of registration and where the renewal fee is not paid within that period the Registrar shall, subject to rule 60, remove the trademark from the register. (4) The renewal of registration of a collective trademark or a certification trademark shall be in Form TM-R along with the prescribed fee as specified in the First Schedule.

Rule 124, Trade Marks Rules, 2017

124. Determination of Well-Known Trade Mark by Registrar. —

1) Any person may, on an application in Form TM-M and after payment of fee as mentioned in First schedule, request the Registrar for determination of a Trade Mark as well-known. Such request shall be accompanied by a statement of case along with all the evidence and documents relied by the Applicant in support of his claim.

(2) The Registrar shall, while determining the Trade Mark as well-known take in to account the provisions of sub section (6) to (9) of section 11.

(3) For the purpose of determination, the Registrar may call such documents as he thinks fit.

(4) Before determining a Trade Mark as well-known, the Registrar may invite objections from the general public to be filed within thirty days from the date of invitation of such objection.

(5) In case the Trade Mark is determined as well-known, the same shall be published in the Trade Mark Journal and included in the list of well-known Trade Marks maintained by the Registrar.

(6) The Registrar may, at any time, if it is found that a Trade Mark has been erroneously or inadvertently included or is no longer justified to be in the list of well-known Trade Marks, remove the same from the list after providing due opportunity of hearing to the concerned party.

Rule 156, Trade Marks Rules, 2017:

156. Appeal. —

An appeal shall lie to Intellectual Property Appellate Board from any order or decision of the Registrar in regard to the registration or removal of trademarks agents under Part IV of these rules, and the decision of the Appellate Board shall be final and binding.

- **INCOME TAX ACT, 1961**

Section 9 (1) (vi) of The Income Tax Act, 1961

(vi) income by way of royalty payable by—

(a) the Government; or

(b) a person who is a resident, except where the royalty is payable in

respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or

(c) a person who is a non-resident, where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person in India or for the purposes of making or earning any income from any source in India :

Provided that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property, if such income is payable in pursuance of an agreement made before the 1st day of April, 1976, and the agreement is approved by the Central Government:

Provided further that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lump sum payment made by a person, who is a resident, for the transfer of all or any rights (including the granting of a licence) in respect of computer software supplied by a non-resident manufacturer along with a computer or computer-based equipment under any scheme approved under the Policy on Computer Software Export, Software Development and Training, 1986 of the Government of India.

Section 90 of The Income Tax Act, 1961

90. Agreement with foreign countries or specified territories. —

(1) The Central Government may enter into an agreement with the Government of any country outside India or specified territory outside India,—

(a) for the granting of relief in respect of—

(i) income on which have been paid both income-tax under this Act and income-tax in that country or specified territory, as the case may be, or

(ii) income-tax chargeable under this Act and under the corresponding law in force in that country or specified territory, as the case may be, to promote mutual economic relations, trade and investment, or

(b) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, as the case may be, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the said agreement for the indirect benefit to residents of any other country or territory), or

(c) for exchange of information for the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country or specified territory, as the case may be, or investigation of cases of such evasion or avoidance, or

(d) for recovery of income-tax under this Act and under the corresponding law in force in that country or specified territory, as the case may be,

and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement.

(2) Where the Central Government has entered into an agreement with the Government of any country outside India or specified territory outside India, as the case may be, under sub-section (1) for granting relief of tax, or as the case may be, avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.

(2A) Notwithstanding anything contained in sub-section (2), the provisions of Chapter X-A of the Act shall apply to the assessee even if such provisions are not beneficial to him.

(3) Any term used but not defined in this Act or in the agreement referred to in sub-section (1) shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the

same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.

(4) An assessee, not being a resident, to whom an agreement referred to in sub-section (1) applies, shall not be entitled to claim any relief under such agreement unless a certificate of his being a resident in any country outside India or specified territory outside India, as the case may be, is obtained by him from the Government of that country or specified territory.

(5) The assessee referred to in sub-section (4) shall also provide such other documents and information, as may be prescribed.

Section 195 of The Income Tax Act, 1961

195. Other Sums. —

(1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any interest (not being interest referred to in section 194LB or section 194LC) or section 194LD or any other sum chargeable under the provisions of this Act (not being income chargeable under the head "Salaries") shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

Provided that in the case of interest payable by the Government or a public sector bank within the meaning of clause (23D) of section 10 or a public financial institution within the meaning of that clause, deduction of tax shall be made only at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode.

(2) Where the person responsible for paying any such sum chargeable under this Act (other than salary) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application in such form and manner to the

Assessing Officer, to determine in such manner, as may be prescribed, the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub-section (1) only on that proportion of the sum which is so chargeable.

(3) Subject to rules made under sub-section (5), any person entitled to receive any interest or other sum on which income-tax has to be deducted under sub-section (1) may make an application in the prescribed form to the Assessing Officer for the grant of a certificate authorising him to receive such interest or other sum without deduction of tax under that sub-section, and where any such certificate is granted, every person responsible for paying such interest or other sum to the person to whom such certificate is granted shall, so long as the certificate is in force, make payment of such interest or other sum without deducting tax thereon under sub-section (1).

(4) A certificate granted under sub-section (3) shall remain in force till the expiry of the period specified therein or, if it is cancelled by the Assessing Officer before the expiry of such period, till such cancellation.

(5) The Board may, having regard to the convenience of the assessees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (3) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.

(6) The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.

(7) Notwithstanding anything contained in sub-section (1) and sub-section (2), the Board may, by notification in the Official Gazette, specify a class

of persons or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application in such form and manner to the Assessing Officer, to determine in such manner, as may be prescribed, the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under sub-section (1) on that proportion of the sum which is so chargeable.

Section 264 of The Income Tax Act, 1961

264. Revision of other orders: —

(1) In the case of any order other than an order to which section 263 applies passed by an authority subordinate to him, the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the assessee, the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Principal Chief Commissioner or Chief Commissioner or

Principal Commissioner or Commissioner shall not revise any order under this section in the following cases—

(a) where an appeal against the order lies to the Deputy Commissioner (Appeals) or to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to the Joint Commissioner (Appeals) or the Commissioner (Appeals) or to the Appellate Tribunal, the assessee has not waived his right of appeal; or

(b) where the order is pending on an appeal before the Deputy Commissioner (Appeals); or

(c) where the order has been made the subject of an appeal to the Joint Commissioner (Appeals), or the Commissioner (Appeals), or to the Appellate Tribunal.

(5) Every application by an assessee for revision under this section shall be accompanied by a fee of five hundred rupees.

(6) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October, 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

(7) Notwithstanding anything contained in sub-section (6), an order in revision under sub-section (6) may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

- **CODE OF CIVIL PROCEDURE, 1908**

Section 96 of the Code of Civil Procedure, 1908

96. Appeal from original decree. —

(1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals from the decisions of such Court.

(2) An appeal may lie from an original decree passed ex parte.

(3) No appeal shall lie from a decree passed by the Court with the consent of parties.

(4) No appeal shall lie, except on a question of law, from a decree in any suit of the nature cognizable by Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed ten thousand rupees.

Section 151, Code of Civil Procedure, 1908

151. Saving of inherent powers of Court. —

Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

Order VIII Rule 10

10. Procedure when party fails to present written statement called for by Court. —

Where any party from whom a written statement is required under rule 1 or rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment a decree shall be drawn up:

Provided further that no Court shall make an order to extend the time provided under Rule 1 of this Order for filing of the written statement.

Order XXXIX Rule 1 & 2 of Code of Civil Procedure, 1908

1. Cases in which temporary injunction may be granted.—

Where in any suit it is proved by affidavit or otherwise—

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or intends, to remove or dispose of his property with a view to defrauding his creditors,

(c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the

suit,

the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the Court thinks fit, until the disposal of the suit or until further orders.

2. Injunction to restrain repetition or continuance of breach.—(1) In any suit for restraining the defendant from committing a breach of contract or other injury of any kind, whether compensation is

claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained, of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

(2) The Court may by order grant such injunction, on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit.

Order XXXIX Rule 4 of Code of Civil Procedure, 1908

4. Order for injunction may be discharged, varied or set aside. —

Any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order: Provided that if in an application for temporary injunction or in any affidavit supporting such application, a party has knowingly made a false or misleading statement in relation to a material particular and the injunction was granted without giving notice to the opposite party, the Court shall vacate the injunction unless, for reasons to be recorded, it considers that it is not necessary so to do in the interests of justice: Provided further that where an order for injunction has been passed after giving to a party an opportunity of being heard, the order shall not be discharged, varied or set aside on the application of that party except where such discharge, variation or setting aside has been necessitated by

a change in the circumstances, or unless the Court is satisfied that the order has caused undue hardship to that party.

5. Injunction to corporation binding on its officer.— An injunction directed to a corporation is binding not only on the corporation itself, but also on all members and officers of the corporation whose personal action it seeks to restrain

- **THE COPYRIGHT ACT, 1957**

Section 2(c) of The Copyright Act, 1957.

(c) "artistic work" means, —

(i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality;

(ii) a work of architecture; and

(iii) any other work of artistic craftsmanship

Section 51 of The Copyright Act, 1957

51. When copyright infringed —

Copyright in a work shall be deemed to be infringed--

(a) when any person, without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act--

(i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright, or

(ii) permits for profit any place to be used for the communication of the work to the public where such communication constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright; or

(b) when any person--

(i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or

(ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or

(iii) by way of trade exhibits in public, or

(iv) imports into India, any infringing copies of the work:

Provided that nothing in sub-clause (iv) shall apply to the import of one copy of any work for the private and domestic use of the importer.

- **COMMERCIAL COURTS ACT, 2015**

Section 12A of The Commercial Courts Act, 2015

12A. Pre-Institution Mediation and Settlement. —

(1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987 (39 of 1987), for the purposes of pre-institution mediation.

3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987 (39 of 1987), the Authority authorised by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1):

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963 (36 of 1963).

(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996 (26 of 1996).

Section 13 of Commercial Courts Act, 2015

13. Appeals from decrees of Commercial Courts and Commercial Divisions. —

(1) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act.

- **INFORMATION TECHNOLOGY ACT, 2000**

Section 69 of the Information Technology Act 2000

69. Power to issue directions for interception or monitoring or decryption of any information through any computer resource. —

(1) Where the Central Government or a State Government or any of its officers specially authorised by the Central Government or the State Government, as the case may be, in this behalf may, if satisfied that it is necessary or expedient so to do, in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any

agency of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in any computer resource.

(2) The procedure and safeguards subject to which such interception or monitoring or decryption may be carried out, shall be such as may be prescribed.

(3) The subscriber or intermediary or any person in-charge of the computer resource shall, when called upon by any agency referred to in sub-section (1), extend all facilities and technical assistance to–

(a) provide access to or secure access to the computer resource generating, transmitting, receiving or storing such information; or

(b) intercept, monitor, or decrypt the information, as the case may be; or

(c) provide information stored in computer resource.

(4) The subscriber or intermediary or any person who fails to assist the agency referred to in sub-section (3) shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

- **THE ARBITRATION AND CONCILIATION ACT, 1996**

Section 8 of The Arbitration and Conciliation Act, 1996

8. Power to refer parties to arbitration where there is an arbitration agreement. —

(1) A judicial authority, before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party to the arbitration agreement or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substance of the dispute, then, notwithstanding any judgment, decree or order of the Supreme Court or any Court, refer the parties to arbitration unless it finds that prima facie no valid arbitration agreement exists.

(2) The application referred to in sub-section (1) shall not be entertained unless it is accompanied by the original arbitration agreement or a duly certified copy thereof:

Provided that where the original arbitration agreement or a certified copy thereof is not available with the party applying for reference to arbitration

under sub-section (1), and the said agreement or certified copy is retained by the other party to that agreement, then, the party so applying shall file such application along with a copy of the arbitration agreement and a petition praying the Court to call upon the other party to produce the original arbitration agreement or its duly certified copy before that Court.
(3) Notwithstanding that an application has been made under sub-section (1) and that the issue is pending before the judicial authority, an arbitration may be commenced or continued and an arbitral award made.

Section 16 of The Arbitration and Conciliation Act, 1996

16. Competence of arbitral tribunal to rule on its jurisdiction. —

(1) The arbitral tribunal may rule on its own jurisdiction, including ruling on any objections with respect to the existence or validity of the arbitration agreement, and for that purpose,—

(a) an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract; and

(b) a decision by the arbitral tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.

(2) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence; however, a party shall not be precluded from raising such a plea merely because that he has appointed, or participated in the appointment of, an arbitrator.

(3) A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.

(4) The arbitral tribunal may, in either of the cases referred to in sub-section (2) or sub-section (3), admit a later plea if it considers the delay justified.

(5) The arbitral tribunal shall decide on a plea referred to in sub-section (2) or sub-section (3) and, where the arbitral tribunal takes a decision rejecting the plea, continue with the arbitral proceedings and make an arbitral award.

(6) A party aggrieved by such an arbitral award may make an application for setting aside such an arbitral award in accordance with section 34

Section 37 of The Arbitration and Conciliation Act, 1996:

37. Appealable orders. —

1) Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie from the following orders (and from no others) to the Court authorised by law to hear appeals from original decrees of the Court passing the order, namely: --

(a) refusing to refer the parties to arbitration under section 8;

(b) granting or refusing to grant any measure under section 9;

(c) setting aside or refusing to set aside an arbitral award under section 34.

(2) Appeal shall also lie to a court from an order of the arbitral tribunal--

(a) accepting the plea referred to in sub-section (2) or sub-section (3) of section 16; or

(b) granting or refusing to grant an interim measure under section 17.

(3) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.

- **THE CONSTITUTION OF INDIA, 1950**

Article 19 of the Constitution of India, 1950

19. Protection of certain rights regarding freedom of speech, etc.—

(1) All citizens shall have the right—

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions or co-operative societies;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; and

(g) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public

order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

Article 21 of the Constitution of India, 1950

21. Protection of life and personal liberty. —

No person shall be deprived of his life or personal liberty except according

to procedure established by law.

Article 226 of the Constitution of India, 1950

226. Power of High Courts to issue certain writs.—

(1) Notwithstanding anything in article 324 every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without—

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard,

makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

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